



EUROPEAN COMMISSION

Observations on the Partnership Agreement with Bulgaria

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 and its supporting analysis (SWD), and are based on the Commission Services' Position Paper (CPP) for the use of the European Structural and Investment Funds (ESIF) in 2014–2020.

The observations refer to the Partnership Agreement (PA) submitted by the Republic of Bulgaria on 2 April 2014 and are presented following the PA structure as set out in the template. The most critical issues for the Commission are noted in Part I.

1. Assessment of Member State policy objectives

The official 2014 version of the PA is a mature document with a clear structure. The Commission would like to remind the Bulgarian authorities, however, to respect the principle of thematic concentration of ESIF support as stated in Article 18 of the CPR, selecting those interventions that bring the greatest added value in relation to smart, sustainable and inclusive growth, the challenges identified in the National Reform Programme (NRP) and relevant country-specific recommendations (CSR). In accordance with Article 15(1) (a)(i) of Regulation 1303/2013 any relevant CSRs to be adopted in the framework of the 2014 European Semester (ES) should be taken into account for the final draft of the PA.

Integrated urban development – The Bulgarian authorities still intend to support no less than 67 cities and towns throughout Bulgaria, which will not allow for effective implementation of a total of almost EUR 725 million (20 % of the total European Regional Development Fund (ERDF) allocation) foreseen for integrated urban interventions as meant under Article 7 of the ERDF regulation, under the operational programme (OP) 'Regions in growth'. Allocation should be far more concentrated and based on needs assessments of functional urban areas with sufficient critical mass of economic and demographic density that can support the development of smaller surrounding urban centres as advocated by the Bulgarian government, whereby the best and most promising strategies should be supported that could bring about lasting improvement of economic, environmental, climate, social and demographic conditions. This does not mean that smaller towns are excluded from any ESIF funding under other priority axes and OPs.

Healthcare – The PA recognises the pressing need to reform the healthcare sector, referring to CSRs for Bulgaria, with the National Health Strategy 2014–2020 outlining reform plans. The Commission considers the comprehensive 'Health Reform' document received in January of this year as a step in the right direction towards addressing the needs of the health sector in

Bulgaria. However, the strategy is not specific or concrete enough in its reform plans, timeframe or financing. Stronger national commitment to prioritise the needs of this sector is still to be demonstrated, with a clear action plan and a hospital restructuring map that puts a strategic policy, budget and monitoring framework in place before any health investments co-financed by the ERDF may take place.

Administrative and judicial reform – The latest Cooperation and Verification Mechanism (CVM) report confirmed the importance and urgency of the administrative and judicial reforms in Bulgaria. Due to the relevance of OP ‘Good governance’ for operations under all thematic objectives (TO) and for the fulfilment of *ex ante* conditionalities (ExAC), high priority should be given to the earliest possible implementation of actions under this OP and sufficient and timely funding should be made available.

Roma – The PA identifies Roma people as a specific target group affected by poverty and social exclusion. The Bulgarian authorities should make sure that the multiple dimensions of the needs of the Roma people are comprehensively addressed through effective and coordinated actions and implementation mechanisms in order to ensure measurable results.

Water – The water sector needs good governance by strengthening the capacity of the state water regulator and transferring local authority for implementing regional integrated water projects from municipalities to regional water-supply and sanitation operators. Although amendments to the Water Act are still pending and the water associations (owners of assets within a district that jointly decide on priority investments) are not fully functional, the PA should express commitment to implement the action plan of the recently adopted Water Supply and Sanitation strategy. This would allow investments in the water sector to go ahead, provided it can be shown that they are in line with the water-sector reform.

European Agricultural Fund for Rural Development (EAFRD) investments in small-scale water infrastructure in smaller rural settlements should be in line with the water-sector reform; investments in rural settlements below 2 000 population equivalent (p.e.) should be further prioritised on the basis of sound criteria, such as integration into local development strategies, location in sensitive areas, etc., thus ensuring sustainability and added value.

Investments in irrigation are not sufficiently targeted or specific. Once the needs assessment and the irrigation strategy, currently being prepared with help of the World Bank, have been concluded, the allocation of EAFRD resources will need to be reviewed.

Information and communication technology – There is acknowledgement that there is no adopted national or regional plan for Next Generation Access (NGA) at this stage. Despite the December 2013 national document ‘Project for a national Next Generation Access plan’, the regional analysis of territorial imbalances concerning access to, and use of, information and communication technologies (ICT) remains insufficient, and does not provide proper mapping or detailed indications as to how much it would cost to reach the Europe 2020 targets. The Bulgarian authorities should earmark adequate technical assistance funding under TO2 in order to address lack of strategic planning documents.

Although broadband can be supported by ESI Funds, the lack of reliable data on infrastructure needs and the current lack of knowledge on the future investment model do not allow for the identification of the exact scope and intensity of broadband investments. The preliminary needs assessment warrants a stronger commitment to extend the broadband coverage of rural areas to reduce their digital exclusion. When Bulgaria has completed a thorough gap assessment and a proper broadband investment plan, for which it can use ESI Funds, the EAFRD allocation currently envisaged can be deployed and, if necessary, additional ESIF

funding should be made available following a review of the PA. Meanwhile, measures addressing the low use of internet and ICT by citizens and companies should be planned, such as increasing e-competence, e-learning and e-services for citizens.

The PA should refer to a commitment by the Bulgarian authorities to empower a single organising body (the Executive Agency for Electronic Communication Networks and Information Systems) to implement specific tasks, coordinate and take responsibility for the Digital Growth Action Plan and to provide necessary capacity building support.

Research and innovation – Even though the deadline for compliance with ExACs has been set for the end of 2016, the Commission encourages Bulgaria to speed up finalisation of its research and innovation strategy for smart specialisation strategy (RIS3), thus allowing relevant investments of ESI Funds as soon as possible and making reaching the EU 2020 gross domestic product (GDP) target of 1.5 % investments in research and innovation (R&I) feasible. This RIS3 shall form the basis for all investments under TO1, establishing a continuous process and governance structure for collaboration between business and research communities.

Rural areas – EAFRD support should target only those rural infrastructure investments that bring the highest added value in terms of growth and jobs, and are part of a coherent development strategy for economic revival and combating the depopulation of rural regions. The PA does not display any prioritisation of EAFRD interventions as part of an overall strategy for the country that would address the depopulation of rural areas.

Local and regional roads – The PA should mention under sub-priority ‘Connectivity’ that (re)development of local and regional roads will be part of the national transport strategy, depend on connections to Trans-European Transport Networks (TEN-T) and be subject to cost-benefit analyses, to substantiate the decision to improve ‘access to towns and cultural and natural heritage items’. Providing road access to cultural and historic sites should be part of a national tourism strategy.

Energy efficiency – The PA should indicate how energy efficiency actions will be properly coordinated besides an ad hoc inter-ministerial working group referred to in the PA.

Land ownership – As stable land ownership and tenancy are a precondition for EAFRD investments, the PA should clearly refer to measures envisaged to address them.

Black Sea fleet – It is unclear how the European Maritime and Fisheries Fund (EMFF) approach to implement Common Fisheries Policy (CFP) objectives differs from the European Fisheries Fund (EFF) in 2007–2013 or whether lessons learned have been taken into account. Strong measures are needed to overcome the structural deficiencies of the Bulgarian Black Sea fleet, characterised by unused and underutilised vessels with weak economic performance and energy efficiency. The PA should show a commitment to prepare a clear policy framework for the Bulgarian Black Sea fleet and a concept for the development of fisheries infrastructure. Regarding ports, the lack of a general concept for the development of fishery infrastructure has been one of the main weaknesses in the implementation of the EFF OP 2007–2013.

2. Financial allocation proposed by Member State

Taking into account the need to optimise the leverage effect of funding, the Commission asks Bulgaria to identify in which priority axes of the OPs it intends to modulate the co-financing rates in accordance with Article 121 of the CPR, and recalls that the co-financing rate is to be

determined on a case-by-case basis and that the maximum co-financing rates should not always be applied to their full extent.

Fisheries' local action groups (FLAGs), having demonstrated strong positive impact on fisheries areas, are expected to keep at least the same percentage of support for community-led local development (CLLD) as in the current programming period.

Allocation of support by TO from the ESI Funds (Table 10) – The current allocation of EUR 24.6 million to TO2 seems very little given the importance of ICT and the expected scale of public investment intervention needed in relation to the NGA coverage gap in particular. Please explain in Section 1.1.3 the allocation of ESI Funds contributing to TO2 by referring to actions under TO1, TO3, TO10 and TO11.

The increase in the ERDF allocation for TO6 should be explained; it should not crowd out investments in crucial areas like research and development (R&D), education, health and reform of public administration and the judiciary.

Please explain the low allocation of funds to environment under EAFRD for TO6 (EUR 116 million) compared to TO5 (EUR 679 million), how the planned measures for TO6 under EAFRD can still be met with the modest allocation proposed, and what kind of investments will fall under the different categories.

The European Social Fund (ESF) contribution to technical assistance (TA) in Table 10 of the PA is 8.7 % of the total ESF budget, while the ERDF contribution is 4.6 % of the total ERDF budget. As ESF will cover the horizontal TA to the central coordination unit, certifying and audit authorities but its planned share compared to ERDF equals the minimum 28.7 %, this full coverage by the ESF of the horizontal TA should be taken into account when determining the ESF share.

3. Cross-cutting policy issues and effective implementation

Concerning ExAC requiring an action plan, the Commission reserves its final assessment of possible significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives until the time when the programmes have been submitted and all the necessary information is available.

State aid – The Commission is not in a position to assess the fulfilment of the ExAC. Further information is required, notably regarding arrangements for the effective application of EU State aid rules in the field of Common Strategic Framework (CSF) funds concerning training, dissemination of information and administrative capacity. Compliance with several of the ExAC criteria depend on the effective implementation of reforms as contained in the amendment of the State Aid Act. The Bulgarian authorities should distinguish between provisions and mechanisms that are already in place and those that will only come into force with the amendment of the State Aid Act. A timetable should indicate when the planned modifications will be effective.

ESIF management – Section 2.5 should give an outline of how TA funds can be used to fulfil ExACs (including cooperation with international financial institutions (IFIs), to improve the management capacity of ESIF management bodies and beneficiaries and to meet the new requirements of e-cohesion.

Except for the Europe 2020 targets, the main expected results specified in the table 'Rationale of the thematic objectives and main results' (Section 1.3 of the PA) should be more concrete, quantified and consistent with the main results of the corresponding ESIF programmes and more homogenous across the different TOs. Some 'main results' are in fact 'means', i.e.

'implemented strategic and integrated R&D and innovation activities between research centres and the business sector' (Objective 1, Strategic priority for funding n° 2, table on page 99).

Maintenance costs for all ESIF investment projects are not eligible for ESIF support and have to be covered by the national budget in order to guarantee their sustainability.

Partnership principle – There is no reference to FLAGs or agricultural, maritime and fisheries stakeholders having been involved.

Performance reserve – The PA should list the results of the *ex ante* evaluations relevant to the performance reserve, not just the body responsible for assessing consistency and when and how the information has been or will be assessed. The aim is to ensure consistency and coherence across similar priorities in different programmes, as well as similar interventions financed by different funds, taking account of fund-specific rules. The PA should also include a table with information on the allocation related to the performance reserve, broken down by ESI Fund and on the amounts excluded for the purpose of calculating the performance reserve based on Articles 15(1)(a)(vii) and 20 of the CPR.

Public procurement – The Commission appreciates the willingness of the Bulgarian authorities to adopt a national strategy to establish a simplified and codified legal framework ensuring compatibility of national legislation with EU public procurement rules. A broader scope and intensified *ex ante* control of public procurement procedures, in line with the 2013 CSR, should help preventing public contract irregularities. Additional actions will be necessary, pursuant to Article 19(2) of Regulation (EC) 1303/2013, to have all the conditions in place for a coherent and effective application of EU public procurement rules throughout the programming period for the ESI Funds and addressing past deficiencies by:

- 1) strengthening institutional cooperation between the different bodies involved in public procurement in Bulgaria including authorities involved in implementing ESIF programmes;
- 2) improving implementation of public procurement rules, based on best practices, agreed centralised guidelines and use of standard documents;
- 3) reinforcing management and control systems with clear separation of functions between, and coordination of, bodies exercising *ex ante* and *ex post* controls, thus reducing the risks of diverging interpretations, overlaps and red tape;
- 4) streamlining appeal procedures and imposing sanctions to reduce delays and abuse;
- 5) improving administrative capacity and professionalism in public procurement, notably the Public Procurement Agency, and contracting authorities and control and payment bodies.

The section on judicial reform should reflect the conclusions of the latest CVM report. Bulgaria still has not met the benchmarks for the CVM and very little progress has been detected over the past couple of years, and there is a need to speed up efforts.

4. Other critical issues

Financial instruments – The Commission strongly encourages expanding the use and share of financial instruments as a delivery mechanism of ESI Funds in 2014–2020, building on good experiences, maintaining the existing structures and strengthening administrative capacity. The PA should be as explicit as possible on the planned use of FI in thematic objectives and investment priorities, supporting not only innovative micro-enterprises and small and medium-sized enterprises (SMEs) but also urban development such as Joint European Support for Sustainable Investment in City Areas (JESSICA), energy efficiency, and Connecting Europe Facility (CEF), etc.

SME Initiative – Recalling the conclusions of the European Council on 25 October 2013, Member States were invited 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 Member States 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 (Article 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 26 November, Bulgaria is invited to specify in the PA whether it 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 contributions and the type of financial instrument to be supported.

Maritime affairs and fisheries – Bulgaria is invited, in close consultation and cooperation with the relevant stakeholders including the EU, to prepare a comprehensive national (marine and maritime) strategy for the Black Sea that will provide a coherent approach to maritime issues, enhance coordination between different sea-related policy areas (blue sectors), consolidate funding sources and bring their development in line with the requirements and tools of the EU Marine Strategy Framework Directive (MSFD) and the EU Integrated Maritime Policy (IMP).

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 territorial challenges

Smart growth: research and innovation, competitiveness, and ICT

Research and innovation

- 1) The PA should commit to further prioritisation and concentration of funding for R&I, once the RIS3 has been completed and its conclusions are known. An explicit reference should be made that TO1 will focus on implementation of the RIS3.
- 2) Regarding financing of fundamental scientific research, ESI Funds support should focus on innovation and applied R&D, be in line with RIS3, benefit economic development, and preferably be part of the European Strategy Forum on Research Infrastructures (ESFRI) roadmap.
- 3) The PA recognises an ‘increasingly distinct lack of connection between education, research organisations and businesses’, but the analysis of tertiary education should refer to past experience and current cooperation with business and research sectors e.g. spin-offs and start-ups as well as entrepreneurial education. It should also recognise the need to streamline higher education and labour market demands when it comes to R&I.
- 4) In order to fix targets and facilitate a move towards a performance-based financing of the R&I sector in Bulgaria, the PA should describe the strengths and weaknesses of the main players (universities, research institutes, Bulgarian Academy of science, business community) with benchmarks of their scientific capacity and productivity (applied research, commercialisation of products). The PA should also confirm that these will be covered by the RIS3.
- 5) In the identification of strategic priorities, education is fully embedded in inclusive growth (Strategic priority n° 1), but its contribution to scientific research, innovation and smart growth (Strategic priority n° 2) should be specified, especially since there will be a multi-fund OP ‘Science and education’ in which ERDF and ESF investments must be well integrated.
- 6) Reducing the shortage of qualified R&I staff and fostering linkages between higher education institutions, research and technological centres and enterprises should feature as main (ESF) results to be achieved (Table ‘Rationale of the TOs and main results’).
- 7) The continuation of innovation and science infrastructure projects co-financed by the ERDF under the programming period 2007–2013 should not be presented as an expected result in itself, but rather the identification and successful development of globally competitive technology parks, centres of excellence and poles.
- 8) The ‘3S management mechanism’ referred to in the draft PA (p. 65) should ensure that not only do all ministries involved agree on the priorities and performance framework, but that it will also avoid overlaps and gaps in activities co-financed by ESI Funds, such as the ‘Science and Education for Smart Growth’ and ‘Innovation and Competitiveness’ OPs.

ICT

- 9) The relationship between socioeconomic data affecting affordability and ability to use is now evident from the ‘Project for a National NGA Plan’ of December 2013. However, in that document there is no description of the prioritisation of investment in areas affected by market failure. It goes on to explain that, due to relevant features (e.g. the geographical features of the territory; population density; elements affecting demand such as levels of income, education, ICT training, employment status, ageing structure, etc.) and the development objectives of the country/region, priority should be given to rural areas. However, the project for a national NGA plan does not address a number of important issues, such as real mapping in areas where access to NGA and broadband is urgently needed, how private investments can be attracted, or how much Bulgaria would require in terms of financial resources to achieve its 2020 ICT targets. This document is merely the roadmap for setting up a national NGA plan some time by the end of 2014.
- 10) The ESI Funds investment results should be quantified as it is unclear whether the contribution of the PA to the ICT field will be sufficient to achieve the EU ICT objectives for 2020. The Digital Growth Strategy and the National Broadband Plan should help to clarify the relationship between the level of ESIF support to be provided for 2014–2020 and the results expected to be achieved as soon as these two documents become available.

Competitiveness

- 11) Regarding the strategy for SME competitiveness and resource efficiency, please indicate how the regional specialisation will be determined, and which documents form their foundation.
- 12) Please add ‘lack of entrepreneurial and managerial know-how’ to the list of bullet points explaining the main general reasons for the limited growth and development of SMEs.
- 13) Smart combinations between grant schemes and financial instruments (e.g. equity financing and seed funds) will lead to a much higher leverage effect. However, equity financing and seed funds seem to be reserved for innovative companies while loans, guarantees and micro-credit are reserved for other companies ‘experiencing liquidity problems’. Please explain the intervention logic and justify why this division is necessary.
- 14) The decision to allocate EAFRD funding to FI is welcomed. Following completion of an *ex ante* assessment identifying gaps and appropriate types, and taking into account lessons learned in 2007–2013, FI should be deployed early in the programming period to be most effective.

Aquaculture

- 15) The rationale for concentrating support on aquaculture measures does not take full account of recent trends and developments in Bulgaria. It is not clear how the strategy will tackle the drastic reduction in employment. The ‘diversification of species’ is mentioned as an opportunity, but there is no analysis on species with market potential that could stimulate export and higher product prices or of the risk of creating over-capacity for certain species.

Inclusive growth: education, employment, and social inclusion

Roma

- 16) The PA should propose concrete integrated approaches to tackle the complex Roma challenges (employment, education, health, housing) in Bulgaria and a coordination mechanism involving the relevant ESIF implementing structures and the national contact point (NCP) for the Roma Integration Strategy.

Education

- 17) The central issue highlighted in the Roma-specific part of CSR4 is still not sufficiently addressed, namely the need to improve effective access to inclusive quality mainstream education for disadvantaged children, in particular Roma, through integrated education and desegregation. This should be highlighted among development needs/challenges and investments under TO10 by the reform of mainstream education.
- 18) A specific explanation of the problems in vocational education and training is still missing. References to vocational education and training (VET) act amendments should be moved from 1.1.3 to 1.1.5.
- 19) Despite the strong reference to life-long learning, there should also be a reference to adult learning and the need to support it with ESI Funds.
- 20) EAFRD investments should be in line with the Bulgarian map of educational infrastructure and with the overall prioritisation of rural infrastructure support. No ESIF funding should be allocated to compulsory education infrastructure as this is a national responsibility.

Employment

- 21) If Bulgaria plans to allocate Youth Employment Initiative (YEI) resources to sub-regions in the Yugozapaden region, as indicated in the draft 'Human resources development' OP, the analysis should contain a justification of the need to make use of the YEI flexibility to spend YEI resources outside the eligible Nomenclature of Territorial Units for Statistics (NUTS) 2-level regions, while Table 11 should contain the amount of YEI resources to be used for this purpose.

Healthcare

- 22) The poorer health status and unequal access to health services of Roma and the less affluent part of the population should be mentioned and linked to territorial imbalances in healthcare.
- 23) The healthcare priorities for 2014–2020 should correspond with those in the Health Strategy and be in line with the content of the OPs (Human Resources Development, Regions in Growth and Good Governance), which are already much more explicit when it comes to priorities and targets of healthcare investments. Given the CSRs for Bulgaria, they need to address the following: healthcare funding and efficiency/performance of the health systems; strengthening of the emergency and primary care network; capacity-building and governance; reinforcing the health of the workforce; and health promotion and access to healthcare for vulnerable groups, such as Roma and those living in remote areas.
- 24) In the table 'Rationale of the thematic objective and main results' there is no apparent link with the main result 'Further building and modernisation of health infrastructure'.
- 25) Institutional capacity-building – The PA narrative on public administration and judicial reforms should demonstrate a better link with the strategic framework (required under ExAC11) and specify priority services, sectors, target groups that would have to be improved.

Sustainable growth: resource efficiency, low carbon, and climate change

Biodiversity/Natura 2000

- 26) References to the Prioritised Action Framework (PAF) in the PA should make clear that it is now a final document not subject to further changes; it should already have been complemented with priority measures aimed at forestry, agriculture, marine and coastal habitats.
- 27) The PA fails to mention one very urgent priority for Bulgaria arising from the Habitats Directive: the final step for the establishment of the Natura 2000 network i.e. defining the conservation objectives and the establishment of measures for all sites of Community importance (SCIs) and their designation as Special Areas of Conservation (SACs).
- 28) Despite the claim of the Bulgarian authorities, the PA still needs to address species protection (included under the Birds Directive), carbon sequestration, management, restoration and conservation of wetlands, and how it will fulfil the restoration target set in the EU Biodiversity Strategy.
- 29) Under the 'Biodiversity conservation' section, the LIFE programme should be mentioned, as should ESIF complementarity with LIFE and other funds e.g. the Norwegian Mechanism.

Water

- 30) The PA mentions the Water Supply And Sewage (WSS) Strategy, but should commit itself to putting it into practice and continue implementing the action plan, mentioning also the involvement of the World Bank and Joint Assistance to Support Projects in European Regions (JASPERS). As the regional master plans are prepared for the current operators' areas (51), they should be followed by feasibility studies prepared at district level (28). These feasibility studies should then decide the priority investments, targeting short-term compliance with the Urban Waste Water Treatment Directive for the agglomerations of over 10 000 p.e., while also addressing drinking water problems (leakages, supply and treatment) in an integrated manner.
- 31) The PA should prioritise investments under the Environment OP to agglomerations of over 10 000 p.e., given the important needs in the sector following the adoption of the WSS strategy and the limited Cohesion Fund (CF) resources allocated under TO6.
- 32) The use of financial instruments for the water-supply component is not explained, but there seems to be no rationale to pursue such a development.
- 33) EAFRD investments in water infrastructure should be coherent with the water-sector reform that is currently underway, and with the national strategy and regional master plans for the WSS sector. Additional targeting of water investments in rural settlements below 2 000 p.e. is needed in order to ensure sustainability and value-added support.
- 34) Please explain why measures for reducing the negative impact of agriculture on water (Group III) to be financed under the Rural Development Programme (RDP) are limited to rural areas only. The statement that irrigation investments will be eligible in the whole of Bulgaria will need to be reviewed once the irrigation strategy prepared by the World Bank is in place, and EAFRD resources for irrigation re-assessed.
- 35) Most of the results for measures discussed under 1.1.5 for water resource protection (e.g. improving monitoring systems) are not included in TO6.

Waste

- 36) The PA should state a strong commitment to curb landfilling of recyclable waste. Municipal solid waste shows an increase of waste generation, and landfilling of waste remains high (73 %), affecting the recycling rate (27 %). As the readiness of infrastructure for separate collection of certain waste streams by 1 January 2015 is uncertain, it makes meeting the recycling target doubtful.
- 37) The additional information on possible differences between the regions in terms of waste management should also differentiate between waste management in urban and rural areas.
- 38) As the Sofia Waste Phase III is in itself a natural continuation of a waste project, its main objective being to solve the city's waste problem, it should be counted only under TO6.

Air quality

- 39) As air pollution is a major problem in Bulgaria, it should be made explicit that ESIF co-funded projects will aim to improve, or at least not worsen air quality.

Energy efficiency

- 40) Sub-priority 'Employment and labour mobility' (p. 71) should refer to the need for the development of energy efficiency training for high- and medium-skilled workers (energy managers and auditors, energy performance of buildings certifiers, inspectors of heating and cooling equipment, architects) and low-skilled workers (construction workers, installers of equipment including distributed renewables in buildings, etc.) in the energy efficiency and services markets and the realisation of good quality renovation projects.
- 41) Under 'Resource and energy efficiency' (1.1.3) please add a reference to the Strategic Energy Technology (SET) Plan to reduce (EU) energy dependence after '... security of energy supply'.

Climate change and risk management

- 42) Bulgaria should indicate its intentions to set up a national strategy for adaptation to climate change. This strategy should clearly identify and coordinate the responsibilities of different governmental bodies (an issue raised in CPP).
- 43) Bulgaria proposes to keep the interventions related to landslides under the OP 'Regions in growth' instead of merging them with the rest of the risk-prevention measures to be financed under the OP 'Environment'. Given that the monitoring of results and tracking common indicators are among the key strategic changes proposed by Cohesion Policy (CP) for the next programming period, the Commission maintains its position that having all risk-prevention actions under the OP 'Environment' is the logical choice from the point of view of programme management and implementation. Therefore the PA, in particular Annex 2, should be updated accordingly to remove risk-prevention (landslides) interventions from the proposed measures of the future OP 'Regions in growth'.
- 44) Nature-based solutions and projects should be mentioned as possibilities to address flood and drought risks.
- 45) The table summarising the rationale and main results should be consistent with the priority investments (still speaking in broad terms about climate-change risks and policies).

Maritime issues

- 46) Under TO6 please add the following: 'Support for sustainable exploitation of marine waters and coastal zones by implementing the Marine Strategy Framework Directive (MSFD), integrated coastal zone management (ICZM) and maritime spatial planning (MSP), including

related capacity-building activities as part of a comprehensive National (Marine and Maritime Strategy’, either under the ‘Priority: Connectivity and green economy for sustainable growth/Sub-priority: Environment and protection of the natural resources and cultural and historical heritage’ (p. 72–4) section or in the ‘Territorial cooperation’ section (p. 116–7).

Sustainable growth: transport connections

- 47) In the table ‘Rationale of the thematic objectives and main results’, please rephrase ‘Improved connectivity across TEN-T network and 1-st, 2-nd, 3-rd class roads’ to ‘Improved connectivity between TEN-T and secondary networks’.

Rural infrastructure

- 48) The analysis of the needs of rural areas (p. 47–9) should take into account the lessons learned from the EUR 800 million allocated in 2007–2013 EAFRD support for public infrastructure, water and sewage, and roads in particular.
- 49) The statement on p. 61 that EAFRD basic services will be provided for ‘selected localities with potential to provide the necessary basic services to the surrounding and away from centres settlements and villages’ needs to indicate how this will contribute to the reviving the rural economy and countering depopulation of rural areas.

1.1.5 Strategic priorities for funding from the ESI Funds

- 50) Some of the strategic priorities for EAFRD funding per thematic objective in Section 1.1.5 are repetitive or not in their proper places, and EAFRD financial allocations per TO in Section 1.4 would need to be reviewed accordingly:
- support to small farms and development of agricultural sectors, adding value, short supply chains, etc. are more appropriate for TO3;
 - references to ICT should be under TO2;
 - vocational training has to be covered under TO10, while
 - innovation support under EAFRD is more appropriate for TO1;
 - investments in small-scale infrastructure for basic services improving the quality of life of rural populations fall under TO9;
 - investments in irrigation that currently appear under several TOs are most appropriate for TO6, in the case that a reduction in water leakages in the primary and secondary irrigation infrastructure is targeted, and under TO3 in the case of on-farm irrigation related to farms’ competitiveness, and drainage.
- 51) EAFRD resources proposed for TOs 5 and 6 need to be explained in relation to the activities planned to be supported under these thematic objectives.
- 52) The distribution of EMFF between thematic objectives lacks a needs-based justification. Funding focuses too much on productive investments in aquaculture by allocating 49.97 % of EMFF to TO3 without clear analysis of needs or development potential. The allocation of 1.15 % of EMFF to TO4 ‘Low-carbon economy’ is insufficient, especially given the low energy efficiency of the Bulgarian fleet.
- 53) There is a significant discrepancy between the table indicating the allocation of ESIF support to TO8 (18.13 %) and the allocation for CLLD from the EMFF (at least 9 %). Under TO8 the EMFF participates only in actions supporting CLLD and developing professional training, new professional skills and life-long learning.

Administrative efficiency and e-governance

- 54) The PA should mention how ESIF could contribute to the effective implementation of the EU anti-corruption report in the area of judicial and public administrative reforms.

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

- 55) The PA should indicate how Bulgaria intends to evaluate the achievements to reach the climate mitigation and adaptation objectives.
- 56) The main results for TO8 for the EMFF have been defined as ‘Increased effective and sustainable employment and higher efficient labour productivity in the Fisheries & Aquaculture sector compared to the 2007–2013 period’. However, EMFF investments under TO8 (CLLD) can also contribute to the promotion of economic growth, creation of jobs, supporting employability and labour mobility outside fisheries and aquaculture.

2 ARRANGEMENTS TO ENSURE EFFECTIVE IMPLEMENTATION

2.1 Coordination between the ESI Funds, other Union and national funding instruments, and with the European Investment Bank (EIB)

- 57) The PA should refer to the European Research Area (ERA) key priority of an open labour market for researchers. ESIF and national funding instruments can support programmes for human resources development of doctoral candidates and postdocs, thus fostering better linkages between higher education and business.
- 58) The PA should pay attention to complementarity between the ESI Funds, Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF).
- 59) Funding sources envisaged need to be streamlined; the PA indicates that measures for the protection of biodiversity and natural resources under TO6 will be financed by the ERDF, CF, EAFRD and EMFF only, but there are several measures that ESF will co-finance for the PAF.
- 60) Synergies for LIFE should also refer to the RDP. Complementarity between the RDP and Pillar I of the Common Agricultural Policy (CAP) should take into account the new greening obligations for direct payments.

2.2 Additionality

- 61) The additionality target set by Bulgaria (5.3 % of GDP) is lower than the one proposed in the informal PA (5.8 %). However, this target is adequate, especially if compared to the total amount of ESIF allocations and to the historical levels of gross fixed capital formation.
- 62) The 2014 convergence programme (extending until 2017) projects significantly lower investment than the PA for some specific years (2016–2017), explaining this by the lower absorption of EU structural funds at the start of the new programme cycle. The PA could explain the reasons for the difference in figures in the two documents.
- 63) The PA states that ‘The indicator values reached in 2016 are preserved unchanged for the period 2017–2020’. Simply keeping values unchanged at some years’ level does not seem to be a good basis for forecasting the longer-term trends. It would be preferable for the PA to present average investment levels over the programming period.
- 64) The additionality section needs a short explanation on the fiscal space for public investment and the underlying economic assumptions for this target, which is relevant information for the mid-term verification of additionality (the empty second table is not necessary).

2.3 Fulfilment of applicable *ex ante* conditionalities (ExACs)

65) The Bulgarian authorities shall provide, in accordance with the provisions of Article 19(2) of the CPR, a summary of the action plans envisaged for the ExACs that are not fulfilled, either in their entirety or regarding specific criteria. 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 programmes have been submitted and all the necessary information is available. The Commission already calls Bulgaria's attention to possible significant risks resulting from the late adoption and implementation of strategies.

Thematic ExACs

66) ExAC 1.1 and 1.2 'Research and innovation' – The R&I ExACs are still to be fulfilled. Until the adoption of a 3S for Bulgaria, the PA should not anticipate the results of the ongoing expert analysis commissioned by the Commission. The Commission will be able to assess the relevance of an action plan as announced in Annex 5 only in the light of a finalised 3S and in the framework of the negotiations on the adoption of the affected Ops, in particular the OPs 'Innovation and competitiveness' (OPIC) and 'Science and education for smart growth' (OPSESG). However, the ExAC 1.1 action plan in Annex 5 is superficial, whereas it should indicate the steps and milestones for the timely development of a comprehensive RIS3, based on an entrepreneurship discovery process, well before the end of 2016.

67) ExAC 5.1 'Risk prevention' – This ExAC is not fulfilled as Bulgaria does not possess a national or regional risk assessment document that contains the necessary elements, such as description of the process, methodology and risk criteria for formulating priorities.

68) ExAC 6.1 'Water sector' – The implementation of water-sector reform should be linked to the fulfilment of this ExAC.

- Annex 3 of the PA should contain measures related to the implementation of the recently adopted action plan for the WSS strategy, pointing out the different stakeholders' responsibilities and deadlines.
- Although the action plan addresses the need to reassess levels of water abstraction fees (Actions 6 and 7), when doing so Bulgaria should take the incentive function of water pricing into account and whether the current water charges and abstraction fees have led to efficient use of irrigation water.
- Bulgaria needs to improve the assessment of significant pressures for the second cycle (2015) by developing standard criteria (as opposed to the expert judgements currently used), specifically addressing the significance of pressure from navigation. Navigation is also to be included in the economic analysis and cost-recovery calculation, and the sector should contribute to the recovery of the related environmental and resource costs. The sector assessment should be included in proposed Actions 7 and 8.

69) ExAC 6.2 'Waste sector' – In order to be able to assess the consistency and adequacy of the information provided on the fulfilment of this ExAC, additional information is needed on:

- the ongoing process to elaborate the National Waste Prevention Programme (NB Roadmap for Bulgaria DG Environment 2012);
- the measures taken to meet the European targets including details on how the Bulgarian government plans to ensure that the obligations set on municipalities will be fulfilled and;
- the measures to improve performance (and fight fraud) in extended producer responsibility schemes.

- 70) ExAC 9.2 ‘Roma inclusion’ – The PA (Annex 3) concludes that Bulgaria fully meets this ExAC, but the Commission considers it to have been met only partially as:
- there is no national monitoring system in place to evaluate the impact of Roma integration actions: the PA mentions that this monitoring system will be developed in the framework of the new OP ‘Human resources development’);
 - there is no reference to territorial targeting, using socioeconomic and/or territorial indicators to identify the neediest populations, disadvantaged regions or segregated neighbourhoods; and
 - municipal plans to implement the national strategy for Roma integration have been developed but their appropriate funding is not yet ensured: the PA should specify how the OPs will support the implementation of the plans.
- 71) ExAC 9.3 ‘Health’ – ExAC 9.3.1 on the existence of a framework document is not fulfilled as the health framework does not include a monitoring and review system. The action plan should include:
- a timeframe and indicative budget allocations;
 - mechanisms for the National Health Strategy’s implementation, monitoring and reporting;
 - prioritisation of hospital infrastructure needs and milestones for the actions to be taken;
 - indicators for monitoring the objectives and activities.
- 72) ExAC 10.2 and 10.4 – The Commission takes note of the partial fulfilment of the ExAC related to higher education and VET and expects the new law on school and pre-school education, once adopted, to be coherent with the strategies and legislation, including those for early school leavers and life-long learning.
- 73) ExAC 11 ‘Institutional capacity’ – The self-assessment should refer to the relevant strategic policy documents in the areas of judicial reform, e-government and e-justice.

General ExACs

- 74) ExAC 4 ‘Public Procurement’ – The Commission agrees with the Bulgarian authorities’ self-assessment concluding that, with the exception of the criterion related to ‘arrangements which ensure transparent contract award procedures’, the ExAC on public procurement is not fulfilled and takes note of their willingness to adopt a national strategy aiming inter alia at the adoption of a new law on public procurement by July 2015.

The action plan for compliance with the ExAC by the end of 2016 should be improved as follows:

- ‘Effective application of EU public procurement rules’: strengthening institutional cooperation between the different public procurement bodies (coordination mechanisms, agreed priorities, performance indicators on error rates and appeals, the openness of markets to competition and the fight against corruption); reinforcing management and control systems, clearly separating *ex ante* and *ex post* functions; streamlining appeal procedures with a view to reducing delays and the frequency of appeals, as well as sanctions in case of abusive appeals (including the Court of Protection of Competition and Supreme Administrative Court).
- ‘Training and dissemination of information for staff implementing ESI Funds’: actions should be defined more precisely setting milestones to measure progress in improving communication channels between managing authorities and beneficiaries on public

procurement rules (e.g. mapping of information repositories and their interconnection), and developing professional expertise on public procurement.

- ‘Administrative capacity for the implementation and application of procurement rules’: specifying the measures to strengthen and stabilise the Public Procurement Agency (PPA) and to assist contracting authorities benefiting from ESI Funds.

75) ExAC 5 ‘State aid’ – The Bulgarian authorities should distinguish between provisions and mechanisms that are already in place and those that will come into force only with the amendment of the State aid act (SAA):

Arrangements for the effective application of EU State aid rules in the field of CSF Funds:

- Please explain how the compliance with the requirements on cumulation, Deggendorf and exclusion of aid to undertakings in difficulty is verified in practice. Are aid administrators obliged to check before granting the aid and, if so, what databases are used? How is the control of *ex post* compliance ensured?
- Will the amendments to the SAA make the recommendations of the Minister of Finance to the administrator binding? Is there a system in place for early screening of OP compliance with state aid rules?
- Is there capacity to ensure that information on individual aid granted under the General Block Exemption Regulation (GBER) and schemes sent from the aid administrators to the Ministry of Finance is checked for compliance, also *ex post*.
- Will the current *de minimis* aid registry be extended to all other types of aid, and who will be granted access, and on what terms?

Training, dissemination of information and administrative capacity:

- What are the results of the self-assessment of the administrative capacity of the control and management authorities responsible for state aid? What steps have been undertaken to reduce the administrative burden?

76) ExAC 7 ‘Statistical systems’ – The explanation on statistical validation of data is not relevant. The explanation should focus on data from the implementation of the programmes and also reflect on timely collection of micro-data, especially that of participants, a prerequisite for evaluating ESF programmes (Annex I ESF Regulation).

2.5 Administrative capacity management and control of programmes and beneficiaries

77) The PA indicates co-financing of salaries, training and data collection. In addition, several references are made to the use of TO11 under the OP ‘Good governance’ but not enough information is provided on how TA funds can be used to improve the performance of the bodies responsible for the management of the ESI Funds, increase the capacity of beneficiaries, fulfil ExACs and meet the new requirements for e-cohesion and anti-fraud measures.

78) The Bulgarian authorities should clarify how the different strategic training institutions are going to operate and complement each other’s work, especially in view of the proposed creation of a Project Management Academy.

79) Actions need to include the development of transparent and fair rules for performance-based remuneration of all services involved in the management and control of the EU Funds, ensuring a single uniform remuneration mechanism across the bodies responsible for managing the Funds.

- 80) The PA should indicate how the administrative capacity needs in the area of climate action (both mitigation and adaptation) will be taken into account.
- 81) The managing authorities should make relevant expertise available to contracting authorities that are inexperienced in tendering (Sub-priority ‘Administrative efficiency and e-governance’).
- 82) The administrative burden deriving from overlapping controls and tasks has to be evaluated also in the context of the new model of *ex ante* control (put forward by the Council of Ministers on 28 August 2013 and sent to the Parliament for adoption), which establishes controls with the same scope to be performed by both the PPA and the managing authority (MA).
- 83) Given the importance of the delegated functions being carried out by the PPA its effectiveness should be subject to system audits by the AA. This should help to increase its accountability and effectiveness.
- 84) The new EU public procurement directives allow for greater flexibility in the area of additional works, an area where significant irregularities have been identified in the past. Early transposition at national level is recommended.

3. INTEGRATED APPROACH TO TERRITORIAL DEVELOPMENT

3.1.1 Community-led local development (CLLD)

- 85) The Commission welcomes the multi-fund approach to CLLD. The section remains generic and it is unclear on what basis the areas (with specific characteristics for which the multi-fund CLLD will be applied) have been determined. It fails to justify the types of territories where CLLD will be implemented and to explain the policy choices for the multi-fund possibility and the characteristics of the territories that will be targeted. Please specify:
 - the timeframe within which local action groups (LAG) will be set up;
 - the date by which the ‘special regulation’ for CLLD investments will be prepared;
 - the ministry that will be in charge of the CLLD coordination structure (as described on pages 112–3 of the PA);
 - whether there will be common rules for the single-fund local development strategies (LDS) or only for the multi-fund strategies (local partnerships will need to make an informed choice between the single-fund and multi-fund LDS if delays in the start of the CLLD, applying different sets of rules, are to be avoided); and
 - the link between multi-fund CLLD and the LEADER under EAFRD, and how they will interact.
- 86) The rationale of *the planned management structure is not clear and might lead to overlaps* with the central coordination unit responsible for overall EU funds coordination; adding a new coordination layer might hamper implementation of LDS.
- 87) The PA states that ‘CLLD will be financed single-funded by the EAFRD under the RDP and EMFF under PMDR 2014–2020 as a tool for the development of the rural and fisheries areas’ (p. 113). Later on, it is specified that ‘the financial resources under EAFRD and EMFF will be used to finance both single-fund and multi-fund local development strategies’. These two texts should be merged or only the second statement used to avoid confusion.

- 88) The CPR stipulates that CLLD strategies shall be approved by the MA or authorities responsible, not joint committees, as stated on p. 114 of the PA (EN version). Please also explain how the role of (LAG) in elaborating and implementing CLLD strategies.

3.1.2 Integrated territorial investments (ITI)

- 89) Coordination of an ITI in Severozapaden region would require strong political and technical support for its success, but a concrete description of the coordination arrangements for multi-OP ITI is missing. It does not suffice to state that ‘a Coordination Body will be set up to coordinate at operational level the overall implementation of the ITI’. Concrete steps detailing how this will be implemented and under whose responsibility should already be mentioned in the PA: the exact financial allocation for the ITI, the single MA in charge, the delegation to the local level, and the project selection mechanism. The Bulgarian authorities are requested to specify a timeframe for setting up an ITI for Severozapaden region. Without the above specifications, the Commission will be unable to support an ITI for this region as foreseen in the current PA.

3.1.3 Sustainable urban development

- 90) As discussed at length during the informal dialogue on the subject matter, Bulgaria does not offer in its PA any thematic differentiation as regards the needs of its Level 1 to 4-cities proposed for sustainable urban development. The Commission is of the opinion that big cities usually face different challenges compared to mid- and small-sized towns. EU support should therefore have a more focused, needs-based approach and be used to implement integrated urban development strategies for larger cities or functional urban areas directly connected to them. Wide-scale intervention in 67 cities without differentiation does not allow for the needed territorial concentration of ERDF resources and will not minimise the negative impact of depopulation. The smaller towns are predominantly in peripheral rural and mountainous regions, which questions their suitability for ESIF investments for sustainable urban. It is not evident that Integrated Plans for Urban Regeneration and Development are appropriate, as they demand identification of three types of development zones in Level 4-towns: one social zone, one public zone and one zone with a potential for economic development.
- 91) Selection and ‘subsequent implementation’ of integrated actions are proposed to be the tasks of the MAs. Please explain the minimum role of urban authorities in the selection of sustainable urban development operations according to Article 7 of the ERDF regulation.
- 92) The environmental dimension needs to be added to sustainable urban development by indicating investments in green infrastructure such as ecosystem services (water purification and distribution networks, brownfield regeneration, etc).

3.1.4 European territorial cooperation (ETC)

EU Strategy for the Danube region

- 93) The PA identifies priority areas for cooperation that take into account the objectives of the Danube Strategy, but the mechanisms for achieving synergies at transnational level are not well described. In particular, regarding the EU Strategy for the Danube River (EUSDR) the PA contains only a very general paragraph on the need for an ‘ongoing coordination of different actions by different authorities in the execution of a common action plan for all stakeholders with clearly defined responsibilities and tasks’.
- 94) The PA should recognise that the EUSDR should contain a dedicated research agenda addressing the key environmental challenges and risks. Environment-related aspects (beyond risks) should be more prominent. Under ‘ETC programmes and cooperation’ the PA could list

the development of green infrastructure solutions to ensure sustainable water, coastal and flood prevention, and address nature preservation and restoration.

National Marine and Maritime Strategy

- 95) The following paragraph could be added: ‘Bulgaria takes the commitment to preparing a National Marine and Maritime Strategy for the Black Sea that will provide a more coherent approach to maritime issues, enhance coordination between different policy areas related to the sea (blue sectors), consolidate funding sources and bring their development in line with the requirements of the EU Marine Strategy Framework Directive (MSFD), the EU Integrated Maritime Policy (IMP) and its tools. The elaboration of such strategy should be performed in close consultation and cooperation with the relevant stakeholders and, preferably, with the EU’.

4. ELECTRONIC DATA EXCHANGE

- 96) As in 2007–2013, an interface between UMIS2020 and IACS/Axter Popeye should remain in place to avoid double funding and ensure complementarity between ESIF programmes.