



EUROPEAN COMMISSION

Observations on the Partnership Agreement with Romania

PART I

Introduction

The observations set out below have been made within the framework of the Common Provisions Regulation (CPR) and the fund-specific regulations. The observations take into account the 2013 country-specific recommendations adopted by the Council on 9 July 2013 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:217:FULL:EN:PDF>) its supporting analysis (SWD) (http://ec.europa.eu/europe2020/pdf/nd/swd2013_romania_ro.pdf) and are based on the Commission Services' Position Paper (CPP) for the use of the European Structural and Investment (ESI) Funds in 2014-2020.

The observations refer to the Partnership Agreement submitted by Romania on 31st March. The observations are presented following the structure of the Partnership Agreement (PA) as set out in the template. The most critical issues for the Commission are noted in part I.

Assessment of the Member State policy objectives

1. The formulation of development needs underlying the proposed funding priorities in section 1.3 shall be fully aligned with the development needs detailed in section 1.1, better reflecting the concentration and prioritisation mechanisms stemming from the analysis
2. The proposed results are better drafted towards policy objectives. However, their formulation should better reflect the ESIF interventions and anticipate the future result indicators of the concerned programmes, which should be quantifiable and be able to be monitored.
3. Territorial challenges are suitably addressed in the document, although the regional divergence could be better highlighted in the introduction. However, the territorial approach should be adequately balanced against the sectoral challenges and priorities, particularly in the areas of employment, social inclusion and education
4. On the other hand, Romania should continue the “growth poles” policy, building on its polycentric structure to tackle its critical territorial disparities. This policy has a broader objective than urban development and Romania is firmly invited to make use of the flexible and result oriented instrument of the Integrated Territorial Investments (ITIs) in this respect, providing an ideal framework for encompassing and supporting comprehensive and consistent territorial development strategies.
5. Country specific recommendations (CSRs) should be highlighted within the relevant thematic chapters, in section 1.1 where addressed. In particular, the Partnership

Agreement should state how the ESI Funds will support the delivery of the relevant country-specific recommendations.

6. Romania proposes a high number of funding priorities, covering a wide range of potential actions and target groups, in particular for thematic objectives (TO) 8, 9 and 11. This approach carries the risk of deviating from a performance-orientated use of the funds and of reducing the effectiveness of operations for the respective sectors, territories or social groups.
7. The Partnership Agreement identifies Roma people amongst the specific target groups affected by poverty and social exclusion and the analysis of their problems is better reflected. However, the Romanian authorities should make sure that the multiple dimensions of the needs of the Roma people are, in line with the Roma integration goals, comprehensively addressed through effective and coordinated actions and implementation mechanisms in order to ensure measurable results.
8. The reliance on strategies still under elaboration raises risks. The issue is relevant both for the overall policy approach and for the specific *ex ante* conditionalities (EAC). Nevertheless, the un-readiness of sector strategies should not prejudice the necessary concentration and prioritisation of the funding priorities; therefore the programming documents should reflect or anticipate, the afferent strategic orientations, as far as possible, indicating the principal strategic framework that will be detailed in the strategies to be defined.

Financial allocation proposed by Member State

9. The proposed budgetary allocation still reflects imbalances, which are a source of concerns. The allocation for environment under European Regional Development Fund (ERDF) and Cohesion Fund has even been reduced when compared to the initial draft, further weakening the capacity of Romania to implement the infrastructures required by the *acquis*.
10. This allocation should be duly justified, in accordance with the importance of the challenges at stake, the corresponding financial needs and the possible afferent complementary funding.
11. In addition, the allocation reveals large discrepancies between the budget proposed to tackle the severe competitiveness challenges, regarding support to R&D, low compared to the corresponding challenges and obligations or economic operators and the promotion of local and regional infrastructures, which contribute less directly to the Europe 2020 objectives or the CSRs.
12. Taking into account the need to optimise the leverage effect of funding, the Commission asks Romania to identify in which priority axes in the Operational Programmes it intends to modulate the co-financing rates in accordance with Article 121 of the CPR and recalls that as set by art 120 of the CPR the co-financing rate is to be determined on a case by case basis and the maximum co-financing rates should not always be applied to their full extent.

Cross-cutting policy issues and effective implementation

13. An integrated approach is proposed under the relevant European Social Fund objectives and priorities. However, with the exception of the community led local development (CLLD), no information is given relating to the measures to be put in

place to ensure the integration of measures. Against the background of a poor coordination during 2007 – 2013, this is particularly important

14. Attention shall be paid to *ex ante* conditionalities, as several will not be met at the start of the programming period, whereas several other conditionalities are only partially fulfilled or rely on on-going studies and strategies. Progress can be achieved if appropriate ownership by the relevant administrative services and political leadership are increased. Of particular concern are ex-ante conditionalities that require a substantial capacity reinforcement of the concerned public institutions to implement policies and measures deriving from the respective strategies
15. Given the importance and urgency of the administrative and judicial reforms in Romania as well as the horizontal relevance of TO 11 for operations under all thematic objectives, the operations under TO 11 should be given the highest priority and should be implemented as soon as possible, on the basis of the afferent strategies on the reform of public administration and on the development of the judiciary and their corresponding action plans. Adequate and timely financing should be made available for the relevant programmes
16. Regarding the partnership principle, more information is necessary on how the inputs received from the selected partners have been reflected in the partnership agreement and how partners have been informed on the management of their suggestions.
17. The Commission reminds Romania on the importance of the partnership agreement, determining the content of the operational programmes, in accordance with article 27(1) of regulation 1303/2013. These latter will have to comply with the budgetary allocation and the guiding principles, regarding thematic concentration and prioritisation mechanisms developed in the partnership agreement that has been officially uploaded for decision.

PART II - FURTHER OBSERVATIONS

1. ARRANGEMENTS TO ENSURE ALIGNMENT WITH THE UNION STRATEGY OF SMART, SUSTAINABLE AND INCLUSIVE GROWTH

1.1 Analysis of disparities, development needs, and growth potentials with reference to the thematic objectives and the territorial challenges

General

18. Attention should continue to be paid, within the analytic section 1.1, to highlight, whenever relevant, the causes underlying the identified challenges and shortcomings
19. The proposed development needs are now better correlated with the identified challenges and needs. However, the development needs underlying the proposed funding priorities in section 1.3 should better align with those detailed in section 1.1, reflecting the prioritisation and concentration mechanisms. Some identified challenges are not reflected in the proposed priorities (road safety for instance)
20. The national definition of rural areas is now provided, but, from the outset, no indication is given of the % of territory/population which is classified as rural, although this key concept is used repeatedly throughout the analysis.
21. Romania should take into consideration the key strategic priorities for development of the agricultural sector as identified in the Agricultural Strategy which will be approved by its government.

Competitiveness challenge

22. The analysis of the competitiveness challenges still fails to identify the root of some of the identified problems, with the risk of incorrectly designing adequate corrective measures. It relates for instance to the difficulties companies have in accessing finance (both from demand and supply perspectives), the low take up by the companies of the e-solutions or the fragmentation of the R&D sector, for which governance measures could be suggested and later supported under TO 11.
23. Although the proposed research, development and innovation (RDI) priorities are supposed to correspond to the smart specialisation strategy (RIS3), they only partially match the strategic sectors stemming from the National Competitiveness Strategy 2014-2020. The Partnership Agreement should describe more explicitly the relationship between the sector priorities from the National Strategy for Competitiveness and the thematic priorities from the National RDI Strategy 2014-2020. It should also explain the relationship between these priorities and the actual pattern of private R&D expenditure.
24. Manufacturing plays a stronger role in Romania than in most other EU countries (24.8% of total value added, compared to the EU average of 15.5%) and this is driving exports. The importance of industry in terms of value-added and exports should be fully recognised and fully taken on board in the analysis of the challenges for national growth.
25. Information should also be provided as well on the progress in the elaboration of the National Competitiveness Strategy 2014-2020, which is expected to align a number of policies, including research, innovation, and industry.

26. The PA should consider the possible impediments to external trade limiting economic development and should analyse the measures subsequently required.
27. Some core data has been added on the Romania agricultural sector, but lessons learnt from the sizeable European Agricultural Fund for Rural Development (EAFRD) investments made in 2007-13 in improving competitiveness, respect of EU standards and accompanying the farm restructuring process are still missing.
28. References to complementarity/demarcation of business support between Competitiveness OP and Regional OP, should be completed also with NRDP, which also foresees start-up and investment support for rural businesses and with support to start-ups under the ESF.

People and society challenge

29. The employment and social inclusion sections exclusively refer to territorial dimensions failing to highlight the main challenges as described further on in the text relating to access, participation, employability and active inclusion. Employment data by age group is not consistent with data under the analysis section (15 to 64 and 20 to 64).

Employment

30. The analysis of the labour market situation focuses on the demand side of labour and the territorial dimension and does not sufficiently highlight the employability and adaptability challenges, although this is very relevant for Romania and was proposed for interventions by the ESF. Employment data is based on the Labour Force Survey, which also takes into account non-regular employment and, therefore, cannot be considered an under-statement of actual employment.
31. Women are no longer considered as a priority vulnerable target group, but consistency has to be ensured throughout the text, in this respect. However, given the male/female employment gaps, the gender dimension should be duly taken into account in the implementation of the operations. As regards the older workers, statistics in relation to older workers should be made consistent throughout the text with regard to the age group.
32. In relation to the challenge "lack of flexibility and mobility of labour", it should be made clear that actions to increase labour mobility are intended to enhance national/internal mobility (as the text makes reference also to international migration that was extensive in the past decade).
33. The main challenges in the functioning of the public employment service (PES) are primarily linked to an increase in the number of clients and the budgetary and staff constraints, while the quality, coverage, effectiveness and personalized dimension of active measures are identified as priorities for 2014 – 2020 in line with CSR 4 (2013). The analysis should be improved.
34. An increased participation in the labour market for all the priority target groups seems to be a development need, but is not highlighted as such in the text.

Social inclusion

35. Children are correctly identified as the social group most exposed to poverty, but young people (+18) leaving the institutions do not fall in any of the categories.
36. The PA should clarify the mapping of needs and the approach for infrastructure investments in long term and elderly care. The related analysis of needs is scattered in

different sections (vulnerable groups, health and small rural infrastructure) and does not reflect a clear mapping exercise and its anchoring in the Health Strategy. With the exception of the proposed changes in total capacity (less than 50 people), no other criterion for improved living conditions is indicated. Clarifications are needed concerning Romania's approach to long term care residential institutions for the elderly by including a commitment to shift to alternative services, wherever this is possible, which should be the focus for EU financial support. (See also comments in paragraph 112.)

37. The analysis of the situation in health highlights the main challenges of the sector, with regard to morbidity factors, staff, infrastructure, territoriality, service level. It, nevertheless, lacks consistency and goes much beyond the main social exclusion factors in the provision of health services. For instance the inclusion of emergency hospitals is justified only by the high level of trust and no social inclusion criteria have been provided. Support to hospital infrastructure may be provided to address territorial inequalities in terms of access to healthcare but Romanian authorities should clarify that investments in health infrastructure will not overlook support for primary and ambulatory care (see also below observation on regional hospitals).
38. The health investment section needs to be better aligned to the strategic assessment in the draft Health Strategy and to the need to ensure an increased social cohesion for the disadvantaged groups and areas; the PA should reflect commitment that the prioritization of operations will be in compliance with the national, regional and county health plans, integrated in the regional development plans and that the process will be iterative, enabling effective and sustainable ESIF support.
39. Clarifications are needed to better reflect the mapping of the needs for the health-related infrastructure. The envisaged hospital network should be better presented to clarify the distribution of competences and service delivery between different territorial layers and categories of structures (emergency and regional hospitals) and the subsequent prioritization of ESIF support.
40. The PA should not earmark funding for specific selected operations (e.g. the three regional hospitals) as this should be detailed at OP level, in line with the prioritization criteria and results envisaged. Moreover, it is unclear how the selection of regional hospitals can be reconciled with the limited budgetary resources earmarked to the related thematic objective for possible infrastructure investments in health infrastructure considering also the need to reinforce ambulatory and outpatient care.
41. The proposed priorities referred in the dedicated section on rural small scale infrastructure (also including education and social infrastructure), which is EAFRD specific, should be anchored in the relevant sectoral strategies, regarding in particular health and social infrastructure.
42. The improved analysis and prioritisation is not yet reflected in the section "main development needs". E.g. the need defined as 'Improving the accessibility and quality of social services, particularly in rural areas and in deprived urban areas' needs to be redrafted to reflect the more focused analysis of the need to invest in health infrastructure.
43. While the part on social benefits admits the need for more activation and developing complementary services, including job-finding assistance, the way of implementing these services (apart from SAFIR IT system) and the link and synergies with the public employment services should be further explained.

44. Clarifications are needed on the new proposed institutional set up for social inclusion actions, with the special body for ESF, and notably to the envisaged coordination mechanism with ERDF or EAFRD for the preparation of integrated interventions to ensure complementarity of funds. In this respect, the role of the National Contact Point for Roma should be clarified.
45. The partnership agreement also should reflect commitment to align to a coordinated use of ERDF and ESF outside the integrated interventions, acknowledged as a current bottleneck.
46. Although the PA mentions extensively the innovation potential in business and in the economy, it would also be useful to cite the general obligation of Member States that the "ESF shall" promote social innovation (ESF regulation Article 9.1). Under the ESF regulation (Article 9.2), Member States are further required to identify the themes for social innovation corresponding to their specific needs, either in their OPs or during implementation.

Education

47. A commitment that 2014-2020 ESI Funds in education sector will not envisage interventions which lead to segregation in schools is included in the text (FN 211). However, the problem of segregation is still not properly addressed. It should be further analysed (current situation and challenges) under the analysis of disparities. In addition, addressing school de-segregation in ESIF implementation should be clearly mentioned in the proposed priorities for funding.
48. Forecasting skills demand and supply is one of the challenges in Romania and the ESF should contribute to improvement of labour market forecasts as an early warning mechanism to help to alleviate potential labour market imbalances and support different labour market actors in making informed decisions. For instance, shortages and skills mismatches are to be defined and relevant needs are to be specified, according to labour market needs. Consequently, this should be included in the corresponding rationale and proposed priorities for funding.
49. Despite the fact that in the section devoted to thematic objective 8 and in the Main development needs for thematic objective 10, it is specified that the measures related to continuous training of employees are addressed under thematic objective 10, no diagnosis related to the adaptability of workers is included the analysis of the disparities and in the priorities for ESIF, while the constrained availability of skills for businesses is identified as problematic under the competitiveness challenge indicating an insufficient adaptability of the labour force to change.
50. In the subsection analysis of disparities, employers' legal obligations as regards the training of employees are mentioned, but neither a diagnosis of the employers' involvement/role situation, nor the main challenges are presented.
51. Statistical data related to the enrolment and participation in Tertiary education in Romania are provided, but the causes and challenges leading to the situation described in the subsection Tertiary education and research are not mentioned.
52. Mobility of students to and from Romania is mentioned like a challenge for an attractive and quality tertiary education, but no information regarding the main causes for the low level of both Romanian and from other MS students is provided. In addition, no analysis of the quality of teaching and research (including the international mobility of teachers and researchers), of its innovative content and of the

causes for its low relevance of tertiary education curricula to the labour market needs is made.

53. A brief diagnosis on the access and participation of non-traditional students and of those from rural areas to Tertiary education is needed in order to support the main development needs and the proposed priorities for funding.
54. The Romanian authorities are invited to clarify whether the support of ESIF will be allocated to the VET infrastructure or only to IVET, throughout the section.
55. In subsection "The administrative capacity and the need for evaluating the impact of the education reform", the Romanian authorities are invited to clarify who the professionals, both at central and local level, are. It should be noted that the measures targeting teachers should be addressed under Thematic Objective 10. In addition, an assessment of the administrative challenges in education and the underlying causes (see the relevant CSR).
56. While the very low participation of adults in CVT is mentioned in the analysis of the disparities for this thematic objective as the main challenge regarding LLL in Romania, an increased participation is not identified as a development need. In this context, the development need: "Enhancing access and quality of learning provisions for adults, with focus on relevant basic and transversal skills" needs to be rephrased in order to also include the participation to LLL programmes.
57. Given the importance of the ESIF investment in the education and training infrastructure, the Romanian authorities are invited to make reference to it also in the corresponding development needs.
58. For the investment in the higher education "estate" there is no diagnosis of the current situation and of the main challenges to support the proposed investment.
59. In the absence of a mapping exercise and of the related strategy for education infrastructure, clarifications are needed to reflect the complementarity between EAFRD under thematic objective 9 and ERDF under thematic objective 10 to support investments in kindergartens and other types of educational infrastructure addressing social inclusion. The text in bold at page 56 related to the latter should be moved from paragraph 5 to 6.
60. The choice of the indicator on primary achievement is questionable (could reflect rather the lack of educational achievement of the older generation) while enrolment/ESL figures are more relevant for the school-age generation.
61. The role envisaged for EAFRD is not fully clear, in both chapters 1.1 and 1.3 regarding certain areas of intervention which were either not foreseen in earlier drafts of PA or which are now given more emphasis (and which were not signalled as priorities for EAFRD in CPP): transformation of rural hospitals into ambulatory services, community care services; educational infrastructure in agriculture and IVET.
62. The section "Lessons learned" could also positively refer to achievements from the 2007-2013 period focused on relevant approaches and implementation issues for 2014-2020.

Infrastructure challenge

63. The Country specific recommendations on the "take up of broadband" and the adoption of a "coherent e-Government" should be duly addressed, providing for the take-up an overarching assessment of the most suitable approach to improve the

situation. The action on broadband should be larger in scope and where possible exploit the synergy between different infrastructures (ref: European Directive on cost reduction). All relevant ESIF funds should in particular coordinate action to bring connectivity to rural areas, support ICT integration in rural businesses and demand for ICT in households at risk of exclusion. ICT measures need to be based on a more in-depth analysis and framed within an overarching and integrated vision including clear objectives, targets and measures and enlist the support from all relevant funds. The Digital Growth Strategy should help to embed ICT measures across all other thematic objectives reflected within the partnership agreement. A stronger ESIF and CEF coordination is required on the use of financial instruments and the development and interoperability of pan-European services.

64. On the transport master plan, it should be confirmed that the TEN-T core and its corridors represents prioritisation criterion, with these investments hence already earmarked and commitment to invest EU funds only within the master plan.
65. The description of the situation of the rail sector and its afferent challenge should correlate with the corresponding assessment carried out within the master plan, regarding the excessive length and poor justification, with respect to the actual traffic, of a large share of the network.
66. The text should entail more detailed reference on ERTMS, with regard to its current situation for ERTMS and deployment needs and plans.

Resources challenge

67. The partnership agreement should explicitly confirm that installations fuelled by coal will not be eligible for ESI funding since this is considered incompatible with the thematic objective supporting the transition to the low-carbon economy.
68. The text rightly refers to primary energy consumption but data would be welcome, if available, on energy consumption and efficiency potential in the primary sector if available (agriculture, forestry & fisheries), to complete the overview given on the split by sector of potential energy savings.
69. The rationale for granting public support to energy monitoring for large industrial consumers (beyond simply being expensive) is not clear because such investments are expected to repay themselves relatively quickly, especially for industrial consumers that will be affected earlier by the deregulation of energy prices.
70. Coastal erosion is wrongly not referred as a risk associated to climate change in section 1.1, nor in the introduction
71. Radioactive risks and Chemical accidents and transport of hazardous materials are wrongly addressed under the coastal erosion risk
72. The partnership agreement identifies the extent of irrigation systems in Romania which exist but which are currently non-operational (covering over 20% of utilised agricultural area). A deeper analysis will be needed to identify that part of the irrigation network which, in line with the ongoing work on the National Risk Assessment and the general prioritisation to be given to non-structural measures, may be appropriate to rehabilitate either for tackling the drought risk linked to climate change adaptation or for primarily economic reasons, and can fulfil all relevant sustainability criteria.

73. The development need to improve Romania's prevention and response capacity, is not fully translated in the proposed priority for funding that is quite limited in scope and target (n. 4 "Strengthen technical capacity of GIES").
74. The intention to make recourse to European Territorial Cooperation programmes, in particular cross border programmes, to address risks with transnational dimension, should be confirmed
75. The compliance gap still needs to be detailed regarding the agglomeration above 10,000 pe in the wastewater sector, but also with respect to the situation of the waste sector, in particular regarding the landfilling diversion targets. On drinking water, besides connection rates to water supply system, the situation related to quality standards should be developed.
76. Reference to updated County master plans should be made to sustain future development needs in water sector
77. The reference to "adequate" solutions for agglomerations below 2,000 is still confusing. The support to individual treatment systems shall be excluded, limiting the intervention to exceptional situations where public wastewater systems could be technically and economically justified, consistently with the master plans, while giving priorities to larger agglomerations.
78. Delays and difficulties encountered for assessing and approving Natura 2000 management plans are not suitably addressed and the expected result of the referred "technical advisory inter-ministerial committee", chaired by state secretaries of ministries involved should be clarified with respect to its ability to accelerate approval processes.
79. Challenges stemming from biodiversity conservation need to be suitably addressed, reflecting in particular the necessary definition of conservation objectives and establishment of measures for all SPAs and SCIs.
80. Data is added that soil erosion has increased from 2.6 tonnes/ha in 2006 to 5.06 t/ha but reference year should be specified.
81. Although the problem of abandonment of agricultural land is correctly addressed, the challenge related to the vast areas of woodlands and their protection should be addressed.
82. Within the SWOT analysis, clear distinction should be drawn between the objectives of sustainable exploitation, on one hand and biodiversity conservation and management of protected areas, on the other hand.
83. Updated text is provided regarding the Nitrates directive, following the Romanian authorities' decision to extend the designation of Nitrate Vulnerable Zones (NVZ) to 100% of the territory, but formulation gives the mistaken impression that this is due to level of accumulated nitrates in water increasing, rather than a national implementation choice.
84. The Sustainable Use of Pesticides directives and the pesticides national action plan and the nitrates legislation and action programme should be reflected.

Administrative and government challenge

85. The text largely reflects the Analysis of the Structural causes and main deficiencies, on the basis of which the Public Administration Strategy is being elaborated. However, the scope of the analysis has been broadened to include a wide range of

public services (education and health services, are anyhow covered under thematic objective 9 and 10),. Romania is expected to focus on the cross-cutting issues in public administration and focus on the main horizontal priorities as resulting from the Strategy. Reference should be made to the administrative services provided by public administration.

86. While stressing the need of a Public Administration Reform Strategy It is necessary to define the basic content of the main actions being thereby identified, the main framework of the action plan for their implementation and the relationship with the five headline Europe 2020 targets.
87. The relevant strategic guidance through CPP/CSR is generally well reflected. There could be more focus on "mechanisms for coordination between different levels of government".
88. For the proposed intervention in the land registration system, the PA includes an acknowledgement that lack of reliable information on real estate rights negatively impacts the development of both rural and urban areas. Given that ESIF will provide considerable support to investments in the Romanian urban print, Romanian authorities should clarify their commitment to approach the registration of properties in a systematic manner by ensuring the complementarity and coherence of interventions in urban and rural areas.

1.2 Summary of the ex-ante evaluations of the programmes / Partnership agreement

89. Whereas the text indicates that the ex-ante evaluation on the second draft is still in progress, the final contribution of the ex-ante evaluation on the version of the partnership agreement officially uploaded shall be updated and developed.
90. In particular, concrete references on the conclusions and recommendations issued by the evaluators and the corresponding modifications and improvements are needed.
91. Indication should also be provided on the process for the ex-ante evaluation of the programmes.

1.3 List of the selected thematic objectives and the main results expected

92. The formulation of development needs in section 1.3 should better align with the outcome of the analytical section and reflect the corresponding prioritisation and concentration mechanisms.
93. Some suggested funding priorities do not always emerge clearly from the analysis (notably agricultural and forestry infrastructure) or are vaguely formulated and would require more specification (e.g. "support for active aging measures"; "actions to enhance mobility of labour" under TO8).
94. A number of expected results should be better formulated to adequately reflect the intervention logic and indicate the main changes attained by means of ESIF. Rather than describing the process, the expected results should show the planned outcome of ESIF investments
95. The development needs should reflect on some priorities addressed in the analytic section 1.1 or in the Commission position paper, such as road safety measures or monitoring / mapping instruments to identify market failure for broadband coverage
96. Romania should formulate concrete results against 2020 objectives, whenever relevant.

97. Synergies between thematic objectives indicated in this Chapter should be completed: notably between thematic objectives 4, 5 & 6, and between thematic objectives 6 and 9 for EAFRD infrastructure in water and wastewater; thematic objectives 11 and 3 (for the cadastre)
98. The Romanian authorities are invited to provide more clarity as regards the expected results by fund as regards the multi-dimensional interventions for thematic objectives 8, 9 and 10.

Competitiveness challenge

99. The PA presents the sectors with growth potential identified in the draft national competitiveness strategy as well as the comparative advantages at regional level, without providing information on how this exercise was performed. In connection with the first ex-ante conditionality, the Partnership Agreement should anticipate the main elements and characteristics of the process that led to the identification of strategic priorities for RDI funding and smart specialisation areas. It should also include a description of how the entrepreneurial discovery process has been carried out and how it contributed to the identification of priorities..
100. The Partnership Agreement shall explicitly state, under TO1, that RDI funding will support the smart specialisation priorities identified in the National RDI Strategy 2014-2020 and/or smart specialisation areas identified in other smart specialisation frameworks elaborated at regional or local level. .
101. Care should be taken that actions to provide access to finance to SMEs also cover demand side issues such as supporting investment readiness of SMEs.
102. From the acknowledged perspective of tourism and culture as drivers for economic growth - tourism is for instance recognised as a sector in need for transformation where there is potential to grow, to increase added value or to sustain activity in the medium term through the exploitation of specialist niches or to increase competitiveness through innovation and market development, the Commission is of the opinion that ERDF support should be foreseen for thematic objective 8 to develop natural, cultural and other assets with tourism potential within the specific territorial strategies, developing endogenous potential and quality employment. The contribution of cultural activities or local products to local development under ERDF would fit better under thematic objective 8 and/or 3, promoting endogenous development or support to SMEs engaged in cultural and creative sectors to stimulate tourism related business development.
103. Furthermore, sports infrastructure and multifunctional cultural centres cannot be supported under thematic objective 6 but could be considered under thematic objective 9 if contributing to social inclusion objectives (ERDF regulation Art 5 (9) (a) refers to social, cultural and recreational services promoting social inclusion).
104. Tourism as such cannot be supported under thematic objective 6. The relevant investment priority under thematic objective 6 is only supporting natural and cultural "heritage", which could contribute to tourism development, not the development of any tourism asset or initiative as such.
105. The presentation of proposed funding priorities for agriculture and fisheries sectors, under the thematic objective 3 would need some streamlining.

106. Regarding SME access to finance and more particularly the SME Initiative, we would like to recall the conclusions of the European Council of 25 October 2013 inviting Member States to make good use of the opportunities offered by the SME initiative, with a view to expand the volume of loans to SMEs across the EU. The legal framework allowing MS to provide voluntary contributions of ERDF and EAFRD resources for joint financial instruments regarding (1) uncapped guarantees providing capital relief and (2) securitisation of existing debt finance and new loans to SMEs is now in place (Art 39 and other relevant provisions of CPR to be complemented by the model funding agreement soon to be adopted by an Implementing Act) and the ex-ante assessment identifying SME funding gaps at EU level and in each Member State has been made available to Member States. In line with the Commission's letter of 26th November we invite you to specify in the PA whether Romania intends to contribute ERDF and/or EAFRD resources to such new financial instruments to be set up under the SME initiative, the amount of such possible contribution and the type of financial instrument to be supported.

People and society challenge

107. For TOs 8, 9 and 10, the expected results do not sufficiently correspond to the identified development needs and priorities for funding, some of them overlap. Moreover, the results are not adequately targeted so they do not lead to a sound intervention logic. Expected results should be more focused. Results for systems and structures should be clearly distinguished from expected results for specifically identified groups of society.
108. The inclusion in TO8 of the specific priority 'creation of new food processing units' needs clarification, given there is already a related priority 'actions to support growth and modernization of the agri-food industry' under TO3 (which seems the more appropriate TO).
109. The priorities for funding numbered 13 and 14 under TO 8 could be merged into one Funding Priority as follows: "Diversification of fisheries and aquaculture sector by creation of new jobs and enterprises as well as the promotion of local development and new sources of income in fisheries areas (FLAGs)."
110. As part of the multidimensional approach described on p. 130, under Development challenge 2, the social inclusion aspect is reduced to: "Actions to develop of new businesses and social enterprises delivering public services, particularly in Romania's less developed regions and in rural areas". These are not sufficiently reflected in the proposed priorities which seem too limited.
111. The development need "Reforming the HRM in educational and health" and the priority "Building up the administrative capacity of professionals working in education in relation to quality assurance, monitoring and evaluation" should be clarified in relation to the target groups. Professionals are targeted under thematic objectives 9 and 10.
112. The Commission would like to point out that ESIF will not provide support to investments that would not be conducive to de-institutionalisation or which could perpetrate institutionalisation. In this respect, Romanian authorities are recalled the obligations stemming from the UN Convention on the Rights of Persons with Disabilities. The PA should clarify how the transition from large-scale institutions to

community-based care will be operationalized and the alternative services delivered. In addition, the proposed priorities for funding do not tackle the prevention of institutionalisation.

113. The proposed priority 'development of social infrastructure, considering community based infrastructure' should be revised accordingly. Merging it to proposed priority 12 would better reflect commitment to the de-institutionalisation approach.
114. Despite the fact that the PA mentions the importance of community nursing/health visiting services in addressing the poor indicators on maternal and child care in regions with high level of infant mortality, there are no clear priorities for funding to tackle this issue.
115. Clarifications are needed to better reflect the mapping of the needs, the approach supported, and the envisaged use of funds for the rural area.
116. The partnership agreement should reflect commitment to align to a coordinated use of ERDF and ESF for interventions to address inequalities in health, acknowledged as a current bottleneck.
117. The priority of investing in health infrastructure needs to be clarified, so as to bring it in line with the development needs.
118. While in the analysis of disparities it is mentioned that the school drop-out rates are higher in the case of upper secondary, there is no reference to it in the proposed priorities for funding.
119. Diversifying provision of second chance education is a major issue, notably in VET, and it should be clearly mentioned under the specific proposed priority for funding.
120. Regarding tertiary education, the proposed priorities for funding correctly refer to the quality of the service, its match to the labour market needs, and access, in line also with the 2013 CSR. However, the quality and the match with the labour market needs, including the entrepreneurial dimension of the higher education, are not reflected in the main development needs.⁸ Romanian authorities are invited to include the entrepreneurial dimension of higher education and lifelong learning under funding priorities 8 and 13, under the thematic objective 10.
121. Despite the fact that in the section devoted to thematic objective 8 and under main development needs for thematic objective 10 it is specified that the measures related to continuous training of employees are addressed under thematic objective 10, the adaptability of workers is not included in the list of proposed priorities for funding.
122. Based on the analysis of disparities mentioning that the main challenge for LLL in Romania is represented by the very low participation, the Romanian authorities are invited to propose concrete priority/ies aiming at increasing the participation in LLL programmes.
123. Better correlation is needed between thematic objectives 2 and 10. The proposed priority for funding from thematic objective 2, "improving education through IT based curricular and extracurricular activity with use of open access instruments..." should be moved under thematic objective 10 and correlated with the proposed priority for funding "enhancing curricula and better integration of ICTs to make learning more attractive...".
124. The priority of investing in rural educational and social infrastructure should elaborate more on how the consistency with the national strategies and demographic and other

criteria established at national level. Educational infrastructure should be primarily concentrated under Thematic objective 10.

125. With regard to Roma, authorities should take a clear commitment to prevent and fight segregation in the context of education, health, housing and social inclusion. Special attention should be placed on reducing early school leaving and increasing participation in pre-/early school education among Roma, while preventing and combating all forms of school segregation.
126. Complementarity between local roads foreseen under thematic objective 9 under EAFRD and those transport investments which Romania indicates it expects to support under thematic objective 7 should be specified, in the context of the regional development plans addressing connectivity and/or economic development challenges.

Infrastructure challenge

127. Romania should specify how it will ensure that the legal, procedural and organisational reforms (thematic objective 11) precede the design of any investment in IT infrastructure. Planned operations under thematic objective 2 should be compatible with results achieved under thematic objective 11 and in line with the Public Administration reform strategy. Planned operations under thematic objective 2 should also be compatible with results achieved under thematic objectives 9 and 10
128. Given the predominance of rural areas in territories suffering from market failure regarding ICT coverage and with respect to the continuation of measures promoted under 2007-2013 period the Romanian authorities should consider whether a contribution from EAFRD alongside the ERDF would also be appropriate, for investments in broadband infrastructure. Romania is also asked to provide further elements on how continuity will be ensured with investments undertaken so far regarding basic broadband in rural areas.
129. The partnership agreement shall also confirm, in accordance with the regulation, that investment in airport infrastructure are only eligible when they relate to "environmental protection or accompanied by investment necessary to mitigate or reduce its negative environmental impact."

Resource challenge

130. It shall be confirmed that the sustainable urban mobility plans and the EU funded investment identified within these will also seek to contribute to GHG emission reduction which is an essential requirement to make EU financial support available under the thematic objective for support to the transition to the low-carbon economy. This should also be reflected in the development needs, the priorities proposed for funding and the expected results for ERDF.
131. Investments proposed for EU funding – as well as development needs in section 1.1 – within sustainable urban mobility plans should also cover low-carbon measures in addition to public transportation systems (e.g. promoting cycling and walking, discouraging car use...).
132. The result "maintenance of Romania's low dependency upon imported energy" should be clearly linked to energy efficiency and/or renewable energy.
133. It shall be mentioned that when addressing the development of low-carbon energy technologies that the objectives of the Strategic Energy Technology Plan (SET Plan) will be taken in due account.

134. The opportunity to support micro-hydropower generation, already largely developed, should be duly considered, against alternative renewable energy sources.
135. The intention to primarily make recourse to non-structural measures for addressing risks like flood or drought, correctly addressed in section 1.1, should be confirmed in the proposed priorities for funding in section 1.3. Romania is asked to clarify which parts of the existing irrigation/water pumping/water supply network (primary, secondary, beneficiaries) it intends to invest in and, in each case, the relevant source of financing whether national or EU funds. It is clear that, as far as the financing of on-farm irrigation by EU funds is concerned, this will be dependent on the existence of efficiently functioning secondary irrigation systems, and that the financing of such secondary systems will in turn depend on effective primary structures. Romania is also asked to confirm if funding for irrigation is currently foreseen exclusively under thematic objective 5, or also under thematic objective 3.
136. The preference to non-structural measures, for tackling risks (floods, erosion) should be clearly formulated, consistently with the approach developed in chapter 1.1.
137. As the correlation table between EUSDR and PA priorities refers to hydro-morphological measures, Romania should confirm whether it intends to support such measures through the partnership agreement.
138. The 15% restoration target represents the 2nd target of the EU biodiversity strategy to 2020, which represents a policy obligation for all Member States and Romanian authorities should specify how they will contribute to its achievement.
139. Consistently with the threats on marine biodiversity referred to under chapter 1.1, measures to protect this biodiversity, rare habitats and species should be considered
140. To better reflect EAFRD regulation objectives, expected result for EAFRD under TO6 should be reformulated as follow: "Increased area on which abandonment of sustainable agricultural activities is avoided".
141. Synergies between TO3 and TO5/6 (investments in Green Infrastructure), TO1 (innovative solutions for integrative deployment of Green Infrastructure) and TO 8/10 (green jobs/skills required for such deployment) should be highlighted
142. Synergies between TO 1 and TO6 should be highlighted, as eco-innovation has been addressed in chapter 1.1, but not further developed in chapter 1.3
143. For water and wastewater, where interventions of both Cohesion Fund (thematic objective 6) and EAFRD (thematic objective 9) are envisaged, the text is still not fully clear regarding how in broad terms the two funds will intervene in a complementary manner.
144. From the acknowledged perspective of tourism and culture as drivers for economic growth, the Commission is of the opinion that ERDF support should be foreseen for thematic objective 8 to develop natural, cultural and other assets with tourism potential within the specific territorial strategies, developing endogenous potential and quality employment.

Administration and governance challenge

145. The description of the funding priorities lacks focus and covers a wide range of interventions, through the inclusion of local public services provided by public and private providers. This approach should be revised so that the interventions should effectively lead to the correction of the main deficiencies identified in public administration, according to 1.1 and the Analysis of the Structural Causes and

Deficiencies. Overlaps should be avoided in order to allow for a clear delineation of the expected results of the funding priorities.

146. Any training investment should be based on needs assessment to avoid reduced ineffectiveness and waste of resources on non-critical skills and should be linked to the structural reforms. Reference to training providers should be clarified (or removed) in order to ensure consistency between the different funding priorities.
147. The diversification of public service delivery through cooperation and subcontracting need to be duly analyzed and justified, since it has not been identified as a development need.
148. The reference to the Anti-Corruption Strategy needs to be reintroduced, , making specific reference to the measures intended for the compliance to the CVM related measures.
149. Romania is invited to duly take into consideration the need to invest in building the capacity of stakeholders. Some participatory/co-operation activities involving the stakeholders are envisaged, but the focus is on developing the capacity of public administration. This priority should result from an adequate analysis under 1.1. According to the CPR, adequate capacity of stakeholders is a pre-condition for mobilization of the reform at all levels. This is relevant in all sectors and, as far as ESF is concerned in the social and education areas, where the existing social partner structures and the civil society should be further strengthened and the link ensured with priorities under thematic objectives 8, 9 and 10
150. It is necessary to specify the proposed tools and mechanisms to enhance the use of Open Data system and to guarantee their efficiency. Also, as implementation of IT systems, open data and the use of e-government tools is envisaged both under thematic objectives 2 and 11, demarcation should be explained.
151. The broad orientation envisaged for systemic reforms aiming at tackling the identified structural causes should be presented
152. The ERDF result related to cadaster should be reformulated to adequately reflect the planned intervention as described in Section 1.1., where ERDF is envisaged to support the coverage and efficiency of the registration system in order to remove current bottlenecks in the implementation of investments and projects, not having the aim to overcome obstacles to consolidation of agricultural holdings arising from land ownership disputes.

1.4 Indicative allocation of support

153. The proposed budgetary allocation still reflects worrying imbalances. The allocation for environment under Cohesion Fund has been further reduced, further undermining the capacity of Romania to implement the investments required by the acquis.
154. In addition, the allocation reveals large discrepancies between the budget proposed to tackle the severe competitiveness challenges, regarding support to RDI or economic operators and the promotion of local and regional infrastructures, which contribute less directly to the Europe 2020 objectives.
155. A transfer of 3% from the allocation to the less developed region to the more developed region is proposed, but it has not been duly justified, as required by Article 93(1) of the CPR

156. The allocations by Thematic Objectives and share of ESF are indicated, but clear criteria and justification have to be provided to allow an assessment of adequacy.
157. The technical assistance allocation from ERDF (EUR 323.404.255, out of which EUR 212.765.960 is the Technical Assistance OP) and from ESF (EUR 320.957.447) and the use to be given to the TA resources by the two Funds and Programmes should be clarified (to be also checked against the information on page 171).
158. With regard to tables 1.4.4 and 1.10, in case Romania decides to implement operations related to more than one category of regions, (even if they are implemented only in one category of region), the related expenditure should be allocated on a justified pro rata basis.
159. The difference between the allocation for thematic objective 11 in Table 1.4.1 (EURO 714.957.447) and the allocation for the OP Administrative Capacity Development in Table 1.6 (EUR 553.191.489) should be explained.
160. The Commission reiterates its previous observation that the proposed allocation of EAFRD support under thematic objectives 1 and 10 (together less than 1% of EAFRD allocation; with the share under thematic objective 10 now decreased from 0.82 to 0.18%) appear very limited as compared to the clear needs which emerge in the analysis and the scope of the funding priorities proposed (innovation in agri-food chain, farm advisory services, vocational training for agriculture & food sector etc.)
161. On page 124 an EAFRD contribution to thematic objective 11 via technical assistance is incorrectly indicated. Technical assistance is not part of thematic objective 11 (and EAFRD does not contribute to thematic objective 11 in table 1.4).
162. As regards the indicative amount of support for climate changes objectives, although the amounts will be generated by the SFC system based on the encoding of the categories of intervention at the level of the (operational) programmes, the Romanian authorities should still provide an estimated total figure in the Partnership Agreement, taking into account that the ESI funds should contribute to the objective in the 2014-2020 Multiannual Financial Framework of devoting at least 20% of the overall EU budget to climate-related expenditure. The estimate should be based on the methodology for climate change support laid down in Commission Implementing Regulation (EU) No 215/2014.

1.5 The application of horizontal principles and policy objectives

1.5.1 - Partnership principle

163. Regarding the partnership principle, the text provides information on the selection mechanisms and broad information on the inputs. However, more details are necessary on the outcome of the consultation and how partners have been provided feedback on the management of their inputs, in accordance with the requirements of the European Code of Conduct.

1.5.2 - Promotion of equality between men and women, non-discrimination and accessibility

164. Further details on the measures envisaged to increase the accessibility to public services infrastructure and information and communication technology by the marginalised communities shall be provided, in particular on their mainstreaming, whenever relevant

1.5.4- Horizontal policy objectives

165. Description of arrangements to ensure mainstreaming of horizontal policy objectives should be detailed.

1.6 The list of programmes with respective indicative allocations by ESI Fund

166. The YEI allocation should also be added to the ESF allocations in section 1.6 in order to ensure that the total ESF allocations is programmed consistently with the ESF allocation (minimum share) indicated in section 1.4.1.

2 ARRANGEMENTS TO ENSURE EFFECTIVE IMPLEMENTATION -

2.1 Coordination between the ESI Funds, other Union and national funding instruments, and with the EIB.

167. A reinforced European Research Area is at the same time the driver and the objective of the Europe 2020 strategy. The partnership agreement needs to make reference and explain the synergies between structural funds and the priorities and actions defined in the communication A reinforced European Research A Partnership for Excellence and Growth (COM(2012)392).
168. Section on complementarities between ESIF and Horizon 2020 should be strengthened by mentioning the relevant priorities and specific objectives for Romania; it is particularly important that ESIF support should be available for the participation of beneficiaries from Romania in the 'Widening' actions. Reference should be also made to complementarities with the European Innovation Partnerships and EIT Regional Innovation Scheme.
169. The partnership agreement should clarify that the macro regional strategies are relevant for the whole territory of Romania as stated in the Communication on the Danube Strategy
170. As regards transport planning in transnational context, the transnational context and the international links with the neighbouring countries are not enough described.
171. Romanian authorities shall also assess the financing opportunities under the Connecting Europe Facility (CEF) and the complementarities that can be created with the structural funds for ICT in Romania.
172. The text regarding complementarities between the two pillars of the CAP needs further development: current draft covers viticulture and bee-keeping sector, but does not refer – in summary terms only- to wider issues such as direct aids, small farm scheme, greening, etc
173. With regard to the proposed administrative structure for coordination among the ESI Funds, the proposed thematic steering sub-committees appear to have the clearest tasks with regard to complementarity. However, it should be clear what the delineation with the respective programme monitoring committees is, as some of the tasks suggested are part of the monitoring committee competences.
174. Given that systematic registration of land will contribute to ensure synergy with other ESIF investments, notably in infrastructure, the cadastre project should be included in the scope of activity of the thematic sub – committee 'Modernization of national administration and of judiciary'.
175. A synergy might be developed with the actions undertaken with support of the Asylum Migration and Integration Fund (AMIF) therefore a reference to AMIF should be added.

176. Measures envisaged to achieve or enhance complementarities with LIFE programme should be detailed.
177. The coordination mechanisms between the ETC and other programmes should be outlined in operational terms to ensure the complementarity use of resources.

2.2. The information required for ex-ante verification of compliance with the rules on additionality

178. The table 2.2 provided should be complemented with information stating clearly if figures for the indicator P51 are expressed in ESA or in cash terms (note that, in ESA terms, P51 figures for 2014 and 2015 are considered optimistic).
179. Considering the indicator for government gross fixed capital formation in table 2.2, figures for 2014 and 2015 are not in line with EC's Spring Forecast 2014, as released on 5 May 2014 (EC forecasts for P51 indicator is 4.3% and 4.4%); it is therefore necessary to specify if the indicator P51 or a broader indicator for government fixed capital investment was used. It should be verified that the figures submitted in the PA are in line with the figures submitted in the Convergence programme of the Government.

2.3 Fulfilment of applicable ex ante conditionalities

180. The observations on the sections below primarily relate to conditionalities for which the Commission disagrees, based on the available information, on the outcome of the self-assessment
181. It is recommended that both the assessment grid and action plan are ordered numerically by thematic objective for the thematic ex ante conditionalities, and by area for the general ex ante conditionalities to ensure further clarity.
182. For numerous conditionalities, evaluations or strategies are under preparation and the condition should therefore be considered as unfulfilled. The Commission draws the attention of Romanian authorities on the critical need to ensure solid ownership when preparing and endorsing these strategies.
183. For the general ex ante conditionality on statistical systems and result indicators, the PA should state that all related criteria will "entirely" (instead of "mainly") be analysed at each operational programme's level".
184. Romanian authorities shall subsequently provide, in accordance with the provisions of article 19(2) of the CPR, a summary of the action plans envisaged for the *ex-ante* conditionalities not fulfilled, entirely or regarding specific criteria, in the cases of contradictory view of the Commission, detailed hereinafter. For these conditionalities, the Commission reserves its final assessment on possible significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives (in accordance with Art. 19(5) CPR) until the time when the programmes have been submitted and all the necessary information is available. The Commission already calls Romania's attention on possible significant risks resulting from the late adoption and implementation of strategies."
185. Regarding the ex-ante conditionalities that request drafting and implementing strategies, a pro-active approach is required to start setting in place the administrative measures, already identified in the draft strategies, which are considered necessary for their effective implementation. Clear mechanisms for mitigating the risk of late

adoption, shared responsibilities among stakeholders and a coherent strategy on monitoring, analysis and reporting using the collected data should also be established.

Specific ex ante conditionalities

186. Condition 2.1 (*digital growth*) – The condition will only be fulfilled when the final version of the National Digital Agenda will have been completed and adopted. Romanian's authorities' attention should nonetheless be drawn on the necessary improvement of the current draft, which should be upgraded against the comments already issued by Commission services and in particular the consistency with the national smart specialisation strategy;
187. Condition 2.2 (*NGN*) – Commission's evaluation will only be made once the National NGN plan will have been completed and adopted;
188. Condition 3.3 (*SMEs*). The SME law recently adopted by the Parliament makes the SME test compulsory. The roadmap for the effective implementation of the SMEs test should be described in the PA.
189. Condition 4.3 (*renewable energy*) - The Commission agrees with the positive self-assessment. Clarification is nonetheless still needed on how suspended certificates will be awarded to concerned RES producers and on the exception of large industrial consumers from the obligation to purchase green certificates for a certain part of their electricity consumption;
190. Condition 6.1 (*water sector*) – The 2nd criteria is partially fulfilled. RO is to provide clear deadlines to fulfil the following actions: extension and modernization of the monitoring of drinking water quality; modernization of the laboratories in order to improve monitoring of substances discharged into the waters, in particular priority hazardous substances; improvement of data collection, data management systems, monitoring, and assessment methodologies to ensure a WFD compliant water management system; detailing which actions will be delivered to contribute to the delivery of good status under WFD and better reflection of these within the 2nd round of RBMPs.
191. Condition 6.2 (*waste sector*) – Commission considers that 1st criteria is partially fulfilled due to the poor quality of the information provided in the report; as well, the 4th criterion is not fulfilled due to the lack of effective economic instruments, i.e. the postponement of the application of the landfill tax and lack of transparent and effective EPR or equivalent system is in place to cover the operational costs of separate collection and recycling of the main waste streams. The Action plan included in the Roadmap is for the Commission the necessary minimum condition that will have to be implemented in order to ensure achievement of the targets on preparation for reuse and recycling.
192. Condition 8.4 (*active aging*) – Commission considers that criterion 2 is not fulfilled. The Active Aging Strategy is still in preparation and insufficient measures are in place.
193. Condition 8.6 (*young in labour market*) – The Commission considers that criterion 4 is unfulfilled, as the enhanced involvement of youth organisations is not yet adequately ensured;
194. Condition 9.1 (*poverty reduction*) – the justification on the fulfilment of criterion 2 needs to be further elaborated to explain the continuous use of evidence base for the development of policies. Criterion 5 may not be declared fulfilled as it refers to the Social Inclusion Strategy that has not been adopted yet. Regarding criterion 6, capacity

building for stakeholders has to be envisaged in the partnership agreement and operational programmes, which is not yet suitably addressed;

195. Condition 9.2 (*Roma inclusion*) – the deadline for the fulfilment of criteria 3 and 4 is different although they both seem to refer to the deadline for adoption of the revised Strategy. This needs to be clarified.
196. The Commission agrees with Romania's self-assessment that the three EAFRD-specific thematic *ex ante* conditionalities are currently 'fulfilled' based on the existing legal framework in place in 2014. In the explanations provided it should be made more explicit that this it is due to 2014 being a transitional year for the CAP reform, and therefore Romania commits to update these provisions for 2015, when the new baseline conditions under the CAP reform enter into force.

Horizontal ex ante conditionalities

197. *Public procurement*: The Commission disagrees on the alleged fulfilment of the conditionality. Despite recent but timid progresses, the public procurement system still requires significant improvement to be considered effective. In particular, the existence of legal provisions infringing the Directive in the sectoral legislation still undermines the effectiveness of the public procurement system. The transparency of public procurement award procedures is endangered by a lack of coherence and consistency of opinions issued by various institutions. Mechanisms for detecting and preventing conflict of interests shall be effectively implemented, irrespectively of the funding source.
198. An action plan forge the public procurement conditionality compliance shall be prepared, primarily relying on the recommendations agreed upon with the Commission that will have to be duly and extensively implemented. It will have to contain concrete measures that shall be implemented to enhance coherence, e.g. through structured publication, and cooperation and communication between institutions. The action plan shall also make clear references to the other sub-criteria.
199. *Anti-discrimination, gender and disability*: The Commission shares the view of the Romanian authorities on non-fulfilment of the general EACs G.1 (anti-discrimination), G.2 (gender) and G.3 (disability). The related action plan should provide more details on the specific actions necessary to correct the non-fulfilled elements of the EACs. Regarding criteria G.1.2, G.2.2 and G.3.2, the related action plan should provide more details on the specific actions (a summary of the training plan per each of the three components in terms of calendar, target group and expected results). It is not clear by what means the implementation of this training plan will be financed. Taking into account that the target group is represented by the staff involved in the management and control of ESIF, Ministry of European Funds could also be one of the bodies responsible for the fulfilment together with the National Council for Combating Discrimination; Ministry of Labour, Family, Social Protection and Elderly. When more than one responsible group is identified, it should be mentioned as to which is the primary one.
200. *State aid*: The Commission considers that this conditionality is not fulfilled and action plan shall be prepared accordingly, relying on the recommendations below, which will have to be duly and extensively implemented.
201. The PA shall clarify the role of the Competition Council to ensure compliance of state aid rules in the context of ESI funds as well as the arrangements to strengthen the

cooperation with the bodies responsible for the implementation of the EU funded programmes.

202. Further clarification is required on whether there is a method for screening of the operational programmes to ensure compliance with state aid rules and detect state aid issues at the early stages (e.g. verification of the accumulation rule and Deggendorf principle, compliance with the state aid rules in the case of the financial instruments, mechanism for the recovering of the unlawful aid).
203. As regards the second and third criteria, the PA shall further detail the actions envisaged to ensure training of staff involved in the ESI funds and how information and knowledge on state aid will be disseminated.
204. In view of the State aid modernisation process the Romanian authorities should assess the necessity to amend the state aid law (Law 143 of 27 July 1999) and inform the Commission on the planned changes, including on the role of the Competition Council and the introduction of the state aid registry. In this respect, the move from *ex ante* to more *ex post* control, the evaluation of the state aid scheme (including improved administrative capacity to perform these tasks), increased transparency, compliance with the rules on aid to undertakings in difficulty are also of outmost relevance.
205. *Environmental and Strategic Impact Assessment* – The capacity and commitment of environmental authorities to adequately assess the environmental reports entailed in the authorisation procedures proved very poor and of uneven performance. Romania should provide evidence that the environmental authorities have adequate and effective procedures and evaluation tools to efficiently assess the environmental reports and the afferent design of the proposed mitigation measures; Romania has to complete its self-assessment with information on how the staff dealing with the ESI funds benefits from appropriate technical assistance, including details on the dissemination and exchange of information system in place.
206. *Statistical system and result indicators* - the fulfilment of this conditionality can only be assessed in particular OPs, as the required information will be available only at this level. The foreseen deadline for the fulfilment of the criteria is 22 December 2014. The bodies responsible for the fulfilment are Ministry of Regional Development and Public Administration and Ministry of European Funds.

2.5 Measures to reinforce administrative capacity

207. The description of the capacity of the Ministry of European Funds to coordinate and manage the ESIFs implementation in the 2014-2020 period is too poorly developed. Staffing requirements should be analysed as well as a better description of the policy and strategic coordination functions and structures and their organisation within the Ministry.
208. The text should clearly indicate which administrative authorities are expected to become certifying authorities, as it is suggested that the current system, relying on a single certifying authority, may be modified.
209. The list of bodies sets out the structural fund authorities, and should be completed with the equivalent EAFRD bodies (Paying Agency, Certification Body).
210. The Commission notes the clarifications provided for the national decision to establish the Ministry of Regional Development as a new Intermediary Body for delivering EAFRD support for small-scale local infrastructure in rural areas, and that the detailed modalities are to be set out in a national implementation framework.

Romania is asked to give an assurance within the partnership agreement that for the implementation of this EAFRD support the eligibility conditions and strategic targeting laid down in the National Rural Development Programme will be applied; that selection of projects will be based on the selection criteria to be decided by the EAFRD Managing Authority and consulted with the RDP Monitoring Committee, and that the arrangements for managing, monitoring & evaluation, and control of these projects will be subject to the legal provisions established for EAFRD where responsibility for all payments is subject to supervision by the Paying Agency.

211. Romania still needs to confirm whether all managing authorities will be run with the same modernised, performance based, management principles.
212. The proposed creation of a centralised unit ensuring unitary approach for irregularities and financial corrections should not undermine the responsibility and empowerment of managing authorities, responsible for 1st level management verifications.
213. It is necessary to describe how fraud risk analysis and proportionate fraud prevention measures will be developed guaranteeing a risk-based and effective approach that includes integrity principles, and how these will be used in the internal control system of the Managing Authority.
214. Whereas the lack of effective monitoring mechanisms is rightly pointed out as undermining the application of existing ethics rules, no concrete measure is suggested to overcome such shortcoming.
215. Besides the reinforced coordination mechanisms, the text should also emphasize the expected benefits for the managing authorities from the implementation of the administrative capacity action
216. The list of measures listed in chapter 2.5 should still be framed within dedicated action plan, with clear milestones and deadlines.
217. The Commission considers that the partnership agreement is not the appropriate document for making reference to intention of the Romanian authorities to make use of the mechanisms of article 102(2) of CPR for the adoption of major projects. Therefore, this assertion should be removed.

2.6 Actions planned to reduce the administrative burden for beneficiaries

218. Further scope for reduction of administrative burden is not described.
219. Besides the working group, continuous dialogue with beneficiaries should help, in a tailored manner, identifying room for further optimisation and simplification. The envisaged mechanisms should be developed.
220. Romania should provide clarifications with regard to the areas/categories where the use of Joint Action Plans is envisaged.
221. Regarding the use of Simplified Cost Options, the Ministry of European Funds commissioned a study for identifying of the areas and operations where unit costs could be used and the design of related calculation methodology. The Romanian authorities are invited also consider the possibility of using flat-rates for indirect costs and lump sums especially in the ESF case, and simplified costs options more generally for EAFRD.

INTEGRATED APPROACH TO TERRITORIAL DEVELOPMENT

2.7 The arrangements to ensure an integrated approach to the use of the ESI Funds for the territorial development of specific sub-regional areas

222. Clarity should be given with regard to financial allocations for CLLD, ITI and sustainable urban development.

2.7.1 Community-led Local Development (CLLD)

223. Referring to the Roma population under LEADER for rural areas is a valid matter added. However, limiting the scope of support to "specific and traditional activities of this community (crafts, etc.)" may be well insufficient to support the inclusion of the Roma population and offer prospects of economic progress.
224. It is welcomed that the identification of poor urban areas will be based on an effective methodology. It should be ensured that such areas within the wider functional zone of a town/city will not be ignored because of their administrative classification as rural. Furthermore, in order to ensure the effectiveness of actions the delimitation of the area that would be best covered by a CLLD approach/local action group might not necessarily coincide with the identified poor areas. These aspects can be taken into account in the concerned operational programmes.
225. Paragraph 12 on page 318 is overlapping with the preceding paragraphs.
226. A new paragraph should start from the third sentence of paragraph 14 on page 319. It describes specifically coordination between CLLD and ITI for the Danube Delta with a link to the relevant section 2.1 of the partnership agreement.
227. Inconsistent data is provided on the share of EAFRD funds foreseen to be allocated for Leader: on pg. 317, a figure of 7.8% is cited which the Romanian authorities are invited to consider carefully in light of the low level of absorption of the 2007-13 Leader funds. Pg. 319 refers to the regulatory minimum 5% allocation.
228. Furthermore in addition to the identification of the ESI Funds that shall be used for CLLD an approximate estimated budget allocation needs to be given for each Fund.

2.7.2 Integrated Territorial Investment (ITI)

229. The use of ITI appears to be limited to the Danube Delta Biosphere. Considering the needs for integrated approaches to addressing economic, social, environmental and climate issues, it should, at least, be considered as well for urban (functional) areas which are the main drivers for the country's development.
230. The ITI offer an opportunity to implement truly integrated approaches based on appropriate tailor-made prioritisation, funding, implementation and monitoring mechanisms based on partnership with all concerned stakeholders. The partnership agreement does not (nor the published consultative documents on the operational programmes) offer credible alternative solutions.
231. In the section on sustainable urban development (SUD) reference is made to an investment correlation mechanism under the regional programme to achieve an integrated approach to ensure complementarity of investments from different programmes. Since such a mechanism did not deliver results for the growths poles in the 2007-2013 period this is not satisfactory. Using the ITI offers an opportunity to overcome difficulties and achieve better results. It should be noted here that for an integrated approach also wider coordination and cooperation mechanisms are needed beyond the scope of the ESI Funds. Linkages to the coordination mechanisms described in chapter 2 are necessary, but might be insufficient lacking a sufficient local dimension.

232. The statement on page 320 related the “indicative financial allocation for ITI other than those for sustainable integrated urban development” should be clarified, as the partnership agreement does not entail any reference to other envisaged ITIs except for the Danube Delta Biosphere.
233. It is not clear what financial allocations listed on page 320 refer to. If only relating to the Danube Delta Biosphere the amounts should be justified by estimated development needs and expected results and impacts.
234. The ITI for the Danube Delta should indeed be based on a comprehensive territorial investment strategy for which the partnership agreement refers to work undertaken with World Bank expertise. It is important that such a strategy is elaborated in close cooperation with and endorsed by all stakeholders ensuring full ownership by the latter. The text should be complemented with information about the EAFRD and EMFF which would also contribute to this ITI. However, as regards EAFRD, the contribution envisaged to the ITI should include other appropriate rural development measures, not only investments and compensatory payments as currently indicated.
235. The Romanian authorities are requested to clarify further the co-ordination mechanisms and lines of responsibility envisaged both within the ITI itself, and also between the ITI and CLLD which will operate alongside each other in the same region. The revised text on co-ordination mechanisms does not reflect the Commission's previous observations on need to explore one stop shop/ common administrative structures to facilitate beneficiaries' access to the various support instruments which are envisaged in the area (pg 320). Romania is also requested to confirm which funds are intended to be drawn to support the ITI, besides ERDF and ESF, which afferent justification.

2.7.3 Sustainable Urban Development

236. The principles for selecting urban areas refer to an "integrated policy approach to local development". This could be more specifically developed (or a commitment made to do so in cooperation with all stakeholders) taking into account the necessary features for effective local development, e.g. the coverage of economic, social, environment and climate dimensions, mobilising local partnerships covering public and private sector, articulation and correlation with sector-based policies, mobilising of resources from all stakeholders and funding sources, mechanisms for effective implementation and monitoring ...
237. Any reference to critical mass or concentration of resources is missing, nor through the selection criteria neither in any other way. Paragraph 3 does not foresee any limitations to the number of urban areas to be selected with a risk of dispersion of resources.
238. As pointed out also at general level with regard to the approach for territorial development, a simple continuation of the support for growth poles and other tiers of cities and towns does neither seem to take into account any spatial developments over the last decade nor to take stock of lessons learnt in the 2007-2013 period.
239. The priorities highlighted in paragraph 6 derived from the National Spatial Development Strategy and the World Bank Study are not fully aligned with other paragraphs in this section. Paragraphs 4, 7 and 8 describe functions, needs, challenges of urban areas with some overlapping areas. While wide-ranging, important dimensions for (advanced) economic and social development are missing. Cities also

are thriving places for research, technological development and innovation, concentrate economic activity and play an important role in human capital development, especially in view of a higher added-value economy. This should be better addressed in the partnership agreement especially to reinforce the statement in paragraph 3 of this section that "all ESIF, through the necessary programs and priority axis" should contribute to the development of urban areas.

240. Challenges related to adaptation to climate change should be considered for sustainable urban development since these can have significant impacts in particular in urban areas (already raised in informal observations).
241. The limitative listing of objectives to be financed in all types cities is not clear (p.322 §8) and does not seem to offer sufficient space for place-specific needs and opportunities. On the one hand an integrated approach should allow a wider coverage within the areas foreseen in the partnership agreement; on the other hand investments in urban mobility or regeneration could offer only limited perspectives in smaller towns.
242. Paragraph 10 on p.322 refers to better addressing institutional frameworks for functional urban areas and implementing and monitoring of local strategies. This rather general statement could be made more concrete based on existing arrangements, potential and bottlenecks in Romania and how the implementation of the ESI Funds can make use and/or improve this. Where appropriate this can be developed at the level of the concerned operational programmes giving due consideration to the coordination mechanisms as described in chapter 2 since it will also require coordination between programmes.
243. It is not clarified which responsibilities will be given to urban authorities with regard to the EUR 2.65 billion allocated from the ERDF for SUD (p.323 §11).

2.7.4 Territorial Cooperation

244. Coordination mechanisms with other Member States are not detailed regarding priority areas falling under Romania's coordination with the EUSDR.
245. The Danube transnational programme, which will support the EUSDR, should also be mentioned.
246. Although Romania is priority area coordinator for navigability, the text still does not entail completed further information.
247. The strategy environmental priority, entailed in the EUSDR, should be reflected.

2.7.5 The integrated approach to address the specific needs of geographical areas most affected by poverty or of target groups at highest risk of discrimination or social exclusion, with special regard to marginalized communities, persons with disabilities, long term unemployed and young people not in employment or training

248. Addressing territorial disparities, at different levels, is expected to be further developed at programme level, in particular in the regional development operational programme. The partnership agreement could however already give an orientation on how disparities and development potential will be reflected in terms of, for instance, financial allocations and specific priorities at the level of all relevant (operational) programmes. No specific provisions are made for areas with specific needs other than

CLLD for rural and urban areas. In this context it is reminded that the identification of disadvantaged micro-regions is a criterion for the ex-ante conditionality related to a national Roma inclusion strategic policy framework.

249. The activities proposed in the table included in this section are structured by target group. For each target group the activities should be based on the specific needs and the challenges it faces.
250. As regards the approach for deprived communities the correlation between different types of interventions is much supported. It is however not clear why social houses would be compulsory for all integrated plans and how this would be operationalized within the Romanian policy and institutional context.
251. The PA rightly identifies CLLD as a good approach to address deprived urban areas. However, considering the particular features and lack of experience with CLLD in urban areas in Romania, the Commission advises to allow urban authorities to use also different approach to address integrated development for such areas.
252. This section provides a list of the main types of integrated actions planned using ESF and ERDF for Roma as a specific target group. Education infrastructure, including early and preschool education, is however missing from the list.
253. A reference has been included to the National Strategic Orientation of the Sustainable Development of the Carpathian Region. It is however not clear to which thematic objectives, priorities for funding and (operational) programmes this would link and how in practise this policy framework will be taken into account. Furthermore, it is not clear why this particular territorial strategy is mentioned in the partnership agreement and not any other ones that might be relevant to deliver the objectives of the ESI Funds.
254. When revising the PA to take into consideration the above Commission observations, the Romanian authorities are also invited to re-screen the text in order to clarify and address certain minor (non-substantive) technical errors and data inconsistencies.