

Welcome!

2021-2027 TECHNICAL SEMINARS: **WEBINAR ON HORIZONTAL ENABLING CONDITIONS**

The session will start at 9h30.

Good practices in Webex:

- To avoid background noise during the meeting, your microphone will be muted on entry
- In order to ask a question, please write it in the chat. The moderator will either read it or invite you to speak
- When given the floor, turn on your mic and your camera by pressing "unmute" and "start video"
- Turn off your mic when not speaking



Webinar on horizontal enabling conditions under draft CPR 2021-2027

2021-2027 technical seminars

19 October 2020, Webex

Welcome and introduction

Directorate-General for Regional and Urban Policy

Directorate-General for Employment, Social Affairs & Inclusion



I. Effective monitoring mechanisms of the public procurement market



II. Tools and capacity for effective application of State aid rules



III. Effective application and implementation of the EU Charter of Fundamental Rights



IV. Implementation and application of the UNCRPD

Housekeeping rules

Default settings (unless speaking)

- Cameras switched off
- Microphones muted

If you want to take the floor

- Write your question in the chat
- Send the question by email to REGIO-COORDINATION-OF-PROGRAMMES@ec.europa.eu.

Web streaming - please follow the link

- <https://webcast.ec.europa.eu/2021-2027-technical-seminars-webinar-on-horizontal-enabling-conditions>

The webinar will be recorded

- Presentations and recording will be shared after the webinar and available on Info REGIO.

Agenda

9:30 - 9:45

General introduction

9:45 - 10:20

Horizontal enabling conditions I & II: fulfilment criteria

10:20 - 10:35

Q&A session

10:35 - 11:10

Horizontal enabling conditions III & IV: fulfilment criteria

11:10 - 11:25

Q&A session

11:25 - 11:30

Wrap-up & conclusions

Please submit questions in the chat or send them by e-mail to:

REGIO-COORDINATION-OF-PROGRAMMES@ec.europa.eu

Horizontal enabling conditions – general introduction

HECs are applicable to all CPR Funds (ERDF, ESF+, CF, JTF, EMFF, AMIF, BMVI, ISF) and to all specific objectives

- The HEC regarding the tools and capacity for effective application of State aid rules is not applicable to programmes supported by the AMIF, the BMVI and the ISF

Fulfillment criteria for each HEC are set out in **Annex III** to the CPR

Horizontal enabling conditions – general introduction

- MS assesses fulfilment of enabling conditions **in programmes** (Table 12 of the programme template)
- Enabling condition is **fulfilled** where all related fulfilment criteria are met
- Information required for fulfilment of an enabling condition does not need to be presented in a single document
- Sections '*Justification*' and '*Reference to documents*' should not provide a complete description of fulfilment, but only key information (in a nutshell)

Example: Horizontal enabling condition XYZ

Table 12: Enabling conditions				
Fulfilment of enabling condition	Criteria	Fulfilment of criteria	Reference to relevant documents	Justification
No	Criterion 1	Yes	Adopted strategy (name, ref. number, adopted by, on date, etc.) and a link to it [500 characters]	A strategy or a law was adopted by the Parliament on 1 January 2020, containing the following elements that fulfil criterion 1: ... [1 000 characters]
	Criterion 2	No	(no reference needed)	(no justification needed)

Horizontal enabling conditions – general introduction

If an enabling condition is **not fulfilled** at the time of approval of the programme by the Commission

- MS may declare expenditure, but the Commission will not reimburse it until the enabling condition is fulfilled
- MS may declare expenditure and the Commission will reimburse it for operations that contribute to the fulfilment of the corresponding enabling condition

As soon as MS considers the enabling condition fulfilled, it shall **report** this fact to the Commission with justification

- 3 months for the Commission to assess
- 1 months for MS to respond to the Commission

Horizontal enabling conditions – general introduction

Enabling conditions have to remain fulfilled during the whole programming period

- Examined by monitoring committee, i.e. MS to inform the committee about any changes that may affect the fulfilment of enabling conditions
- Selected operations have to be consistent with the strategies and planning documents established for fulfilment of enabling conditions

If the Commission suspects that an enabling condition becomes unfulfilled during the programming period

- The Commission will set out its assessment to the MS
- MS has 1 month to reply to the Commission
- The Commission will stop reimbursing the relevant declared expenditure if it concludes that the enabling condition is indeed unfulfilled

I. Effective monitoring mechanisms of the public procurement market

Directorate-General for Regional and Urban Policy

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs



Ex-ante conditionalities 2014-2020

The existence of arrangements for the effective application of Union public procurement law in the field of the ESI Funds.

- Arrangements for the effective application of Union public procurement rules through appropriate mechanisms;
- Arrangements which ensure transparent contract award procedures;
- Arrangements for training and dissemination of information for staff involved in the implementation of the ESI funds;
- Arrangements to ensure administrative capacity for implementation and application of Union public procurement rules.

HEC intended to be focussed on specific issues identified in 2014-2020, bring added value to the Directives while staying in line with its requirements.

HEC on Public Procurement for 2021-2027

Monitoring mechanisms are in place that cover all public contracts and their procurement under the Funds in line with EU procurement legislation. This requirement includes:

1. Arrangements to ensure compilation of effective and reliable data on public procurement procedures above the EU thresholds in accordance with reporting obligations under Articles 83 and 84 of Directive 2014/24/EU and Articles 99 and 100 of Directive 2014/25/EU.

HEC on Public Procurement for 2021-2027

2. Arrangements to ensure the data cover at least the following elements:

a) Quality and intensity of competition: names of winning bidders, number of initial bidders and contractual value;

b) Information on final price after completion and on participation of SMEs as direct bidders, where national systems provide such information.

3. Arrangements to ensure monitoring and analysis of the data by the competent national authorities in accordance with Article 83(2) of Directive 2014/24/EU and Article 99(2) of Directive 2014/25/EU.

HEC on Public Procurement for 2021-2027

4. Arrangements to make the results of the analysis available to the public in accordance with Article 83(3) of Directive 2014/24/EU and Article 99 (3) of Directive 2014/25/EU.

5. Arrangements to ensure that all information pointing to suspected bid-rigging situations is communicated to the competent national bodies in accordance with Article 83(2) of Directive 2014/24/EU and Article 99(2) of Directive 2014/25/EU.

Tools and capacity to verify

- MS already have the obligation to establish a monitoring system, stemming from the Directives, Article 83
- The enabling conditions go into more technical detail, especially in terms of demonstrating:
 - legislative framework covering these issues,
 - institutional setup – who is in charge, are the roles and duties clear,
 - adequate human resources – is there dedicated staff, can they collect and analyse,
 - adequate, functional IT platforms – does it work from a technical perspective, is access ensured,
 - effectiveness of the monitoring process and communication of its results – published, made known to the relevant authorities.

Examples of existing communication with EC

Article 83(3) reporting

One round of reporting was already done, with mixed results due to lack of data

The new round is under consultation with DG GROW and more data is expected

Adequate reporting under this exercise can be referred to when proving fulfilment of enabling conditions

Workshops on e-procurement

Many consultations with MS were already undertaken, with good results

Most MS have good results in e-procurement and even additional IT tools in public procurement (for instance contract registers)

Good results of this exercise can also be used to prove for enabling conditions

Member State questions

- Q: Please clarify the concept "effective data" in the first criterion. What does this mean or what are the consequences for the fulfilment of HEC?
- A: the wording *effective and reliable* should be read together and it means that the Commission wants to be reassured that transparency is being observed. That means that publications need to be made at the right level and that the quality and completeness of the data in those publications is high. It's not enough to publish only a part of those notices that need to be published, nor is it enough that they are systematically published but with missing or wrong data.

II. Tools and capacity for effective application of State aid rules

Directorate-General for Regional and Urban Policy

Directorate-General for Competition



Ex-ante conditionalities 2014-2020

- Member States to put in place arrangements:
 - For the effective application of State aid rules
 - For training and dissemination of information for staff implementing ESIF
 - To ensure administrative capacity for implementation and application of State aid rules
- HEC intended to advance progress made 2014-2020

HEC on State aid for 2021-2027

- Managing authorities should have tools and capacity to verify compliance with State aid rules through:
 1. Easy and comprehensive access to information on undertakings in difficulty and under a recovery requirement
 2. Access to expert advice and guidance on State aid matters, provided by a local or national expert centre

Tools and capacity to verify

- MS can choose how they wish to fulfil the condition
- Must demonstrate effectiveness of chosen method

1. Access to information on undertakings in difficulty and under recovery requirement

- Already requirement not to grant SA to such undertakings
- Merely formalises need to have access to verification information

Examples of verification methods

Undertakings in difficulty

Self-declarations !NB only if system of verification!

- MS checks (random or systematic)
- Attach financial data

External auditor declarations

Centralised company registers

Subject to recovery order

MS responsible for recovery – should already be aware

Schemes or individual aid

EC informs MS when aid has been repaid (regularly updated webpage)

Self-declarations (NB system of verification)

- Examples: database, responsible unit

2. Expert advice and guidance

- Ensure access for Managing Authorities to SA guidance
- Examples:
 - Network of SA experts within regions
 - Centralised SA unit, cooperating with MA
 - SA contact points within ministries

Member State questions

- How long should we expect the process of verification to take and in what form will the process of verification of the HEC relative to state aid take place?
- On what basis can we expect the EC to confirm that EC are fulfilled, so that there are no delays in the drawing of EU funds in the new programming period?

SA HEC compliance confirmed within context of assessment of OP

Current possibility for early informal assessment

Member State questions

- Is the term tools referring to an IT system or is it referring only to procedures and interpretive circulars?
- How far should the "Verify" process go? Is it up to the level of the relevant circulars and the on-off check lists of the managing authorities or is it also about the level of internal audits?

MS choice how to ensure compliance, including tools to use and level of verification – MS must simply demonstrate effectiveness of chosen tool

Member State questions

- 'Undertakings under a recovery requirement': Does the E.C mean that Managing Authorities should be able to verify Deggendorf's principle compliance before approving a state aid?

Yes, this is correct

- Furthermore, please verify if the phrase 'undertakings under a recovery requirement' refers only to undertakings for which the recovery of an illegal and incompatible State aid following an EU decision is pending or does it have a more general meaning?

Yes, this refers to undertakings subject to an outstanding order relating to the repayment of State aid

Q & A session

*Please write your questions in the chat
or send an e-mail to*

REGIO-COORDINATION-OF-PROGRAMMES@ec.europa.eu

III. Effective application and implementation of the EU Charter of Fundamental Rights

Directorate-General for Employment, Social Affairs & Inclusion

Directorate-General for Justice and Consumers



Arrangements to ensure compliance of the programmes and their implementation with the relevant provisions of the Charter

- Role and tasks of the different authorities and bodies in ensuring compliance?
- Are the right partners involved?
- Explanations on how compliance will be ensured at all stages?
- Appropriate tools to ensure compliance have been developed?

Useful reference: the ['Guidance on ensuring the respect for the Charter of Fundamental Rights of the European Union when implementing the ESIF'](#) prepared by the European Commission for the programming period 2014-2020.

Reporting arrangements to the Monitoring Committee regarding cases of non-compliance and complaints

- Frequency of reporting to the Monitoring Committee (MC)?
- Scope of information that will be presented to the MC? By whom?
- Identification of competent bodies?
- How will this point be discussed?

Member State questions

- Is there any updated guidance by COM or FRA following the “*Guidance on ensuring the respect for the Charter of Fundamental Rights of the European Union when implementing the European Structural and Investment Funds (‘ESI Funds’)*”?
- Good practices?
- Complaints and cases of non-compliance?
 - Cases of non-compliance are cases where a body that is – in accordance with the institutional and legal framework of the MS - competent for making an assessment whether the Charter has been complied with, comes to the conclusion that it was not complied with.
 - Complaints defined in Art. 63(6) CPR

IV. Implementation and application of the UN Convention on the Rights of Persons with Disabilities (UNCRPD)

Directorate-General for Employment, Social Affairs & Inclusion



Objectives with measurable goals, data collection and monitoring mechanisms

- National framework to implement the UNCRPD in its totality?
- Does it include well-defined objectives with measurable goals (i.e. how the objectives will be considered as achieved)?
- Explanations on how the data is collected?
- Explanations on how the implementation of the UNCRPD will be monitored?

Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes

- Role and tasks of the different authorities and bodies?
- Are the right partners involved?
- Explanations on how they will be reflected in the programmes at all stages?
- Appropriate tools to ensure they are reflected have been developed?

Reporting arrangements to the MC regarding cases of non-compliance and complaints

- Frequency of reporting to the Monitoring Committee (MC)?
- Scope of information that will be presented to the MC? By whom?
- Identification of competent bodies?
- How will this point be discussed?

Member State questions

- Is the second criterion applicable to all CPR programmes or only to ESF+ programmes?
 - The enabling condition in its entirety applies to all CPR Funds.
- Non-compliance and complaints?
 - Cases of non-compliance are cases where a body that is – in accordance with the institutional and legal framework of the MS - competent for making an assessment whether the Charter has been complied with, comes to the conclusion that it was not complied with.
 - Complaints defined in Art. 63(6) CPR

Q & A session

*Please write your questions in the chat
or send an e-mail to*

REGIO-COORDINATION-OF-PROGRAMMES@ec.europa.eu

Wrap up & conclusions

Directorate-General for Regional and Urban Policy

Directorate-General for Employment, Social Affairs & Inclusion

Upcoming webinars

Invitations

- Relevant Programming Authorities will be invited directly by COM

Next webinar in November

- Topic: the Handbook on sustainable urban development strategies
- Within the Urban Development Network

Other webinars

- Depending on the progress in inter-institutional negotiations
- Possible topics: SCO, JTF, PO1 together with synergies with Horizon Europe and PO4, with a possible focus a new specific objective related to culture and tourism

Thank you!

Contact: REGIO-COORDINATION-OF-PROGRAMMES@ec.europa.eu



© European Union 2020

Reuse of this presentation authorised
under the CC BY 4.0 license.

