



## EUROPEAN COMMISSION

### Observations on the Partnership Agreement with Belgium

#### 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 (CSR) adopted by the Council on 9 July 2013 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 (PA) submitted by Belgium on 22 April 2014, registered in Shared Fund management Common (SFC) on 23 April 2014.

The observations are presented following the structure of the PA as set out in the template. The most critical issues for the Commission are noted in part I.

#### PART I

##### 1. Assessment of Belgian policy objectives

*1.1. Arrangements to ensure alignment with the Union Strategy of smart, sustainable and inclusive growth as well as the Fund specific missions pursuant to their treaty-based objectives, including economic, social and territorial cohesion.*

##### Diagnostic

1. The European Commission is aware that in 2013, the Belgian government agreed on major institutional reforms, i.e. the sixth state reform, which will enter into force as from 1 July 2014. This reform increases the weight of the Regions and Communities and consequently the importance of sound cooperation between the federal authorities, the Regions and the Communities. The Commission takes good note of the observation made on page 4 that the Belgian PA is based on the contributions of the federated entities.
2. In this way, the Belgian PA should constitute a national framework reflecting the strategic choices that Belgium has made in the regional programmes under the European Structural and Investment Funds (ESIF). To that end the Belgian PA should contain an aggregation at national level of regional analyses of disparities, development needs and growth potentials with reference to the Europe 2020 objectives, the National Reform Programme (NRP), country-specific recommendations (CSR), thematic objectives (TO) and the territorial challenges. In this sense, the analyses at regional level presented in the PA should provide a harmonised approach, a coherent diagnostic, a comparable statistical base and a uniform presentation across the three Regions and on the aggregated national level, which

underpins the choices made by Belgium. This aggregation, currently missing in the PA, should be developed under Section 1.1., prior to the regional breakdown and should indicate how the regional and community strategies form an encompassing framework. The Commission recalls that the aggregated analysis at national level is essential to ensure coherence between EU-wide, national and regional objectives and to enable a consistent assessment of the choices made by Belgium. By comparison, the Commission refers to the Belgian national reform programme (NRP) 2014, which provides such national and regional elements in a coherent way.

3. The aggregation, up to the country level, of the different elements of the regional analyses should underpin the choices of the TOs that Belgium made in its PA. The various competent Belgian authorities are therefore requested to further improve the regional analyses to ensure that these are internally coherent and consistent with identified problems, priorities and CSRs, and make further coordination efforts to integrate the analysis and operational conclusions more thoroughly across the respective entities. The PA should explicitly and systematically refer to the NRP and CSRs, both at the national level of the analysis and diagnostic as well as in each of its Regional/Community components, and include the 2014 CSRs. In particular, TO7 should be addressed in relation to the update of CSR on greenhouse gas (GHG) emissions and the link established between reduction in emissions from transport and congestion.
4. The Commission welcomes the table showing the distance of Belgium and its three Regions from the Europe 2020 objectives. However, this table needs to be harmonised (same reference year for all Regions and the Belgian level), cover the *Produit Intérieur Brut* (PIB) information given in the next table and completed for all Regions (including where possible the German-speaking Community of Belgium since a separate operational programme is proposed). For readability purposes, the objectives to be reached and the figures pertaining to the current situation should be expressed in the same manner (and cover the same reference year, the same indicators, etc.) so as to make the remaining gaps visible (i.e. either absolute figures or reduction targets with regard to the poverty and emissions reductions objectives). This table should be the basis for an analysis of where Belgium and the various Regions/Communities stand with regards to the Europe 2020 targets. Currently, the observations that can be drawn from the table are not or insufficiently referred to in the subsequent sections on the various Regional and Community strategies which each follow their own logic. More generally, there is a need to update and, in some cases, correct the statistical data given in the PA. For instance on youth unemployment, recent data contradicts the analysis made (page 14).
5. The analysis is lacking information on the current national and regional macro-economic situation and imbalances. Notably the key topic of public investment is missing. This is particularly important for three main reasons: (1) given the macro-economic challenges faced by the country, (2) given the CSRs calling for growth-friendly structural measures and (3) given the country budgetary targets which might affect sub-national investment capacity. An analysis of the public investment capacity and the integration at macro level of the European Regional Development Fund (ERDF)/European Social Fund (ESF) with national/regional development strategies would be ideal.

6. The NRP, Commission Staff Working Document (SWD) and the 2013 & 2014 CSRs identify the need to ensure greater coherence between education and training (E&T) and employment policies, amongst others: (1) to reduce the persistent skills mismatch between educational outcomes and the labour market, (2) to increase participation in continuous vocational training and adult learning to help combat unemployment and support future growth. The analysis should be strengthened on this item. With regards to the Europe 2020 early school leaver (ESL) target, the draft PA fails to provide a consistent analysis of the needs namely for the groups most at risk (boys and pupils with a migrant background) and of the specific E&T needs faced by the French and Flemish Communities in the Brussels Region.
7. The territorial analysis should be completed taking into account the CSR 2013 recitals and the CSR 2014, which mention congestion as a burden on the Belgian economy and environment and the recommendation of the Commission Position Paper (CPP) and refers to congestion problems concentrated in bottlenecks around Brussels, Antwerp and some trunk roads. The territorial analysis should address the issue of mobility and congestion, and the conclusions should be followed up in the selection of priorities. An analysis of the urban dimension on mobility and analysis for promoting sustainable and integrated urban mobility are missing. Belgium should ensure an integrated approach to territorial development, with special attention made to the Brussels Region. Information on the way this should be coordinated is missing in the PA.
8. In general, the analysis of the current situation, gaps and development needs regarding climate change, energy and environmental aspects is very insufficient. The analysis provided should cover all the selected TOs, investment priorities (IP) and the envisaged results whereby sufficient detail is needed to justify the selection of intervention areas with regards to the ESI Funds.
9. There should be a clear intervention logic in the PA correlating the diagnostic with the results envisaged, which will lay the basis of the result orientation of the envisaged interventions and related performance framework to be developed. This link is lacking in several expected results or selected IPs (e.g. housing and urban spread for Wallonia, nearly energy neutral buildings and waste/green heat for Flanders, eco-efficient transition of economic activities for Brussels). The description of selected TOs and IPs is far too general and insufficiently justified. The choice of some TOs lack concentration of resources (e.g. TO4 for Wallonia) or allocation is insignificant (e.g. TO5 for Flanders) or uncertainty exists on sufficient critical mass (e.g. TO6 for Brussels).
10. Moreover, the diagnostic should include national or regional policies and measures in relevant areas such as reasearch and development (R&D), small and medium-sized enterprises (SMEs), access to finance, renewable energy and energy efficiency, and sustainable urban development. This description should allow access to the need for and added value to the ESI Funds. For instance, apart from one simple mention, no link is made to the national action plans for renewable energy and efficiency.
11. The PA does not provide a comprehensive overview on how environmental and climate investments supported by the ERDF would fit into urban regeneration. In particular, there

is a notable absence of a broader vision for Wallonia where ERDF investments are only focused on brownfield regeneration. There is also uncertainty about how the brownfield interventions planned in Brussels fit into wider strategies.

12. With particular regards to the European Agricultural Fund for Rural Development (EAFRD), this analysis should justify the choice of every TO and rural development priority to be financed through the rural development programmes (RDPs). The regional and national analyses should follow the same structure and focus on the needs of the agricultural forestry sectors and general rural areas (e.g. employment, diversification, etc.). Thus, a well-elaborated description should be included, covering all relevant aspects linked to the priorities and the cross-cutting objectives included in Article 5 of Regulation (EU) No 1305/2013. Possible synergies should also be described between coastal and rural areas and urban and rural areas conducive to un-tapping the development potential. The current description (in particular for Wallonia) includes limited quantified information in relation to most of the priorities covered by the EAFRD (e.g. in the case of Wallonia, the description related to competitiveness mentions only the recent decrease in the number of holdings; in the case of Flanders only the problem of generation renewal and decreasing entrepreneurship in agriculture are clearly identified).
13. Quantified data in regional and national analyses should be used more extensively for Wallonia and Flanders to demonstrate particular needs in areas covered by the rural development priorities and the cross-cutting objectives. The same indicators should be used to the extent possible in order to ensure comparability.
14. For the EAFRD, experiences and lessons learnt from the RDPs 2007-2013 should be described for Wallonia and Flanders, emphasising not only the achievements but also the implementation difficulties that occurred and the way they were tackled. In this context, the actions related to the error rate action plan should be detailed for Wallonia and Flanders.
15. In general, the section on environment for Wallonia focuses more on economic than environmental challenges. The description of the situation lacks quantified data. There are no explicit links to the implementation of EU policies like e.g. the Nitrates Directive, Water Framework Directive and Natura 2000 Prioritised Action Frameworks. Specifically, the analysis on biodiversity is very poor. The current state of biodiversity is not elaborated and agriculture is the only diagnosed pressure. The strategy is inadequate in relation to necessary actions. There is no reference to the Europe 2020 Biodiversity Strategy. The claim that environmental measures in the current Rural Development Plan (RDP) are successful (page 22) is not underpinned by data showing that these measures have improved environmental quality and biodiversity.
16. In view of national 2020 targets for energy efficiency and renewable energy and an overall strategic approach to energy objectives, a comprehensive analysis of energy investment needs is missing. The Analysis of renewable energy investment fails to include references to specific technologies that should be promoted. Reference to existing national and regional support schemes for renewables is lacking. As some technologies (e.g. photovoltaic) are already generously subsidised under national support systems, this needs

to be properly considered in the context of ESI funds. The analysis on energy should also include a reference to the Strategic Energy Technology (SET) Plan, since its objectives are guiding the National Strategies of the Member States. A reference to the need of alignment with the SET Plan should be added within the specific TO4 (page 34).

17. The analysis under TO4 ('Supporting the shift towards low-carbon economy in all sectors'), should refer to smart grid deployment as national and regional implementation plans (roadmap) for smart grids are currently under development and a cost-benefit analysis (CBA) for smart grids deployment has been partially undertaken. Indeed, comprehensive plans for investments in smart energy infrastructure and regulatory measures contribute to improve energy efficiency and security of supply. The modernisation of energy grids with the deployment of smart grids solutions aim to empower consumers and enhance demand-side response and energy efficiency. In this respect, the development of pilot projects will be beneficial and facilitate the smooth deployment of smart grids and meters. The grid development, also in the context of smart grids, should facilitate infrastructure investments for deploying electric vehicles, in particular those associated to recharging points and reinforcing the networks in line with the future electricity demand.
18. The analysis does not address the specific development needs and growth potentials of urban, rural and coastal as well as maritime areas and does not include an analysis of the growth potential of the "blue economy". The PA should analyse which maritime sectors are important to Belgium and how they could benefit from ESI funding.
19. The analysis does not consider cross-sectorial, cross-jurisdictional or cross-border coordination challenges, particularly in the context of macro-regional and sea-basin strategies. Elements are lacking on how European Territorial Cooperation (ETC) could be linked to integrated maritime policy and the maritime economy.

## Strategy

### *1.2. Key findings of the ex ante evaluations*

20. The PA does not contain a synthetic overview of the main conclusions of the ex ante evaluations summarising and drawing conclusions at regional and, if pertinent, at national level. The overview of the recommendations of the ex ante evaluations should cover the contribution to the Union strategy for smart, sustainable and inclusive growth as well as an assessment of the appropriateness of the TOs and funding priorities chosen and the consistency of the financial allocation with the objectives set out in the programmes. The summary of the ex ante evaluation is presented in very general terms and does not indicate to what extent it is influencing the choice of TO/IP. The link to the conclusions of the CPP, the CSR and the NRP is also missing (Article 55(3) of Regulation (EU) CPR). In addition to a summary at national level, the quality of the regional syntheses should be further improved. For example, the summary of the ex ante evaluations for Wallonia does not include any reference to the EAFRD and should, therefore, be amended. Likewise, the synthesis of the ex ante evaluations for Flanders is insufficiently developed with regard to the EAFRD (the only aspect mentioned concerns the support for young farmers). A lack of

the required overview of the main conclusions on ex ante evaluations would allow the Commission to refuse approval of the PA under Article 16(2) CPR for failing to fulfil the requirements set out in Article 15(1)(a)(ii) CPR.

### *1.3. Selected TOs and summary of the main results expected for each of the ESI Funds*

21. The strategy included in the Belgian PA is exclusively developed at regional level. An aggregation at country level, justifying the choices of the TOs is lacking. The strategies of the Wallonia and Brussels-Capital, and partially of Flanders, do not allow recognising the influence of the Europe 2020 process, the European Semester and the NRP on the choice of the TOs.
22. The presentation of each TO should include the expected results for each Fund. Efforts should be made to establish a clear link between the needs, the strategy and the expected results under each thematic objective. The results envisaged should not be mixed with actions or objectives, as is the case for the Walloon part. Moreover, they should be specific and not broad as in the Flemish and Brussels part. The same comment applies to the actions envisaged under the Youth Employment Initiative (which is to be implemented through ESF operational programmes). Explanation is needed how this will contribute to the implementation of the Youth Guarantee (and the related Youth Guarantee Implementation plan) in Belgium.
23. The justification of the TOs chosen and an overview of results expected are provided only by programme. As said before, a direct and explicit link with the CSRs and the NRP should be established. Taken as a whole, IPs suggested by the CPP are partially covered in the analysis across programmes. However a number of additional IPs are suggested or chosen, which depart from the ones suggested in the CPP. The addition of new IPs, in particular in the absence of financial information, raises concerns in terms of concentration and critical mass. It is also worth reminding that the choice of IPs must be clearly justified and backed up by a thorough analysis. Justification for the absence of TO2, which is mentioned in the CPP, is lacking. The analysis should demonstrate that in Belgium, the information and communication technology (ICT) issue, which has a role in other domains such as research and innovation (TO1) or SMEs (TO3), does not need to be addressed through investments from TO2. The Commission notes that there is a reference to ICT and key enabling technologies (KETS) in the Walloon part (Axis 2 of the operational programme). This is also valid for ESF programmes, which all depart from the CPP (either by adding new IPs or by not covering some of them), without clear explanation. This deserves additional details in the PA, covering the reference documents (CPP, CSR, etc.), ensuring consistency of the choices with the diagnostic, and taking into account the institutional architecture. It is also worth mentioning in this context that former IP 10iii has been split in two, and that there is now a need to indicate whether it is 10iii or 10iv or both, which are covered.
24. Low-carbon economy priorities, namely energy efficiency and renewable energy, are sprinkled among different sections of the PA, and are too general, lacking concrete measures and priority areas; neither do they speak of specific technologies or sectors where renewable energy or the use of energy efficiency should be promoted. These more

specific priorities for the renewable energy should also consider the impact of existing national and regional support schemes for renewable energy.

25. Although it is recognised in the revised PA that the transport sector is important with respect to energy consumption and emissions (page 26, § 1, 4, 7 of revised PA), TO7 has not been selected by Belgium. This should be explained in the revised PA and the final version of the PA should be more explicit on how climate action in the transport sector is included in other TOs (e.g. urban mobility under TO4).
26. Although 17.5 % of funding for EAFRD is directed to TO5 (page 92), there is little reference to climate change in the description of the selected TOs (section 1.3). Specifically for TO5, the final version of the PA should better reflect the importance of this TO in the EAFRD, based on the amount of the allocated expenditure.
27. The Commission emphasises the importance of "Access to employment...", "Sustainable integration of young people..." and "Active and healthy ageing" as IPs under TO8. However, the Wallonia-Brussels ESF programme seems to want to orientate actions under TO8 primarily towards counselling of self-employed rather than towards job search assistance and career counselling for the unemployed. The reasons for this divergent understanding of the way in which "Access to employment" is to be improved in Belgium are insufficiently developed, especially as the CSR 6 of 2013 confirm the need to invest more in job counselling and search assistance for the unemployed and as ESF funding could very well be used to increase the guidance and counselling capacity of the regional employment services. Regarding "Active ageing" the need is addressed, albeit indirectly, in the Flemish and German-speaking Community ESF operational programmes (OPs) but not in the Brussels Regional and Wallonia-Brussels ESF programmes. It is unclear whether at these levels, active and healthy ageing is recognised as a priority to be tackled with the help of ESIF and if it is not then why.
28. The CPP identifies Early School Leaving (ESL) as a funding priority considering its worrying level in the Brussels and Walloon Regions. However, the draft PA pays only limited attention to this issue. The PA should better explain the ESL actions envisaged in the Brussels Region (in coordination with the French and Flemish communities) and should provide more information on the proposed pilot measures supporting a decrease of the early school leavers rate (Wallonia) as well as on their scope. It should also clarify if actions are envisaged under this funding priority in Flanders.
29. Concerning Wallonia and Brussels, while attention is paid to improving school-to-work transitions and tackling ESL under TO8 (pages 63 and 86), it is not clear how ESF funding will complement Youth Employment Initiative (YEI) funding. The PA should clarify if the European Social Fund will be used to re-enforce the structures and the mechanisms necessary to put in place the Youth Guarantee as a structural policy going beyond the financing of individual measures (actions described for Brussels on page 87 seem to focus only on specific measures in the context of the "*stages d'insertion*"). The quality aspects of the "Youth Guarantee" offers or their linkage with the education system are not mentioned. YEI measures should be more clearly defined/described including in the pursued objectives (page 87).

30. The Commission welcomes simplifying the architecture of the operational programmes, which has resulted in reducing the number of OPs. However, the issue of better coordination between ESIF interventions is not addressed. The CPP insists on the importance of enhanced coordination in matters of research and innovation between all political levels and across regions (page 10), and of increased coordination of the ESIF interventions in the Brussels Capital Region (pages 16-17). The Staff Working Document (SWD) (pages 28-29) made a number of recommendations with regards to the overall architecture of ESIF interventions, in order to avoid duplication of effort and to identify areas where additional financial support is needed from different funds and where good practices and innovative actions could be mainstreamed.
31. For the EAFRD, the choice of TOs is poorly developed and the main results sought are completely missing for Wallonia and they are too briefly described for Flanders. This section should contain a solid justification, based on quantitative and qualitative information, for the selected TOs and the expected results, in line with the priorities identified in the CPP. The funding priorities and the expected results should be described separately for each TO. Combining these elements for several TOs in one paragraph (as it is currently the case) affects the clarity and readability of the document.
32. Furthermore, for EAFRD, it is important that the attribution of rural development priorities to TOs follows the indications included in the guidelines on the content of the PA. Thus, several inconsistencies should be corrected, as follows:
- a. The overview of TOs under which the EAFRD will be used in Wallonia and Flanders as indicated in the beginning of chapter 1.3 is not consistent with the rest of the section (e.g. funding priorities are retained under TO10 also in Flanders).
  - b. There is an incoherence between, on one hand, the priorities of "reinforcing knowledge transfer and information actions"(Wallonia and Flanders) and of "investing in innovation and education with an eye toward future-oriented tackling of individual, business and more general societal challenges" (Flanders) and, on the other hand, the financial allocation by TO. The table with financial allocations per fund and TO does not foresee any EAFRD allocation for TO1, meaning that no funds will be programmed in the Walloon and Flemish RDPs for measures 2 (advisory services) and/or measure 15 (cooperation). This is not consistent with the information included in the Flemish RDP (officially submitted to the Commission on 24 April, 2014), which indicates that about EUR 10 million will be allocated to measures 2 and 15.
  - c. The priorities of intervention to be covered under TO8 in Wallonia do not seem to be correct; thus LEADER is normally programmed under TO9 (not TO8 as currently indicated).
  - d. Another inconsistency concerns TO10, which corresponds to measure 1 in the RDP. The table in section 1.4 of the PA indicates an amount of EUR 2 800 000, while the budget allocated to measure 1 in the Flemish RDP alone is

EUR 16 301 833, thus largely exceeding the amount included in the PA. Wallonia also plans using measure 1 in its RDP.

33. Three quarters of habitats are in an unfavourable conservation status in Flanders (chapter 1.1.). The rationale should be provided on why biodiversity conservation is addressed only under EAFRD and how the 15 % degraded ecosystems restoration target will be met (Europe 2020 Biodiversity Strategy). The ERDF's priority axis 4 for Flanders should recognise the potential of ecosystem-based approaches (Green Infrastructure) to facilitate not only climate change adaptation, but also improved quality of life (e.g. reducing air pollution) and physical, economic and social regeneration of deprived urban areas. Such an integrative approach provides good value for public money through cost-effective solutions.
34. Water quality and quantity objectives in line with the implementation of the Water Framework Directive, especially with regards to agriculture, are missing and should be addressed under EAFRD. With regards to Flanders, in the text regarding TOs 3-6 on page 80, which refers to making agriculture more ecologically sustainable, water management should be seen as a key component to achieve this objective. With regards to Wallonia, there is nothing written at all on this matter on page 65 in the paragraph about TO5 and 6.
35. All missing information regarding the European Maritime and Fisheries Fund (EMFF) must be submitted to the Commission by 20 July 2014 (within two months of the date of entry into force of the EMFF regulation, as required by Article 17 CPR). EMFF investments should be limited to TO3, 4, 6 and 8 (community-led local development - CLLD). Furthermore the EMFF investments must focus on supporting the reform of the common fisheries policy and the integrated maritime policy. The Partnership Agreement should also describe how the blue economy will be supported.

## **2. Financial allocation proposed by Belgium**

*1.4. The indicative allocation of support by the Union by thematic objective at national level for each of the ESI Funds as well as the total indicative amount of support foreseen for climate change objectives.*

36. Next to the overview on the financial allocation by thematic objective at national level, a summary table showing the choices of TOs per fund and allocations by Region should demonstrate that appropriate focus and critical mass of interventions at regional level is assured.
37. The financial allocations indicated in the summary table in section 1.4 are not sufficiently underpinned by the needs analysis and the strategy. In particular, although the Commission supports increasing investments under TO6, neither the diagnostic nor the strategy explains why Belgium should choose a higher level of investments under TO6 (Protection of the environment and resource efficiency) than under TO1 (Strengthening research, technological development and innovation). Similarly, an explanation should be provided regarding the expected results and the change envisaged with the relatively small amount earmarked under ERDF for TO5 (Promoting climate change adaptation, risk prevention and management), notably when compared to the important amount under

EARDF under this TO and taking into account that Wallonia counts on financing investments for renewable energy production under TO5. Similarly, the concentration of EAFRD on TO3 is not sufficiently justified. Within TO6 under ERDF (Protecting the environment and promoting resource efficiency) an indication needs to be made of the relative split between environment *sensu strictu* and cultural heritage.

38. The table showing the role and the contribution of the ESI Funds in the "integrated approach to address the specific needs of geographical areas most affected by poverty or target groups at highest risk of discrimination or social exclusion" only mentions the Brussels Capital Region. However, the Flemish Region provides for actions for marginalised communities under its ESF programme (pages 76-77). The diagnostic concerning social inclusion and poverty in Wallonia shows an increasing risk of poverty (page 15). As a consequence, the table should be completed with elements from the three Regions.
39. Furthermore, at least 5 % of the total EAFRD contribution to the rural development programme should be reserved for LEADER.
40. The final version of the PA should indicate the total indicative amount of support envisaged for climate change objectives regarding Article 15.1(a)(iv) CPR and based on the methodology laid down in Regulation (EU) No 215/2014. Additionally, at least 30 % of the total EAFRD contribution to the rural development programme should be reserved for measures for environment and climate related investments.
41. We note that of the total EAFRD of EUR 552 million, EUR 262 million (= 47.5 %) is allocated to TOs 4, 5 and 6. In 2007-13 of the total EAFRD-budget of EUR 487 million, about EUR 263 million (= 54 %) was spent on environment and climate under axis 2 of the Rural Development Programme. Belgium should justify how this corresponds to recital 22 of Regulation (EU) No 1305/2013 (EAFRD Regulation), which asks for at least the same level of efforts. However, we also note that in Rural Development Programme 2014-20 which Flanders has submitted, it is proposed to increase the level of funding for environment and climate.
42. Taking into account the need to optimise the leverage effect of funding, the Commission asks Belgium to identify in which priority axes of the operational programmes it intends to modulate the co-financing rates in accordance with Article 121 CPR and recalls that as set by Article 120 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.

### **3. Cross-cutting policy issues and effective implementation**

#### *1.5 The application of horizontal principles*

#### *2. Arrangements for effective implementation*

43. Under section 3, the Walloon part concerning the integrated approach to territorial development needs to be further developed and should be more specific. Wallonia does

not specify the main challenges and objectives it aims to achieve by using community-led local development (CLLD), the thematic focus, the TOs to which CLLD will contribute, the approximate budget, the role of the local action groups (LAGs) or the arrangements for preparatory support.

44. The Commission welcomes that Brussels wants to use a participatory approach, even though this will not be CLLD.
45. For Flanders, three integrated territorial investments (ITIs) will be developed outside the scope of Article 7 of Regulation (EU) No 1301/2013 (ERDF Regulation). In the future, another ITI focusing on the metropolitan areas might be developed. The Commission welcomes this idea and strongly supports that an integrated strategy is being prepared for this area and cooperation will be sought with Brussels.
46. The table concerning sustainable urban development should only include the investments made in line with Article 7 ERDF Regulation and therefore exclusively consist of “integrated operations for sustainable urban development” not “*prioritairment*”. The Commission asks to clearly specify how the amounts in this table will be implemented regionally. Investments made in urban areas but not in line with Article 7, should not be included here.
47. The Commission welcomes the more focused approach in Flanders in the main cities of Antwerp and Gent within the priority axis dealing with sustainable urban development. The choice for this focus is justified by a strength and weakness analysis. In the Flemish ERDF OP, it should be explained how these cities are made responsible for selecting the operations. The way the PA describes this is not in line with Article 7(4) ERDF Regulation. Urban authorities should be responsible for tasks relating to the selection of projects, involving them is not sufficient.
48. Wallonia does not indicate the focus of operations foreseen under the sustainable urban development (“redynamisation urbaine”), nor does it mention the programming arrangements with regard to sustainable urban development (ITI, specific OP, specific priority axis). A rather broad selection of urban areas is mentioned. The Commission would like to stress that investments in urban areas should be focused and have a certain critical mass.
49. Although the implementation of the polluter pays principle is mentioned, a more concretely developed description should be made for each Region about the arrangements to ensure that the requirements of Article 8 CPR are respected with regards to environmental protection requirements, resource efficiency, climate change mitigation and adaptation, biodiversity and ecosystem protection, disaster resilience, and risk prevention and management. A reference needs to be included in section 1.5.3 for all of Belgium, or three times if necessary, 'that investments in Natura 2000 must fit in with the Prioritised Action Frameworks (PAFs) required by the Article 8 of the Habitats Directive 92/43/EEC. Furthermore, the PA should refer to LIFE Integrated Projects for all of Belgium, or three times if necessary, along the lines of: “Complementarity and coordination with LIFE, in particular with integrated projects should be ensured at national and regional level.” In this

respect, it should be noted that the current statement for Flanders about LIFE and for the Brussels Region on page 122 is incorrect and it is incomplete on page 129. Green public procurement should be applied to the extent of all co-financed actions. Finally, a reference should be made in the PA that interventions for urban transport must be included in Air Quality Plans under Directive 2008/50/EC.

50. Although the PA highlights territorial imbalances in different fields, it has not elaborated on regional differences with regards to vulnerability to climate change or disasters.
51. From an urban environment point of view, the overall text for Belgium and for Wallonia is too abstract (those for Flanders and Brussels are adequate). The Commission appreciates that 20.18 % of ERDF funds is earmarked for Sustainable Urban Development but it is not clear on what this will be spent in the Walloon Region. The PA gives the impression that it will be on economic and social issues and urban environment issues will not be addressed. More clarity is needed.
52. The inter-regional and national coordination mechanisms should also be described. Currently, the emphasis is placed more on the coordination mechanisms that exist at each regional level.
53. Wallonia should develop the structure for coordinating interventions under the first and second pillars of the Common Agricultural Policy's (CAP) in order to maximise synergies and use funding in a complementary manner. For Flanders, the distinction between "pillar 2" measures and "rural development fund", which seems to be something financed by the Region itself, should be explained.
54. Although the PA sets out some horizontal policy objectives that are relevant for the programmes (page 112-113) there is no mention of issues such as mobility or ageing.
55. The description of the steps taken to involve the relevant partners in preparing the PA reveals that efforts were made to involve the relevant stakeholders at the Regional/Community level. However, the description does not contain enough information on the partner selection process, the partners involved, the actions taken to facilitate their involvement, the added value of the partnership, and the results of consultations (Article 48 CPR) including significant concerns, comments and recommendations raised by different partners. The provisions set out in Article 15 CPR, as well as in the Code of Conduct, are to be fully respected. Where appropriate, the elements presented in this section also have to be mentioned in and/or be consistent with the section on ex ante conditionalities.
56. It is not clear whether persons with disabilities have been involved in the partnership through their representative organisations, in particular in the Flemish and Walloon Regions (with reference to Article 5 CPR). In line with the United Nations Convention on the Rights of Persons with Disabilities, to which both Belgium and the EU are parties, and in particular Article 4(3) thereof on general obligations, persons with disabilities through their representative organisations should be closely consulted with and actively involved in developing and implementing Convention policies as well as in other decision-making processes concerning issues relating to persons with disabilities. This obligation applies to

preparing PAs and preparing, implementing, monitoring and evaluating ESI programmes. The involvement of an equality body is also unclear, in particular in the Wallonia and Flanders and the German-speaking Community.

Neither the Flemish Region, nor the German-speaking Community have provided a specific indication or description about how accessibility issues of persons with disabilities will be promoted and monitored in the different programmes (with reference to Article 7 CPR). The German-speaking Community has not provided a specific indication or description about how equality between women and men will be promoted and monitored in the different programmes (with reference to Article 7 CPR).

More details should be given on the staff training for the authorities involved in managing and controlling the ESI Funds in the fields of EU gender equality law and policy as well as on gender mainstreaming (in term of staff and financial resources).

57. The Commission advises that all relevant partners, including civil protection authorities are consulted on this document and its priorities. The PA should indicate how their contributions are taken on board. The involvement of these authorities as partners, amongst others where investments to strengthen climate change adaptation and risk prevention are planned, should be considered as instrumental during the implementation of the PA and of the relevant OP. For the ESF, it seems for example appropriate to consult key partners such as the Public Employment Services. This should be reported in the AP, and a list of the consulted partners should be included in annex.
58. Section 2.1 should on the coordination of the funds, should be further detailed in particular with regards to Brussels, with the interventions of various ESF and ERDF OPs on the territory.
59. The summary of the assessment on the fulfilment of applicable *ex ante* conditionalities in accordance with Article 19 CPR and its Annex is incomplete (pages 132 to 142). The information currently provided in the PA only refers to the legal or institutional framework. This section should contain information on the fulfilment/non-fulfilment of *ex ante* conditionalities at national level, by assessing all criteria and providing an explanation for the assessment. Additionally, the information provided for the good agricultural and environmental condition GAEC 1 is outdated. In section 2.3, the information should be completed with the *ex ante* conditionalities relevant to the EAFRD, and an explanation regarding which *ex ante* conditionalities are covered in the PA and those covered in the regional operational and rural development programmes.
60. The Belgian authorities are invited to provide the above detailed information about how they comply with the State aid *ex ante* conditionality. If in case necessary, after such a detailed assessment, they should also submit an action plan to achieve full compliance. It should be noted that the State aid rules will significantly change as of 1 July 2014, when the State Aid Modernisation (SAM) package will enter into force. Therefore, the PA should indicate how those changes would be implemented. In particular, the Belgian authorities should explain how they will ensure the adaptation of their existing State aid schemes to the new State aid rules. They should indicate whether they would undertake a

systematic analysis of the ongoing schemes and specify who will be responsible for such exercise.

61. The Commission considers this ex ante conditionality as not fulfilled and invites Belgium to submit further information and an action plan regarding the three criteria. With regards to the first criterion, concerning arrangements for the effective application of EU State aid rules, the Belgian authorities are invited to provide information on how the criteria developed in the guidance paper are respected in practice:
- a) How are the cumulation rules and the Deggendorf principle respected? In the case of modifying aid schemes, how is it ensured that they are still covered by the applicable State aid rules? Further clarification is required on whether there is a method for screening the operational programmes to ensure compliance with State aid rules and detect State aid issues in the early stages.
  - b) In the case of support through financial instruments, it is not clear how the managing authority, the holding fund and the bodies implementing the financial instruments all comply with State aid rules. The Belgian authorities should be invited to clarify how such compliance is ensured.
  - c) It is not clear what the applicable legal provisions are in case of recovery of aid. Additionally, no details have been provided in the PA about the mechanisms available to the authorities to recover aid, including (where necessary) recourse to a court.
  - d) The Belgian authorities should explain how precisely the information on individual aid granted under the General Blocking Exemption Regulation (GBER) is checked for compliance. Furthermore, is there an external mechanism for ex-post checks of the effective implementation of schemes approved under the GBER? What are the consequences in the case of failure to remain compliant or mismanagement?
  - e) Belgian authorities are invited to provide information on the institutional (reporting) arrangements to ensure appropriate knowledge on aid is granted, including *de minimis* aid.
62. In relation to the second criterion, i.e. arrangements for training and disseminating information for staff involved in implementing the funds, the Belgian authorities only provided a very brief statement in this respect in the PA. Consequently, they are invited to provide more detailed information, amongst others on the following aspects:
- a) What do the authorities plan for future objectives and coverage of trainings? Will the current training cycle be adapted to enshrine the reforms that will come along with State Aid Modernisation (SAM) and how will the trained staff be introduced to the post-SAM State aid regulatory framework?
  - b) Is there an e-learning or interactive platform? If not, is one planned to be launched?
  - c) The Belgian authorities should also explain whether they envisage using the OP for technical assistance or the OP for administrative capacity.

- d) What kind of initiatives are the authorities planning for raising awareness on the existence of aid? Are actions planned at the level of the various granting authorities or at regional/federal level? Will all staff be involved in training/informative activities?
63. Regarding the third criterion, concerning arrangements to ensure administrative capacity to implement and apply EU State aid rules, we note that Belgian authorities state to comply with this criterion. However, detailed information on such compliance is missing. Consequently, the authorities should be invited to explain the following issues:
- a) While it is our understanding that there is no central State aid authority in place in Belgium, but that informal "centres of excellence" exist in the federal and regional authorities that provide non-binding opinions on State aid issues, this is not at all addressed in the PA. Therefore the Belgian authorities should provide more information on this subject and clarify how these "centres of excellence" would (continue to) work.
  - b) How will each managing authority ensure that it has employees that are responsible for the State aid issues and are trained professionally? Is there enough qualified staff?
  - c) How will the appropriate technical assistance be provided and at which level (e.g. regional/federal level)?
64. Furthermore, one of the major elements of SAM is the move from *ex ante* to more *ex post* control. The evaluation of State aid schemes, a requirement that has been newly introduced into the State aid rules, is one of the key elements of this reform. Therefore, the Belgian authorities should explain how they prepare for the new tasks that an evaluation requires, whether they have the necessary knowledge and expertise including the administrative resources required, and who will carry out such evaluations.
65. Strengthened transparency, i.e. the publication of the aid granted, is also an important element of the State Aid Modernisation. The Belgian authorities should explain where they stand with respect to preparing administrative readiness to fulfil the new requirements, including the setting up of a website through which State aid information will be accessible.
66. Most of the State aid rules, including the General Block Exemption Regulation, provide that aid must not be granted to undertakings in difficulty. The Belgian authorities are requested to explain what procedures are in place to ensure that the exclusion of aid to undertakings in difficulty is complied with in practice.
67. In relation to 4.1. *Ex ante* conditionality on Energy efficiency/Energy Performance of Buildings Directive (2010/31/EU), some transposing measures involved in the fulfilment of the *ex ante* conditionality apply regionally. However, we consider that an action plan would have to indicate how Belgium plans to put in place the missing or insufficient national provisions and ensure that they are properly implemented with a timeline, in particular:
- a) Brussels-capital Region seems to have introduced additional exceptions compared to those allowed in 4.2. of the Energy Performance of Buildings Directive. The

transposing legislation does not require that minimum energy performance requirements “are set with a view to achieving cost-optimal levels”. There is no specific requirement to compare the results of the calculation with the minimum energy performance requirements. The Brussels-Capital Region system does not adequately address existing buildings undergoing renovation and notably building elements (e.g. roof). Finally, although recommendations are to be included in the energy performance certificates (EPC), they do not include the mandatory elements of Article 11(2)(a) and (b) of the Directive.

- b) The Walloon Region system does not adequately address existing buildings undergoing renovation and notably building elements (e.g. roof). The provisions for calculating cost-optimal levels of minimum energy performance requirements in line with the required methodology framework (Article 5(2)) is yet to be transposed in the Walloon Region.

Reference to the *ex ante* conditionality on result indicators should be made in the PA. A description should be included on the arrangements under preparation and how the *ex ante* conditionality on statistics and result indicators will be met after programme approval.

#### **4. Other critical issues**

- 68. The PA refers to the Commission guidance note, which should ensure consistency in the functioning of the performance framework. The PA provides only an embryonic methodology and operational explanation. It does not contain an overview of how consistency in selecting indicators and setting milestones and targets is ensured across programmes and priorities, including possible guidance on a national level for preparing the performance framework to ensure consistency. The Commission would like to be reassured that monitoring mechanisms are set up to detect and follow up potential performance issues. For that matter, section 2.4 should be further developed to include these elements.

## **PART II - FURTHER OBSERVATIONS**

69. In general, the role of the Public Employment services is not presented (Wallonia, Flanders, Brussels) and should be further detailed in the analysis of the needs and challenges, in particular since "access to employment" is considered a priority for Belgium.
70. The synthesis of the diagnosis in the contributions of Wallonia and Brussels do not make reference to the fight against poverty and to the issues related to education, even though these have been identified as particularly important.
71. In Wallonia and the Brussels Regions, the PA does not foresee to use the ESF to remedy the structural weaknesses that need to be addressed to increase lifelong learning (LLL) participation and to ensure greater efficiency and effectiveness of other measures planned such as the intensification of guidance. In order to increase the participation in LLL in the Walloon and Brussels Regions, it is crucial to address the structural weaknesses due to the lack of accessibility, synergy and efficiency of offering E&T through different public education and training providers. Therefore, the Commission recommends to give high priority to this issue and to revise the draft PA accordingly.
72. The PA does not provide explanations about how the ESF will support the general objective of 15 % adult participation rate in LLL of Flanders. Further information is required. Across the document, the draft PA should be complemented by the order of magnitude as well as qualitative information on the expected results.
73. The Belgian PA highlights the need for social innovation in various actions presented by the Regions. Further detail is needed on the mechanisms in place for guidance, support and co-ordination of these measures.
74. The table on page 67 presenting the OP and priorities selected by Flanders needs revising (participation of ESF in TO4). The presentation of the ESF axis on page 75 would also need clarifying.
75. In line with the CPP (T03), the Commission encourages the authorities to analyse the development of new business models for SMEs in the cultural and creative industry, which could contribute to economic growth.
76. TO6 for Wallonia does not include biodiversity conservation at all. It is not clear how the 15 % of degraded ecosystem restoration target (Europe 2020 Biodiversity Strategy) will be tackled.
77. The Commission supports the choice made by the authorities to fund measures in Wallonia regarding the protection, promotion and development of cultural and natural heritage in the context of urban regeneration and territorial development under TO6. However, the role of Green Infrastructure should be emphasised regarding sustainable development (quality of life, revitalisation, preservation of natural heritage etc.). The information should be developed namely regarding the expected results and order of

magnitude. In line with the CPP (T03), the Commission encourages the authorities to analyse and support the development of new business models for SMES in the cultural area. TO2 is reported as not being covered by the PA.

78. The PA, while referring to the sustainable development principle, should recall that disaster resilience and risk prevention and management will be promoted when preparing and implementing the partnership agreement and the programmes. It is also recommended that risk prevention and management requirements be mainstreamed in all policy areas (horizontal integration).
79. The health in all policies approach (HIAP) could be considered in view of the many socio-economic and environmental factors acting, which are also health determinants.
80. It is appreciated that the PA refers to third country nationals. On the basis of clearly identified important needs and specificities of third country nationals, it is important to address them under TO8 and 9 in relation to their integration on the labour market and to their social inclusion and the fight against poverty. All the Regions, not only Flanders (page 43, axis 3), should prioritise actions in this respect and allocate appropriate budget. The actions should be undertaken in synergy with the initiatives under the Asylum, Migration and Integration Fund, which scope is more limited in respect to this group considered as vulnerable persons in the basic acts establishing the ESF.
81. The arrangements that ensure the coordination of the ESI funds and other Union and national funding instruments for Wallonia, in particular for the EAFRD, should be described in a clearer and more pertinent manner, without duplicating information included in other sections (for instance the information on the use of e-cohesion instruments for managing applications and projects is to be presented in section 4.1).
82. To support the growth of the economy, strategic attention should also be given to developing processes of external trade and funding the modernisation of customs and border crossing points for faster, safer and more secure trade, including customs infrastructure, equipment, systems and institutional capacity building of customs and relevant taxation services.
83. The administrative capacity of the managing authorities in the Brussels, Walloon and Flemish Regions should allow for the effective implementation of Article 125(4)(c) CPR to put in place risk-based, effective and proportionate fraud prevention measures. In order to reflect this legal obligation, a reference should be made in paragraph 2.5 of the PA to the administrative capacity to implement this obligation, and in particular to the fraud risk analysis that has to be performed and how the results of the fraud risk analysis will be used in the internal control system of the managing authority. Ideally Belgium should indicate that it would create a national anti-fraud strategy in which these issues are addressed.
84. In Chapter 2.1, the Walloon subsection (page 117) refers to a wide call for projects to be launched and information sessions to be organised. It seems however that the call for projects is already closed. This section therefore needs to be updated.

85. Chapter 2.5 could be improved to be more precise about the lessons learned from 2007-2013. References are made to evaluations and system audits, but in very general terms without mention of possible recommendations for the future. This should be improved. In particular, it would be useful if the Belgian authorities could present the relevant information along the three blocks defining public administration: (1) structures (assignment of responsibilities and tasks, delegations, coordination etc.), (2) human resources (number and qualification of staff, job descriptions etc.), (3) systems and tools (instruments, methods, guidelines, IT systems etc.). We welcome the positive commitment made by all to further improve ICT systems and to continue to develop clear manuals and guidelines. The text would benefit from more extensive information about the future plans on the three topics mentioned above. The information given about the Flemish ESF OP managing authority seems contradictory.
86. The description in relation to the administrative capacities (authorities, beneficiaries) of managing the rural development programmes should be further improved. While Flanders includes a number of general actions to be undertaken, Wallonia only specifies hiring an extra person for the monitoring of the rural development programme (RDP). Therefore the list of concrete actions should be further extended for both regions. In particular, efforts related to reducing the error rate in the use of EAFRD should be further specified, both for Flanders and Wallonia.
87. The PA should contain a summary of actions planned to achieve a reduction on the administrative burden for beneficiaries (including information on the use of simplified costs) based on a description of the assessment exercise to identify areas for improvement, as well as an indicative table for the action's implementation. Additionally, a summary of actions planned in the EAFRD, including an indicative timetable, to achieve a reduction in the administrative burden for beneficiaries should be also further developed in Flanders and Wallonia. The current text is rather general and does not provide concrete actions to be undertaken, neither in Flanders nor in Wallonia.
88. Chapter 2.5 presents the current situation regarding the capacity of the administration to manage the ESI Funds by a federated entity, which is correct since implementation systems vary across Regions and Communities. However, the level of information provided varies greatly between the entities. All managing entities need to give a general diagnosis of their implementation capacity and mention actions to be taken to maintain or re-enforce that capacity, focusing on structures, human resources and tools. Some of these elements are currently present for some entities, which is not enough (e.g. Wallonia uses the three blocks on public administration but others do not; Flanders makes concrete reference to fighting fraud and the tools to do that, but others do not).
89. Chapter 3.1.2. is meant to provide details on the planned implementation of Integrated Territorial Investments (ITIs). It is not meant to present other approaches. The subsections of Wallonia (page 162) and Brussels (page 167), if they do not refer to ITIs only, should therefore be dropped.

90. The elements presented on the youth issue in Chapter 3.1.5. for Wallonia (page 173) and Brussels (page 175) need revision and a coherence/consistency-check with the rest of the PA.
91. The assessment of the existing systems for e-data exchange should briefly develop its coherence with the Commission's assessment and experience in the programming period 2007-2013 and indicate a timeframe for the actions planned to permit a complete electronic exchange of data. The Belgian authorities should be reminded that the recently adopted revised directives on public procurement provide for a gradual transition to mandatory e-procurement starting in 2016. This includes:
- A mandatory electronic notification of call for tenders and electronic access to tender documents (from April 2016);
  - A mandatory electronic submission of offers (e-submission), from April 2017 for central purchasing bodies (CPB) and from October 2018 for all contracting authorities.
92. In light of the above, and given the importance of the introduction of mandatory e-procurement for the correct and timely absorption of ESI Funds, the Belgian authorities should be urged to prepare a national strategy for the timely and efficient transition to end-to-end e-procurement, as called for in section 5.3 of the Commission Communication 'End-to-end e-procurement to modernise public administration' (COM (2013)453 final). This strategy should set out the specific objectives to be achieved, the process to be followed, the milestones, and any necessary indicators. Adequate assistance from the Structural Funds should be made to implement this strategy, in particular for developing or improving end-to-end e-procurement infrastructure, the strengthening of administrative capacity, training, and awareness raising. The strategy should ensure that the most efficient and cost-effective approach to implementing mandatory e-procurement in Belgium is undertaken, and that duplication at national/regional/local level is avoided, as it may result in interoperability problems. The overall objective should be an improved, simpler, and more efficient public procurement system.
93. For reasons of comparability, the assessments in the PA should preferably make use of available European statistics. In case the necessary data are not available on EU level, it is recommended to also provide links to similar datasets in European statistics next to the national data source. However, identifying such reference datasets in European statistics should not delay the adoption of the PA.
94. In addition, for the sake of comparability it is crucial that any territorial analysis on sub-national level make use of harmonised spatial definitions (e.g. NUTS); urban, rural, coastal and metropolitan regions referred to in the analysis should be delineated according to the harmonised definitions published by the European Commission.
95. The Walloon subsections in Chapters 1.5 (page 96) and 2.1 (page 119) refer to adopting decisions in Committees in which the Commission sat. This should not lead to the conclusion that the Commission gave its approval to these measures. The Commission was present as an observer, and can therefore not be made responsible for these decisions. This should therefore be corrected on pages 96 and 119.

96. Formatting/editing comments: Formatting of the Index (pages 2-3) needs revision; table page 7 should also be re-formatted (on top of the consistency indications mentioned above, with regards to reference years, indicators, etc.); in section 1.5.2 (page 102) Wikipedia is mentioned as the reference source for Belgian policies.