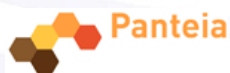




The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

Final report



EUROPEAN COMMISSION

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Luxembourg: Publications Office of the European Union, 2016

ISBN 978-92-79-59496-0

doi: 10.2776/617294

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Abstract

The study reviews the implementation of the *ex-ante* conditionalities that were introduced in the Regulations of the 2014-2020 European Structural and Investment Funds and were assessed through the Partnership Agreements and Operational Programmes developed to deliver those funds. The research findings highlight the value of *ex-ante* conditionalities, in encouraging the fulfilment of EU regulatory requirements faster than might have been the case in their absence and reinforcing effectiveness through associated strategies in the policy areas supported by ESI Funds. The process has also allowed the Commission to engage in a dialogue with Member States, resulting in an improved understanding of the situation in the Member States. However, in some of the 'older' EU-15 Member States, the added value was perceived to be limited and the process of assuring the conditionalities attracted some criticism for being disproportionate to the benefits. Timing, costs and the extent of actions required to fulfil some of the conditionalities have generally exceeded the original estimates or required more resources than was envisaged, by both the Commission and Member States.

Key words: Cohesion policy; European Union, European Structural and Investment Funds, European regional Development Fund, General Ex-ante conditionalities, Thematic Ex-ante conditionalities, Operational Programmes, Member States, Action plans, Criteria

About this document

This document is the final deliverable of the 'The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds, No. 2014CE16BAT062'.

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Acknowledgement

The authors express their gratitude to those who responded to the web-surveys and made themselves available for interviews. The authors are also grateful for the very helpful insights from the Commission staff and particularly to Peter Berkowitz, Mélanie Villiers, Caterina Eempio, Ragne Villakov, Jolanta Swiatkowska, Maeva Roulette, Tessa Van Blaricum, Joëlle Salmon and to other members of the Steering Group.

The study would not have been feasible without the support of our national experts in different EU Member States whose contributions are gratefully acknowledged herewith. We would like to thank Maciej Borsa, Ivan Curzolo, Bianca Faragau, Alexandra Frangenheim Kaisa Granqvist, Anari Hagel, Eugeniy Ivanov, Katalin Kolosy, Steven Kotter, Angelika Kronberger, Marco Marinuzzi, Julija Marosek, Haris Martinos, Felix Münster, Marili Parissaki, Ricardo Pedraz Gonzales, David Rucki, Angelos Sanopoulos, Paulo Santos, Agnieszka Siekiera, Jacqueline Snijders, Andrius Tamosiunas and Andis Zilans.

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ABBREVIATIONS

CCI	Common Code for Identification
CF	Cohesion Fund
CPR	Common Provisions Regulation
DG	Directorate General
DG ECHO	Directorate General for Humanitarian Aid and Civil Protection
DG EMPL	Directorate General for Employment, Social Affairs and Inclusion
DG ENER	Directorate General for Energy
DG ENV	Directorate General for Environment
DG CNECT	Directorate General for Communications, Networks, Content and Technology
DG MARE	Directorate General for Maritime Affairs and Fisheries
DG REGIO	Directorate General for Regional and Urban Policy
ExAC	<i>Ex-ante</i> Conditionalities
EAFRD	European Agricultural Fund for Rural Development
EC	European Commission
EIA	Environmental Impact Assessment
EMFF	European Maritime and Fisheries Fund
ERDF	European Regional Development Fund
ESF	European Social Fund
ESI Funds	European Structural and Investment Funds
EU	European Union
GExAC	General <i>Ex-ante</i> Conditionalities
ICT	Information and Communication Technology
IP	Investment Priority
MA	Managing Authority
NGN	Next generation network
NGO	Non-Governmental Organisation
OP	Operational Programme
PA	Partnership Agreement
RDP	Research and Technological Development
R&I	Research and Innovation
RIS	Regional Innovation Strategy
ROP	Regional Operational Programme
SEA	Strategic Environmental Assessment
SWOT	Strengths, Weaknesses, Opportunities, Threats
TA	Technical Assistance
TExAC	Thematic <i>Ex-ante</i> Conditionalities
TO	Thematic Objective

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UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UP	Union Priority
VET	Vocational Education and Training
YEI	Youth Employment Initiative
EU-13	Member States that joined the EU after 2004
EU-15	EU Member States before the 2004 enlargement
AT	Austria
BE	Belgium
BG	Bulgaria
CY	Cyprus
CZ	Czech Republic
DE	Germany
DK	Denmark
EE	Estonia
EL	Greece
ES	Spain
FI	Finland
FR	France
HR	Croatia
HU	Hungary
IE	Ireland
IT	Italy
LT	Lithuania
LU	Luxembourg
LV	Latvia
MT	Malta
NL	The Netherlands
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SI	Slovenia
SK	Slovakia
UK	United Kingdom

EXECUTIVE SUMMARY

Background

This is the first **study examining the implementation of *ex-ante* conditionalities (ExAC)**, as laid down in Article 19 of (EU) No 1303/2013 establishing Common Provisions for the European Structural and Investment (ESI) Funds with the intention of improving the effectiveness of ESI funding. The present final report summarises the results of the research and analysis carried out between October 2014 and December 2015.

Focusing on the programming phase for the 2014-2020 period, the study looked at how applicability and fulfilment of *ex ante* conditionalities have been reflected in Partnership Agreements (PA) and Operational Programmes (OP) of Member States and how the action plans provided by Member States will address the identified gaps in the fulfilment of the ExACs.

The study has drawn evidence from three sources:

- **Extensive screening** of all 28 PAs and 216 OPs at the time of their adoption or by 31 July 2015 (for the 13 OPs not yet approved by then). This includes all OPs with a European Regional Development Fund (ERDF) and/or Cohesion Fund component. The screening took place between January 2015 and the cut-off-date of July 2015.
- **A set of in-depth consultations** with Commission officials and a selection of Managing Authorities and National Government representatives (at least one interview per Member State).
- **An online survey** of Managing Authorities with 98 responses covering 109 OPs (and from 26 Member States). The consultations and the online survey were completed by July 2015 and reflect the situation with the *ex-ante* conditionalities at that time.

The analysis and views of the Member States and Managing Authorities present a snapshot at a time when the process of fulfilment was still going on in several Member States, especially the completion of action plans concerning the compliance of ExACs.

A steering group composed of members from different Commission services has managed the study. The draft final report has been shared with Member States and comments received have been taken into account in the final report.

The findings will provide an analytical basis for further reflections on the future of the policy.

***Ex-ante* conditionalities** fall into two categories:

- **General *ex-ante* conditionalities (GExAC)**: There are **seven** horizontal types of preconditions covering anti-discrimination, gender, disability, public procurement, state aid, environmental legislation, and statistical systems/result indicators.
- **Thematic *ex-ante* conditionalities (TExAC)**: There are **29** with conditionalities linked to the 11 thematic objectives and investment priorities, as well as **seven** associated with the Union Priorities of the European Agricultural and Rural Development Fund (EARDF) and **four** relating to the European Maritime and Fisheries Fund (EMFF).

The process of assessment has involved extensive dialogue between the Commission and Member States, with the issuance of guidance and support provided by the Commission to ensure fulfilment.

1. The applicability of *ex-ante* conditionalities

The study found that **all conditionalities, foreseen** in the regulatory frame, **proved relevant for all Member States'** specific objectives albeit to varying degrees. Apart from some exceptions, mainly linked to the general ExAC 'statistical system', **Member States confirmed the applicability of general *ex-ante* conditionalities, at national level, in the PAs. Thematic *ex-ante* conditionalities were mostly tackled at national or at national / regional level in OPs.** The most extensively applied thematic *ex-ante* conditionalities concerned 'smart specialisation', 'Small Business Act' and 'energy efficiency'.

The study identified a number of situations where **Member States did not report thematic *ex ante* conditionalities as applicable, without providing any justification**, though the investment priorities to which these *ex-ante* conditionalities were linked had been selected in the programmes. The analysis showed that in about a quarter of cases, the non-applicability of the conditionality was problematic. However, **interviews revealed that missing conditionalities resulted mainly from a misunderstanding** of Member States as to where applicable ExACs should have been reported.

The study found that social partners, NGOs and private organisations were involved in the assessment only to a certain extent, mostly through public consultation.

Whilst there was some initial misunderstanding from Member States regarding applicability, fulfilment and reporting of the *ex-ante* conditionalities, partly attributable to the timing and perceived lack of clarity of guidance and the evolution of a new process, **there has been general agreement between the Commission and Member States over the applicability of general and thematic conditionalities.** Discussions held between Member States and the Commission dealt with situations/issues requiring clarification.

2. The fulfilment of *ex-ante* conditionalities

The analysis showed that the **fulfilment rate for general *ex-ante* conditionalities** at the time of the programme adoption was **rather high at approximately 75%**. However, only eight Member States, mostly from EU-15, managed to fulfil all general conditionalities before the programme adoption or before the cut-off date of the study.

Member States reported most difficulties in relation to arrangements for **state aid** implementation. Particular **challenges emerged around statistical systems and public procurement.** In many Member States, statistical systems were developed in parallel with the OPs and these processes affected the cases of none or partial fulfilment. In all of these cases, implementation actions has been the single biggest constraint on fulfilment and has been the focus for actions at Member State level to ensure fulfilment.

Regarding the **fulfilment of the thematic ExACs** at OP level, the share of the applicable and fulfilled conditionalities **was around 58%**. Only 15% of applicable conditionalities were assessed as not fulfilled. **The best ratings in terms of fulfilment were achieved** in the case of conditionalities related to **self-employment, co-generation of heat and power and renewables**. A large part of **non-fulfilment** at PA level **applies to** conditionalities involving **'hard' environment and transport sectors** (water and railways in particular) as well as **the smart specialisation strategy, health strategy, active ageing** as well as **early school leaving**. The assessment did not show any improvement in fulfilment either for the water or the transport sector of ExACs during the process of PA adoption and OP adoption.

A positive correlation between the number of conditionalities applied by the Member States and the number of not fulfilled ones was found by the study. The share of fulfilled and partially fulfilled TExACs was highest for more developed and transition regions.

The fulfilment of thematic conditionalities is inherently more challenging, resource intensive, politically complex (there was a view that this was not always appreciated by the Commission) and time consuming. **Only three Member States had all thematic conditionalities fulfilled at the completion of the screening process for this study**. This partly reflects the difficulties faced by those responsible within Member States due to the complexity of some conditionalities and an unexpected need for additional resources for the effective fulfilment, e.g. developing and evidencing new strategies, the processes involved in stakeholder engagement etc. In general, EU-13 countries, with less capacity and limited track record of regional development programmes had lower levels of fulfilment.

The analysis showed that **Member States applied different approaches and undertook many types of actions to fulfil ex-ante conditionalities**. For general conditionalities, these were mostly related to a combination of implementation steps at national level (e.g. the designation of specially authorised personnel on matters concerning anti-discrimination or gender equality), capacity building for state aid, gender equality, legislative changes for public procurement and environmental legislation.

The most difficult criteria to fulfil were those **relating to capacity building and monitoring mechanisms**. Half of the actions undertaken to fulfil thematic ExACs are related to the development of strategies and policy frameworks, followed by implementation measures and legal changes.

Some differences in the approach between more developed and less developed regions exist. **More developed regions mostly adapted existing strategies and action plans rather instead of developing specific approaches** in order to fulfil conditionalities as it occurred in most of the less developed regions.

The fulfilment of the conditionalities often required additional resources which was not easy to secure, especially in the context of austerity in several Member States (e.g. the fulfilment of employment related conditionalities was linked to the increase in the capacity of public employment services). In some cases, **legislative changes** were needed including environmental legislation and state aid, which also **took time and resources**.

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The fulfilment of conditionalities concerning **policy and strategy development and consultations with stakeholders** also had **resource implications that Member States have sometimes struggled to address**. Not surprisingly, a number of thematic conditionalities were partially rather than wholly fulfilled at the time of the research. At the beginning of the process, the complexity and resources required to fulfil the thematic conditionalities had been underestimated most probably by both sides.

Regarding the assessment of fulfilment, the study came across examples of disagreements between Member States and the Commission over the scope and coverage of activities to fulfil investment preconditions (the need to involve national and regional bodies was not obvious in many cases). The example of smart specialisation was mentioned in several interviews with the Commission promoting new strategies, in contrast to Member States proposing adaptation of existing strategies. Health strategies, early school leaving as well as transport and environmental infrastructure have also proved to be challenging thematic conditionalities.

3. Action plans

Action plans must be developed for applicable conditionalities that Member States assess as not fulfilled and they must include a timetable for carrying out and ensuring the fulfilment of conditionalities by the end of 2016. This provision has allowed OPs to be approved and adopted. The study found that **the requirement to provide action plans was generally met**, although there were some mistakes in reporting and **there is scope for improving the quality of some of the action plans**.

The majority of Member States provided action plans for general and thematic conditionalities at either PA or OP level amounting to a total of more than 700 distinct action plans. For example on smart specialisation, 20 Member States have an action plan to fulfil this conditionality. Unsurprisingly, the general conditionality related to the statistical system had the highest number of action plans.

Responsibility for fulfilment of action plans for general *ex-ante* conditionalities is mostly set at national level, with the exception of public procurement and statistical systems, where regional authorities are also involved. For thematic conditionalities the situation is reversed and regional authorities have a greater role to play, especially in the case of the fulfilment of criteria related to capacity building and monitoring systems. National authorities are mainly responsible for action plans concerning infrastructure and capacity building as well as smart specialisation.

The screening showed variations in **the timing of fulfilment of the action plans**. The majority of them were reported to be due by the end of 2015. However, the analysis suggests that some of the current action plan deadlines could be unrealistic, and that several initially indicated deadlines have expired already without the action plans having been implemented. This concerns particularly legal processes or involvement of multiple stakeholders including regional authorities.

The complexity of the actions required to fulfil *ex-ante* conditionalities ranges from relatively minor adjustments to key indicators, capacity building and training measures especially at national level, and the implementation of new statistical

systems. Similarly, the comprehensiveness and level of detail of action plans varies with multiple action plans required in some cases to tackle specific issues.

To fulfil thematic conditionalities, mostly strategy development and implementation measures are foreseen under the responsibility of national and regional/local governments, and with the involvement of national and sub-national departments.

Significant prejudice

There is a provision to suspend payments to Member States if it is considered that there is a significant prejudice to the “effectiveness and the efficiency of the achievement of specific objectives concerned”. To date, no such suspensions by the Commission have been imposed, although there have been examples of self-suspension by Member States to avoid a formal suspension (e.g. a case in Portugal concerning the implementation of the Energy Performance of Buildings Directive).

4. The implementation process

The assessment of applicability and fulfilment of the ExACs has been a new element and it has thus been a learning process for all stakeholders involved.

An initial challenge for the European Commission DGs dealing with ESI Funds was to make sure that the Member States/Managing Authorities understand the importance, objectives and priorities of the assessment process and its expected outcome.

During programming, **Member States/Managing Authorities raised the issue of inconsistency between Partnership Agreements and Operational Programmes** as the PAs had been developed and approved much earlier than OPs. This led to a situation where the fulfilment of some conditionalities could not be confirmed on time at national level and Member States had to find a way to ensure the timely submission of the PA.

At first there were some initial misunderstandings regarding the applicability of the general ExAC in the OPs, which were resolved in the course of the process. Indeed, there were some uncertainties as to the level (national / regional) at which the applicability had to be reflected (PA / OP). In addition, the reporting of thematic conditionalities at PA and/or OP level has been a source of confusion, which was cleared through discussions between Member States and the Commission.

Still, there is evidence of both duplication and gaps between PA and OPs. Despite this, there have not been any major disagreements between the Commission and Member States/Managing Authorities in assessing the applicability of the *ex-ante* conditionality with an exception of smart specialisation, where there have been exchanges of views about what constitutes the fulfilment of the conditionality.

In most cases, **the assessment of applicability and fulfilment was not undertaken/conducted separately** in terms of the involvement of stakeholders and the process of decision-making. The assessment of fulfilment was considered as more difficult than applicability. It was also noted that **due to the differences in approaches to programming, Member States did not follow the guidance in the same way and this led to differences in implementation.**

The effort to fulfil *ex-ante* conditionalities was considered to be high and sometimes disproportionate. This was reported by some Member States' representatives in interviews and web surveys, particularly by Member States where a large number of investment priorities had been selected in the OPs and more so where the number of thematic objectives was high in comparison to the programmes' resources. The same view was also expressed by Member States with a small ESI Funds allocations focusing on a couple of thematic objectives only, which had been required to adjust strategies and policy standards in order to fulfil the *ex-ante* conditionalities. A few Member States (particularly those with smaller financial allocations) believe that the process would have been more efficient if it had focused on a limited number of ExACs.

Regarding the organisation of the ExAC process from a Member State perspective, it has been necessary to aggregate, merge and process a large volume of information from a number of ministries before submitting the OPs to the Commission. **Member States established specific working groups or meeting platforms in order to ease the communication flow amongst Ministries, agencies and regional governments.** Such activities were often difficult to manage.

Member States tended to provide rather limited and general information to the Commission about the assessment of fulfilment of *ex-ante* conditionalities. As a result, the Commission was unable to judge the level of fulfilment without requesting additional information.

In the interviews with the Commission, the lack of information to assess whether the planned actions will ultimately lead to the fulfilment of the relevant *ex-ante* conditionality was often mentioned.

The communication with the European Commission has generally been considered as very positive. Both interviewees and web survey responses underlined this positive assessment. However, based on the interviews with Member States it appears, particularly at the beginning of the programming period, that different DGs and even different units in the same Directorate General did not always provide the same interpretation of the draft regulations. This however improved following the publication of the guidance.

The guidance material provided by the Commission has generally been well received. For example, 81% of the web survey respondents stated that the guidance was somewhat or very useful. Nevertheless, there have been some issues regarding the sub-criteria specified within the guidance, which were criticised for going beyond the scope of the relevant regulation. For Member States / Managing Authorities **the assessment grid was the most valuable tool for completing the assessment.** In addition to the guidance material, meetings and training sessions, informal exchanges also took place to assist Member States. The informal dialogue was found not useful by less than a fifth of respondents to the web survey.

Some **Member States also expressed concern regarding the time available to implement the action plans.** Whilst the European Commission is monitoring and continuously following up the implementation of the action plans, it will not be clear until the Annual Implementation Reports are submitted in 2017 whether the action plans will have been completed.

However, the **general opinion of Member States/ Managing Authorities is that the ExAC process has been useful**, albeit very ambitious in terms of strategic reform for many Member States and for their cooperation with the EC regarding the shared management framework. Similarly, Commission desk officers think that **Member States are now better prepared for the implementation of cohesion policy investments** and have the necessary knowledge in view of this. They consider that overall the ExAC process has provided added value in some Member States that would have positive impacts beyond the ESI Funds programmes.

The establishment of *ex-ante* conditionalities for investments are in principle seen as positive, particularly by Member States with a high volume of ESI Funds. The reason for this view was that *ex-ante* conditionalities triggered changes at national and regional level, which would not have been put in place or would have happened at a slower rate. Furthermore, many of the EU-13 are still adapting their national and regional policy system in accordance with the cohesion policy requirements in order to implement structural funds more effectively and efficiently. Those Member States are prepared to adjust and willing to do so., In other Member States, the need for adapting their administrative arrangements became clear during the process.

The parallel involvement of national and regional levels in the implementation of *ex-ante* conditionalities led in some cases to situations that could hinder the application of the ExAC mechanism.

A suggestion to consider *ex ante* conditionalities concerning infrastructure investment in the field of education or health, focusing on the mapping of needs was provided and considered as important for the majority of web survey respondents.

Overall Conclusions

Although it is too early to assess the impact of the new mechanism of *ex-ante* conditionality in increasing the effectiveness of ESI Funds interventions, **it is already clear that their application has helped identify situations in which relevant regulatory, institutional or strategic preconditions for effective intervention had not been met at the time of programme adoption.** They have encouraged Member States to put in place necessary remedial actions and mobilise resources needed to address these issues. First indications are, therefore, that programmes have, in many cases, addressed at an early stage problems that would only have become visible once expenditure on projects had already taken place.

The process has also allowed the European Commission to engage in a dialogue with the Member States, resulting in an improved understanding of the situation on the ground, particularly in the newer Member States, such as Croatia.

In some countries, including many of the EU-15 Member States, the process has been viewed as providing less added value, although they appreciate the logic of the process. In particular, some Member States have taken issue with the time and resources required to complete the assessment, particularly in those countries where the level of EU funding is relatively small and all of the ExACs are fulfilled. Indeed, some Member States argued that **the proportionality principle has not been applied effectively, especially those with a lower EU funding.**

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Nevertheless, there have also been very good reports of added value in the EU-15 Member States. For example, many Member States indicated that the ExAC process helped them in thinking more about their approach to R&D and innovation (e.g. Germany, UK and Sweden). Moreover, some of the Member States considered that the process resulted in better coordination between national stakeholders (e.g. Austria).

In many of the EU-13 countries, there were largely positive views on the added value of the *ex-ante* conditionalities. For example, it was noted that the *ex-ante* conditionalities helped in terms of identifying gaps/issues in the legal, regulatory and institutional environment, as well as ensuring compliance with EU directives. Moreover, it provided an important impetus for change and reform, by requiring action plans to be developed and implemented within strict deadlines.

Notably, the added value of the *ex-ante* conditionalities was not necessarily restricted to the ESI Funds and they may in fact have an impact on the effectiveness of investments from other funding sources.

Many of the frustrations with the 'process' felt by the Commission, Managing Authorities and other relevant actors, stem from 'growing pains' associated with new procedures and the unanticipated time and effort required to implement *ex-ante* conditionalities by all sides. As a general lesson to be learnt from the process, there is a broad agreement that **the conditionalities mostly add value and will result in a more effective and structured deployment of ESI Funds.**

1 INTRODUCTION

This final report is the fourth deliverable of the study 'The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds'. The study was carried out within the Competitive Multiple Framework Service Contract for the provision of Studies related to the future development of Cohesion Policy and the ESI Funds (Lot 3). The project team comprised experts from Metis GmbH, AEIDL, CASE and Panteia, and ICF¹ as subcontractor.

Ex-ante conditionalities have been introduced in the regulatory framework for the ESI Funds for the 2014-2020 period² to ensure that the effectiveness of EU investment is not undermined by unsound policies or regulatory, administrative or institutional bottlenecks. These conditionalities are limited in number and focus on the framework conditions considered as being most relevant for investments. Based on existing obligations that Member States have to comply with, they do not add to these or go beyond requirements that already exist.

There are two types of *ex-ante* conditionalities (ExAC):

- Those linked to each of the 11 thematic objectives (TO) laid down in Article 9 of the Common Provisions Regulation (CPR) and the related investment priorities. Annex XI of the CPR (Part I) establishes **thematic *ex-ante* conditionalities (TExAC)**, which apply to the ERDF, the CF and the ESF.
- General ones linked to horizontal aspects aiming to ensure that minimum requirements are in place with regard to anti-discrimination, gender equality, disability, public procurement, state aid, environmental legislation and the existence of a sound monitoring environment. **General *ex-ante* conditionalities (GExAC)** set out in Part II of Annex XI of the CPR apply to all ESI Funds (Article 19(1) CPR).

Ex-ante conditionalities do not apply to programmes under the European Territorial Cooperation objective (Article 19(8) CPR).

In case the *ex-ante* conditionalities are not fulfilled at the stage of programme adoption, as assessed by the Member States themselves and subsequently by the Commission, the Member States are required to prepare **action plans**. These plans demonstrate how the necessary conditions will be put in place in due course so as not to impede the effective and efficient implementation of the funds. Failure to carry out the action plan and ensure fulfilment by the end of 2016 could lead to a suspension of EU interim payments. Non-fulfilment of critical elements putting effective spending at serious risk ('significant prejudice') could lead to a suspension of EU funding at the stage of programme adoption by the Commission.

¹ In 2014 the trading name was changed from ICF GHK to ICF Consulting Services

² Articles 2(33), 15(1)(b)(iii), 19, 96(6)(b), 142(1)(e) and Annex XI of Regulation (EU) n°1303/2013

1.1 Scope and timing of the study

The overall purpose of this study was to develop an evidence-based analysis of how the regulatory provisions relating to *ex-ante* conditionalities have been applied in the programming phase. Therefore, the aim of this assignment was to get a good understanding of the implementation of general and thematic *ex-ante* conditionalities by:

- exploring the process through which these have been assessed at EU, national and regional levels; and, in particular,
- highlighting potential differences and similarities between Member States and the consistency between Partnership Agreements (PA) and Operational Programmes (OP) on the basis of Commission Guidance on ExAC, Commission Observations to the programmes as well as positions papers used for the analysis.

The study comprised four main tasks. **Task 1** of the project elaborated the methodology for data collection and analysis, the deliverable of which was the methodological report. This report was approved on 5 January 2015, subject to some amendments.

Task 2 provided a synthesis of how the provisions relating to the application and the fulfilment of conditionalities are reflected in PAs and OPs. This task included a screening of PAs and OPs based on the database developed in Task 1. Local experts have carried out the screening process and the data obtained was merged by the core team.

The screening of PAs included the following ESI Funds: the Cohesion Fund (CF), the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Agricultural Fund for Rural Development (EAFRD), and their respective *ex-ante* conditionalities reported at PA level.³

The OP screening covered the OPs, which involve only ERDF and/or CF, as well as those OPs where the ESF is combined with ERDF and CF. Task 2 commenced in January 2015. The project team received the PAs and a first group of 131 adopted OPs on 19 January 2015. On 20 March 2015, the Commission provided a second group of OPs comprising an additional 42 OPs. On 18 June 2015, seven more OPs were provided, followed by five that were sent on 3 July 2015. Finally, on 31 July 2015, 17 adopted OPs and 13 OPs, which at that time were still to be adopted, were made available for the finalisation of the OP screening.

Reported data reflect the state of fulfilment of *ex-ante* conditionalities at the time of programme adoption or by 31 July 2015 for the 13 OPs, which had not been adopted at that date. It is likely that there have been some changes in the fulfilment of *ex-ante* conditionalities since that cut off point and these have not been taken into account in this report.

³ The four thematic *ex-ante* conditionalities of the European Maritime and Fisheries Fund (EMFF) are beyond the scope of this study as they are not assessed at the level of the partnership agreements but on the level of the EMFF programmes, which do not fall in the remit of this study.

Task 3 provided an assessment of how the provisions relating to the applicability and the fulfilment of *ex-ante* conditionalities have been implemented during the programming phase. This task comprised two phases of data collection through interviews and a web-survey.

In the first phase of this task, Member States/Managing Authority representatives were interviewed. Interviews were conducted with central coordination departments at Member State level and coordination units in different Directorates General (DG) of the European Commission (EC). Desk officers of the Directorate General for Regional and Urban Policy (DG REGIO) were also interviewed.

The second phase of Task 3 involved a web survey. The survey was launched in late April 2015 and was finalised in July 2015.

Task 4 drew conclusions on strengths and weaknesses with regard to the implementation of the provisions relating to *ex-ante* conditionalities during the programming phase resulting from the outcomes of Tasks 2 and 3. The Final Report covers all four tasks.

1.2 Structure and content of the report

- Chapter 2 of the report provides an overview of the methodology and data collection.
- Chapter 3 provides an analysis of the applicability of general and thematic *ex-ante* conditionalities and the reported applicability in PAs and OPs compared to each other based on document screening, interviews and web-survey.
- Chapter 4 presents the state of fulfilment of *ex-ante* conditionalities and the differences between reported state of fulfilment in PAs and OPs based on document screening, interviews and web-survey.
- Chapter 5 focuses on the action plans reported in the different OPs based on document screening, interviews and web-survey.
- Chapter 6 summarises interview and survey results regarding significant prejudice.
- Chapter 7 presents the conclusions arising from the interviews and web-survey regarding the process of the *ex-ante* conditionalities assessment and development.
- Chapter 8 comprises the conclusions of the study based on the work performed under Tasks 2 and 3, including strengths and weaknesses with regard to the implementation of those provisions.

2 METHODOLOGY FOR DATA COLLECTION

2.1 PA and OP screening

Data from PAs and OPs were recorded into a database, which consists of two sections: One for the PAs and one for the corresponding OPs. The section for the PAs included the name of the Member State, PA code, type of region, budget total, funds involved, priority axes, thematic objectives, investment priorities, action plan and responsible bodies. Data from OPs covered the name of the Member State, OP, type of region, budget total, funds involved, priority axes, thematic objectives, investment priorities, level of programmes (national, regional), assessment of GExAC fulfilled or not fulfilled, assessment of TExAC fulfilled or not fulfilled, action plan, responsible bodies.

Twenty-eight Partnership Agreements and 216 OPs (see Section 9.1) were the subject of screening in Task 2⁴. Twenty geographical experts screened PAs and filled in the database created specifically for this purpose. Following this, all OPs⁵ were screened from January to September 2015. Reported data reflect the state of fulfilment of *ex-ante* conditionalities at the time of the programme adoption or **by end July 2015** (for the 13 OPs, which were not yet approved at that date). OPs covered by the analysis are all programmes financed by the ERDF and / or the CF, including 92 multi-fund OPs co-financed by the ESF (see Table 1, below).

Table 1: Type of programme covered by the study

Type of Funds	Number of programmes covered by the study
ERDF – mono-fund Operational Programmes (RF)	107
CF – Cohesion Funds Programmes (CF)	3
ERDF/ESF/ Youth Employment Initiative (YEI) - multi-fund Operational Programmes (M0)	15
ERDF/CF CF/ERDF - multi-fund Operational Programmes (M1)	14
ERDF/ESF - multi-fund Operational Programmes (M2)	70
ERDF/CF/ESF - multi-fund Operational Programmes (M3)	4
ERDF/CF/ESF/YEI multi-fund Operational Programmes (MA)	3

The 216 OPs contain different combinations, which are distributed among the Member States in different ways. Overall, there are **51 national programmes** and **165 regional programmes** of which seven are technical assistance (TA) programmes.

2.2 Interviews

The interviews were carried out at both, EC and national level. At the EC level representatives of the competence centres, policy units and geographical units of DG REGIO, as well as members of the Steering Committee of this study, have been interviewed based on the list of contacts provided by the Commission (see Section 9.7). The aim was to obtain contextual information, which also led to a refinement of the web survey questionnaire.

⁴ The LV OP does not contain data relating to ExAC, in accordance with Article 96(8). The OP database has therefore been completed by data duplicated from the LV PA.

⁵ These include 203 OPs adopted between October 2014 and end of July 2015, as well as 13 OPs not approved yet at the cut-off date of 31 July 2015.

In order to gain a deeper understanding of the assessment process from the Member States' perspective, at least one Member State representative was interviewed in each of the 28 (see Figure 45, Annex 9.7). These were from a government department/ agency or similar national level institution that coordinated the elaboration of the PA in their country, and who have knowledge of at least one OP.

For some Member States (e.g. those with a strong regionalised/ federalised/ devolved governance structure) additional interviews were undertaken. The only interview at national level that could not be conducted is in relation to the economic development and innovation OP (Hungary), where the relevant contacts have not been responsive to our requests for an interview.

Interviews provided valuable information about the methods used to assess the fulfilment in each Member State, the issues faced in the assessment of applicability and fulfilment, and about the development and implementation of the action plans. It has also allowed the comparison of views and experiences between European Commission officers and Member State representatives.

2.3 Web survey

In addition to the interviews, a web survey directed at Member State/ Managing Authority representatives was used to inform this study.

The survey was distributed to over 250 national contacts provided by the Commission⁶. The invitations and questionnaire were translated into all EU languages and respondents generally added comments in their own language. This helped to boost the response rate and the quality of information received. The survey took place between April and July 2015 including a reminder process. In total, 98 responses were received, covering 109 OPs.

There are three caveats regarding factors that may potentially have influenced the perceptions of the Managing Authorities (MA) who completed the web survey. First, the survey presents a snapshot at a time when the process was ongoing in several Member States, especially the completion of action plans concerning the compliance of ExAC. Second, the more critical comments came from Managing Authorities where the ExAC process had been difficult or not yet resolved at the time of the survey. Third, just over half of the respondents (56 respondents or 57%) were involved in OPs requiring action plans to fulfil the ExAC, of which all but two (in Greece and Spain) indicated that an action plan had or was being developed.

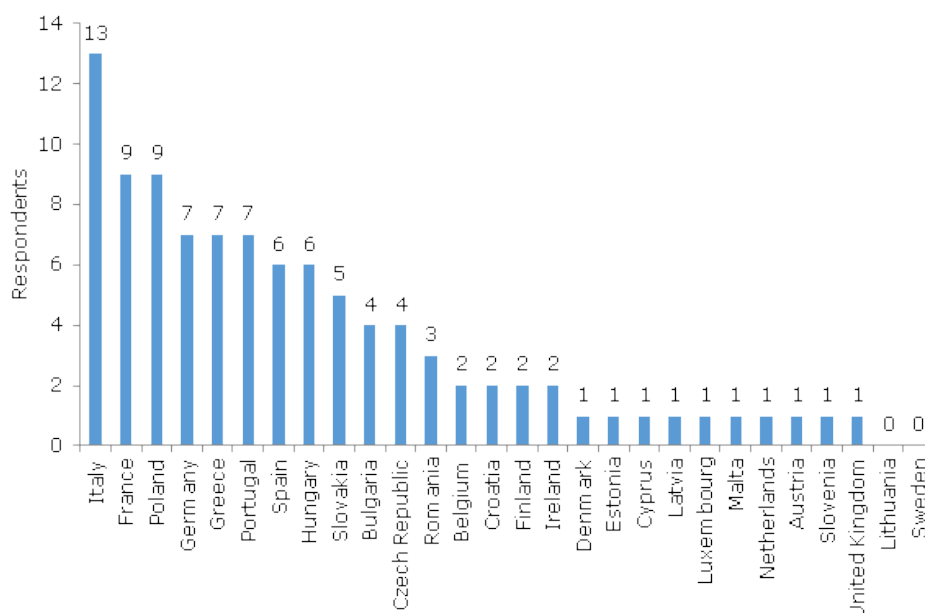
The web survey consisted of several sections that looked to explore experiences and views relating to the applicability and fulfilment of ExAC. The process-orientated questions examined the scale and effectiveness of communication between Managing Authorities, the Commission and other stakeholders involved in different phases of work. The respondents were also asked, where applicable, about the process surrounding the establishment of action plans as well as their views on whether the fulfilment of the ExAC will assist in delivering more effective and efficient investments.

⁶ It should be noted that some of these contact details related to the same OP. In such cases, a coordinated response has been provided.

Ninety-eight individuals completed the survey, giving a response rate of 38%. The response rate is acceptable given that many contacts relate to one OP (as opposed to duplicate responses) and that Managing Authorities have generally coordinated a single response. As can be seen in Figure 1 below, Italy was the most represented country, followed by France and Poland. However, the high number of responses reflects the regional/decentralised nature of the management and a high number of regional level OPs in these countries. No responses were received from contacts based in Lithuania or Sweden. In the case of Sweden, the ExACs were assessed at national level, forming part of the PA and subsequently presented in the OPs.

The limited involvement of the Managing Authorities therefore restricted their understanding of the process and thus, their potential contribution to our analysis.

Figure 1: Respondents grouped by Member States



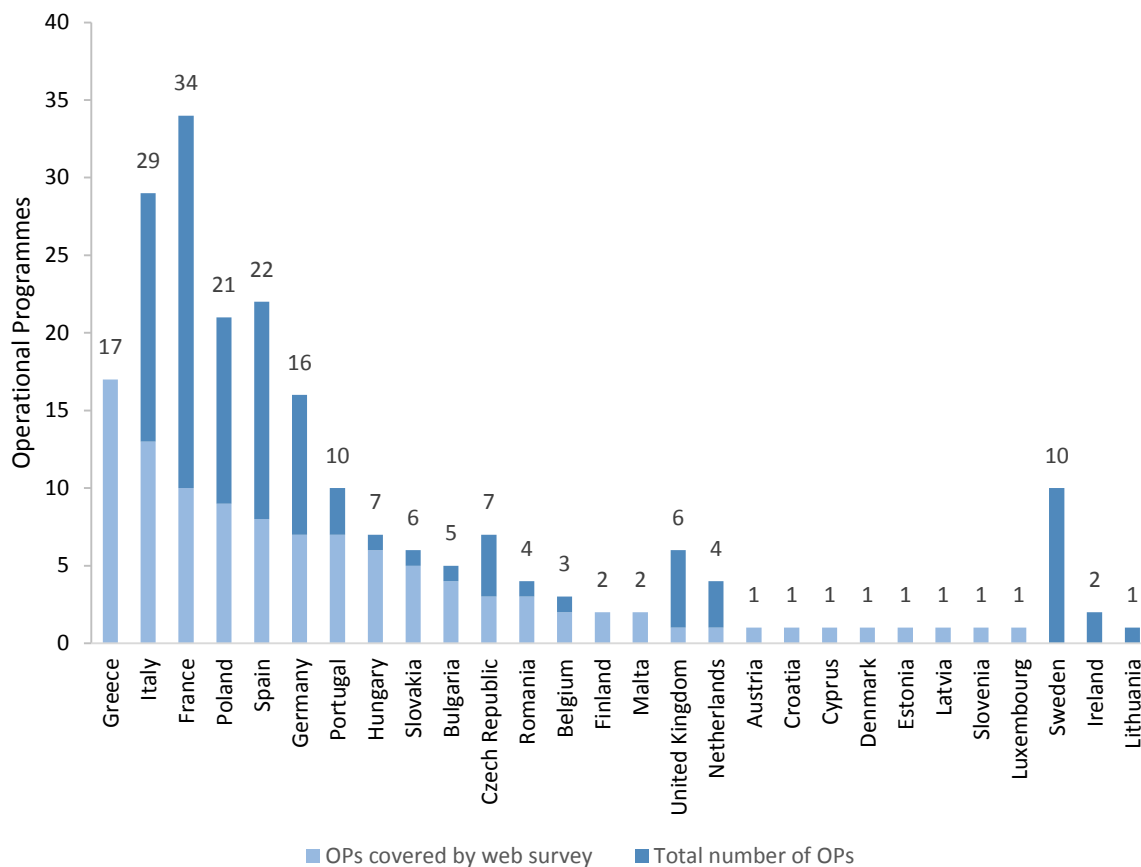
Source: ICF survey data; total number of respondents: 98

Out of 216 OPs, the survey respondents were involved in 109 (approximately 50% of the programmes). Some individual respondents were involved in several OPs – this was the case for France, Greece, Croatia and Hungary.

Figure 2 illustrates the OP coverage in the survey by country. Greece had the greatest OP coverage, with respondents being involved in the development of all 17 programmes. Italy and France had the next greatest number of OPs with 13 and 10 respectively. However, in terms of proportional country coverage they rank much lower. In all, there are 12 countries (including Greece) with a complete OP coverage. Eighteen countries in our analysis have more than 50% of their OPs covered by the survey respondents, namely: Greece, Portugal, Hungary, Slovakia, Bulgaria, Romania, Belgium, Finland, Malta, Ireland, Austria, Croatia, Cyprus, Denmark, Estonia, Latvia, Slovenia and Luxembourg.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Figure 2: Country Operational Programme Coverage



Source: ICF survey data; total number of respondents: 98

The results of the survey have been integrated in the analysis presented in subsequent sections.

3 APPLICABILITY OF EX-ANTE CONDITIONALITIES

Ex-ante conditionalities are only applicable in certain conditions. According to Article 2(33) of Regulation (EU) No 1303/2013 (CPR) “applicable *ex-ante* conditionality means a concrete and precisely pre-defined critical factor, which is a prerequisite for and has a direct and genuine link to, and direct impact on, the effective and efficient achievement of a specific objective for an investment priority or a Union priority”.

In this respect Member States had to assess the applicability of *ex-ante* conditionalities corresponding with the investment priorities and the Union priorities included in the programmes.

The “assessment of applicability by the Commission shall take account of the principle of proportionality having regard to the level of support allocated, where appropriate” (Regulation (EU) No 1303/2013 Article 19(3)). In instances where *ex-ante* conditionalities are considered as not applicable, although the relevant investment priority or Union priority has been programmed, the Member State had to demonstrate that the ExAC has hardly any impact on the effective and efficient achievement of the **specific objective** of an investment priority or Union priority and should not apply.

Regarding the level of applicability (national/regional) of specific objectives, in the case of the ERDF, ESF and Cohesion Fund, they are set in agreement between the Member States and the Commission during the process of programming. They correspond to the results to be achieved with the funds via the actions within a priority. As a prerequisite to the further analysis of ExAC, specific objectives need to be correctly identified.

Member States tried to fulfil *ex-ante* conditionality at national level already at the PA adoption stage. However, in OPs the applicability was considered differently than in the PAs. A major reason for this is that applicability was to be assessed at the level of specific objectives of investment priority (IP)/ Union priorities, which often had not been fully known at the time of the PA submission.

General *ex-ante* conditionalities

In principle, all general *ex-ante* conditionalities are applicable to all investments planned by Member States.

Regulation (EU) No 1303/2013 ANNEX XI Part II foresees seven general *ex-ante* conditionalities, which are of a horizontal nature, listed in detail in Section 9.2 of this report. For practical reasons the *ex-ante* conditionalities are abbreviated in the following way in the analysis of section 3.1:

- General ExAC 1. Anti-discrimination
- General ExAC 2. Gender
- General ExAC 3. Disability
- General ExAC 4. Public procurement
- General ExAC 5. State aid
- General ExAC 6. Environmental legislation relating to Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA)
- General ExAC 7. Statistical systems and result indicators

In line with the Guidance on ExAC for the ESI Funds⁷ general ExACs are not linked to investment priorities/Union priorities. Therefore, their applicability to the specific objectives should be always verified. As a rule, the GExACs apply if the relevant provisions of Union law are **applicable to the interventions**. Also, they apply when their non-fulfilment would lead to a risk to the effective and efficient achievement of a specific objective/focus area. The applicability assessment essentially means checking whether the relevant provisions of Union law constitute applicable Union law for the interventions.

As a rule, GExACs should be applied at the level of programmes or priorities. Certain types of programmes and priorities are likely to be subject to several applicable general ExACs⁸.

Thematic *ex-ante* conditionalities

ANNEX XI, Part 1, of Regulation (EU) No 1303/2013 foresees 29 thematic *ex-ante* conditionalities, listed in Section 9.3. Thematic *ex-ante* conditionalities are related to different thematic objectives (see Section 9.4) and investment priorities of the CF, the ERDF and / or the ESF. Furthermore, certain Union priorities of the EAFRD are linked to *ex-ante* conditionalities of the Regulation (EU) No 1303/2013 and others are specific *ex-ante* conditionalities for rural development. The correlation between thematic *ex-ante* conditionalities and the different investment priorities/union priorities is listed in Section 9.5.

In line with the Guidance⁹ on ExACs for the ESI Funds, the Member State could apply an ExAC based on the fund-specific rules if **there is a link between the specific objective/focus area and the ExAC**. If fund-specific rules do not set out any thematic ExAC, their applicability should be assessed at the level of the **specific objective/focus area**.

It is expected that thematic ExACs are always applicable when the investment priority/Union priority (to which the ExAC is linked) is selected into the programme unless it is demonstrated that there is little impact.

The following sub-sections summarise which general and thematic *ex-ante* conditionalities have been considered applicable or not applicable, and in the case of the latter the kind of justification provided.

3.1 Data analysis

3.1.1 General *ex-ante* conditionalities

For data collection, the general *ex-ante* conditionalities were counted as applicable by the Member States based on the *ex-ante* conditionalities defined in the PAs. Most of the PAs indeed listed all general *ex-ante* conditionalities, except for nine Member

⁷ Part I, section 2.1.2;
http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/eac_guidance_esif_part1_en.pdf

⁸ Ibid.



⁹ Part I, section 2.1.1;
http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/eac_guidance_esif_part1_en.pdf

States where the general *ex-ante* conditionality 7 'statistical systems' has been reported only at OP level.

In Belgium, all *ex-ante* conditionalities have been covered in the programmes (see Table 2, below). Initially, it was proposed that the fulfilment of the general ExACs would be covered in the PA and the thematic ExACs in the OPs. The main exception was Belgium, where taking into account the institutional context (federalisation), it was decided - in consultation with the EC - to treat both general and thematic *ex-ante* conditionalities in the OPs (*ex-ante* conditionalities generally concern either fully regionalised powers or mixed federal/ regional powers).

Table 2: Reference to general *ex-ante* conditionalities in Partnership Agreements

MS / GExAC	AT	BE	BG	CY	CZ	DE	DK	EE	ES	FI	FR	EL	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
1																												
2																												
3																												
4																												
5																												
6																												
7																												

Key:
 Listed as applicable at PA level 
 Not listed 
 Source: PA screening

At OP level most Member States considered general *ex-ante* conditionalities as applicable with the exception of 17 OPs in eight Member States, which did not provide any detailed explanation for excluding several of the general *ex-ante* conditionalities.

The **Bulgarian** OPs (2014BG16M1OP001, 2014BG16RFOP002) which cover transport infrastructure, environment, CO₂ emissions and innovation are of particular concern since a majority of the general *ex-ante* conditionalities have not been reported as applicable, although relevant for these OPs.

The same concern applies to the **Spanish** regional programme 2014ES16RFSM001 as well as the **Maltese** OP 2014MT16RFSM001, an OP dedicated to the SME initiative, which does not mention any general *ex-ante* conditionality except state aid.

In **France** there are four problematic regional OPs that do not list all general *ex-ante* conditionalities. OP 2014FR16RFOP003 focusing on innovation, SMEs and environment does not include public procurement, state aid and SEA/EIA, while OP 2014FR16RFOP004 focusing on the environment does not include environmental legislation. OPs 2014FR16M2OP006 and 2014FR16M0OP007, which should invest in the field environment, do not include the general ExAC related to the environmental legislation. The French TA OP 2014FR16M2TA001 does not report any general *ex-ante* conditionalities.

The **Italian** OP 2014IT16RFOP001 focusing on SMEs and environment does not address general *ex-ante* conditionalities regarding anti-discrimination, gender equality, disability, and even more problematically the environmental legislation.

The OP 2014IT16RFOP002 focusing on transport and OP 2014IT16RFOP003 focusing on innovation, information and communication technology (ICT), SME and CO₂ again do not address anti-discrimination, gender and disability.

In **Portugal** the OP 2014PT16CFOP001, which aims to invest in the low carbon economy, environment and climate change, does not address GExAC relating to gender, anti-discrimination and disability, and even more problematically state aid. State aid *ex-ante* conditionality could be relevant for the OP 2014PT16CFOP001 where CO₂ emission reduction is addressed to SMEs and other private organisations.

The **Romanian** OP 2014RO16RFOP001 focusing on innovation excludes anti-discrimination, gender, disability and environmental legislation and OP 2014RO16M1OP001 focusing on CO₂, environment, climate change and transport does not include anti-discrimination and gender equality.

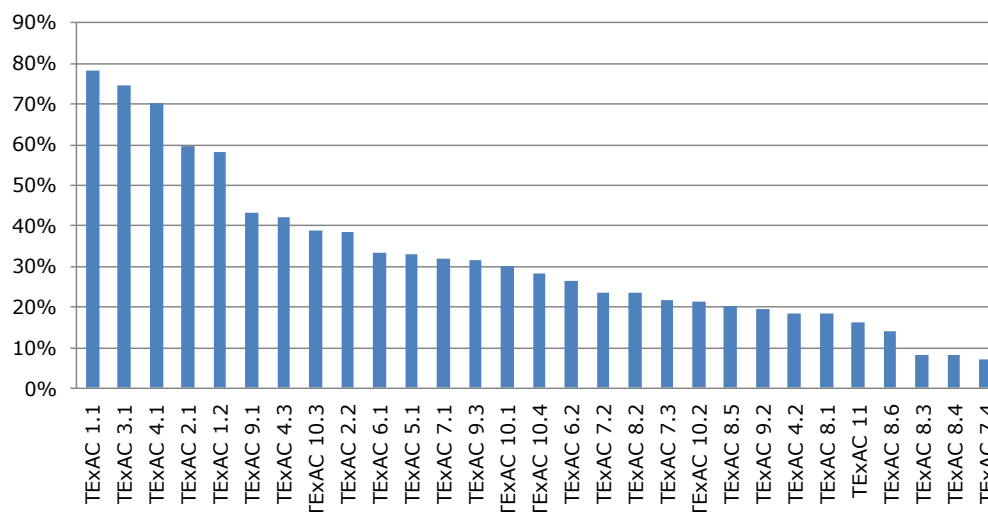
The OP dedicated to technical assistance in **Czech Republic** (2014CZ16CFTA001) did not report any GExAC.

3.1.2 Thematic *ex-ante* conditionalities

A total of 2,028 thematic *ex-ante* conditionalities have been considered as applicable in Operational Programmes, i.e. nine applicable ExAC on average per OP (Figure 3, below). Most frequently applied thematic *ex-ante* conditionalities are 'smart specialisation' (1.1), 'Small Business Act' (3.1), 'energy efficiency' (4.1), 'digital growth' (2.1) and 'research and infrastructure' (1.2), occurring in more than 50% of the OPs – therefore reflecting thematic concentration requirements of Article 4 of the ERDF Regulation (EU) No 1301/2013.

On the other hand, some *ex-ante* conditionalities have been rarely considered as applicable: 'labour market institutions' (8.3), 'active health ageing' (8.4) and 'smart energy infrastructure' (7.4) are occurring in less than 10% of the OPs.

Figure 3: Frequency* of the thematic *ex-ante* conditionalities considered as applicable in OPs (as percentage of OPs)



The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Source:

*Percentage of OPs for which a particular TExAC is considered applicable

There are some differences between **EU-13 and EU-15 Member States**:

- In EU-13 Member States more than 50% of the OPs applied thematic *ex-ante* conditionalities in the areas of 'energy efficiency' (4.1), 'smart specialisation' (1.1), 'Small Business Act' (3.1), 'research and infrastructure' (1.2) and transport (7.1). On the other hand, some *ex-ante* conditionalities have been rarely considered as applicable: 'administrative capacity' (11), 'labour market institutions' (8.3), 'strategy for youth employment' (8.6) and 'smart energy infrastructure' (7.4) occurring in less than 20% of the OPs.
- In the case of EU-15 Member States, more than 50% of the OPs have addressed 'smart specialisation' (1.1), 'Small Business Act' (3.1), 'energy efficiency' (4.1) and 'digital growth' (2.1). Less than 10% of the OPs addressed 'smart energy infrastructure' (7.4), 'active health ageing' (8.4) and 'labour market institutions' (8.3).

When analysing the **differences between** national and regional OPs 77% of the thematic *ex-ante* conditionalities have been tackled at national level, another 12% have been applicable at national and regional level and 11% only at sub-national/devolved administration level (e.g. in the UK and Belgium). In the Netherlands, Italy and Finland, *ex-ante* conditionalities have been applicable at national as well as at regional level. Finally, in some Member States different *ex-ante* conditionalities have been applicable at different levels (e.g. Greece, Germany and France). The thematic *ex-ante* conditionality with the highest frequency of applicability on regional level is the 'smart specialisation' strategy (1.1).

The analysis of applicability at OP level was undertaken in two steps. First, all *ex-ante* conditionalities considered as applicable at Member State level have been identified (blue cells) in Table 3, below. *Ex-ante* conditionalities presented in dark blue correspond to ExACs assessed at PA and OP levels; *ex-ante* conditionalities in light blue correspond to ExACs assessed only at OP level.

There are Member States where in accordance with Article 96.8 of Regulation (EU) No 1303/2013 *ex-ante* conditionalities are incorporated solely under the relevant provisions of the Partnership Agreement. An actual reference to this has been made only in the case of Latvia.

Table 3: Overview of the applicable thematic *ex-ante* conditionalities named in ERDF/CF-related OPs

MS	01.1	01.2	02.1	02.2	03.1	04.1	04.2	04.3	05.1	06.1	06.2	07.1	07.2	07.3	07.4	08.1	08.2	08.3	08.4	08.5	08.6	09.1	09.2	09.3	10.1	10.2	10.3	10.4	11.1
AT																													
BE																													
BG																													
CY																													
CZ																													
DE																													
DK																													
EE ¹⁰																													
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HR																													
HU																													
IE																													
IT																													
LT																													
LU																													
LV																													
11																													

¹⁰ EE has assessed all ex-ante conditionalities in the PA according to Article 96(8) of Regulation (EU) No 1303/2013, Ex AC 7.1, 7. 2 and 7.3 is applicable and was not fulfilled at the PA adoption

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

	01.1	01.2	02.1	02.2	03.1	04.1	04.2	04.3	05.1	06.1	06.2	07.1	07.2	07.3	07.4	08.1	08.2	08.3	08.4	08.5	08.6	09.1	09.2	09.3	10.1	10.2	10.3	10.4	11.1	
MS	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue
MT	Dark Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Dark Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue
NL	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue
PL	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue
PT	Dark Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue
RO	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue
SE	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue
SI	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Light Blue	Light Blue	Dark Blue	Light Blue	Light Blue	Dark Blue	Dark Blue	Light Blue	Light Blue	Light Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue
SK	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Light Blue	Dark Blue	Light Blue	Dark Blue	Light Blue	Light Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue	Dark Blue
UK	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue	Light Blue

Key:

ExACs assessed in the PA and in the OP

ExACs assessed only at OP level

ExACs not listed in the OP

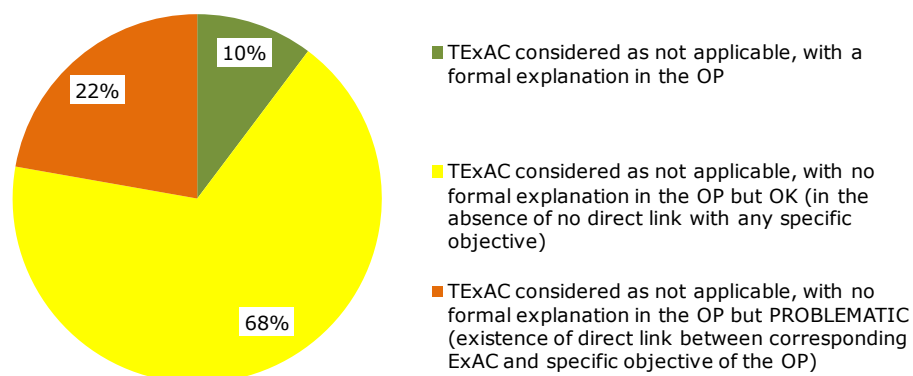


¹¹ LV has assessed all ex-ante conditionalities in the PA according to Article 96(8) of Regulation (EU) No 1303/2013, Ex AC 7.1, 7. 2 and 7.3 is applicable and was not fulfilled at the PA adoption

Overall, assessments at PA and OP levels are rather consistent. However, there are a few cases where the situation in the OPs does not reflect entirely the situation at PA level. The reason lies mainly in the fact that OPs cover only parts of the scope of the PAs.

As a second step *ex-ante* conditionalities left out at Member State level have been compared with all investment priorities selected across OPs to analyse the situations where *ex-ante* conditionalities have been considered as non-applicable although corresponding investment priorities have been selected. Each of the 111 OPs concerned was then assessed further. *Ex-ante* conditionalities considered as non-applicable were checked against the investment priorities selected in the programmes. The result of this assessment is shown in Section 9.6. There are three types of situations explaining the non-applicability of *ex-ante* conditionalities (see Figure 4 below). First, there are cases where non-applicability has been justified in the OP (green). Second, there are situations where no justification was given for the non-applicability of *ex-ante* conditionalities, although specific investment priorities had been selected in the OP (yellow). In some cases, this did not raise any issue since there was no direct link between the concerned *ex-ante* conditionalities and the specific objectives mentioned in the OP. Third, in some cases (orange) this was problematic since there was indeed a direct link between the concerned *ex-ante* conditionalities and the specific objectives mentioned in the OP.

Figure 4: Situations where TExACs have been considered as not applicable



Of the 111 OPs (covering 23 Member States¹²), 234 investment priorities had been selected without considering the corresponding thematic *ex-ante* conditionalities as applicable. For 24 of them (10%, in nine Member States, shown in green), a satisfactory explanation had been given in the OPs. For the other (90%), no explanation has been given in the OPs. Among them, only 52 cases are problematic and affect 11 Member States. This mainly applies to *ex-ante* conditionalities such as 'higher education' (10.2), 'lifelong learning' (10.3), 'strategy for vocational education and training' (10.4) as well as the 'existence of a multi-annual plan for budgeting for research and innovation' (1.2). In 156 other cases (covering 19 Member States), there was indeed no direct link between TExAC and the specific objective mentioned in the OPs.

¹² AT, DK, FI, LU and SE are the five Member States not included.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Overall, the identification of applicable *ex-ante* conditionalities has not raised major issues. Lack of direct links between the specific objectives associated to IPs selected in the OP and corresponding conditionalities explain most of the not applicable *ex-ante* conditionalities. This mostly concerns those *ex-ante* conditionalities where the Regulation (EU) No 1303/2013 foresees a whole set of conditionalities for one specific IP (e.g. thematic objective 7: IP 7a 'supporting a multimodal Single European Transport', 7b 'connecting secondary and tertiary nodes', 7c, 'environmentally-friendly transport'; thematic objectives 9 and 10).

Missing conditionalities result mainly from a misinterpretation by the Member States of where applicable ExAC should have been reported. Interviews have indeed confirmed that some Managing Authorities thought that conditionalities, which had been assessed at PA level did not need to be reported and assessed at OP level.

3.2 Assessment process of the applicability

Generally, there have been no major disagreements between the EC and Member States/ Managing Authorities in assessing the applicability of ExAC. There are, however, some exceptions. For example, the interviewees (desk officers from Member States and Managing Authorities) mentioned that there was some initial misunderstanding regarding the applicability of the general ExAC in the OPs. Indeed, there were some doubts as to what level (national / regional) the applicability had to be reflected (PA / OP). Seven Member States reported some difficulties in the understanding of the applicability of *ex-ante* conditionalities.

The EC therefore had to explain the necessity and importance of the application of the general ExAC to all OPs and therefore at regional level. The issues were usually resolved through additional information provided by the Member States/ Managing Authorities.

Member States / Managing Authorities also regretted the fact that co-legislators only reached agreement on Regulation (EU) No 1303/2013 quite late (December 2013) and that there were delays in finalising the guidance resulting from this, although draft guidance material was presented to Member States in March and September 2013.

This reflects a more general issue regarding the order of PA/OP preparation and the adoption of the regulatory framework. However, the majority of the Member States stated the usefulness of the *ex-ante* conditionality grid provided with the OP template.

In all cases Partnership Agreements have been developed and approved before the adoption of the Operational Programmes. The process of PA development in many countries overlapped with the development of Regulation (EU) No 1303/2013, which provides the basis for the conditionalities. Interviews revealed that the general approach of *ex-ante* conditionalities has not been clear to three Member States when preparing the PA (e.g. consistency and complementarity with OPs). Another consequence is that thematic *ex-ante* conditionalities tend to be more coherent and reliably described at OP level.

Member States/ Managing Authorities also commented on the administrative burden of completing the assessment of ExACs and inconsistencies in the communications (formal and informal) with the EC. Member States/ Managing Authorities stressed the importance of having a much more coherent and coordinated response from DGs in order to mitigate some of the difficulties experienced during the programming phase. According to one of the EU-15 MA interviewees, the assessment of applicability required an extensive documentary review, which was very time consuming.

3.3 Division of work between national and regional level

Geographical expert interviews with Managing Authorities and central coordinators of *ex-ante* conditionalities revealed that in the majority of the Member States the *ex-ante* conditionalities have been fulfilled at national level and transferred top down to the regional level (see Table 4, below). A considerable number of Member States chose a centralised approach where regional authorities have been involved in the coordination process of the conditionalities. This is the case mainly in small Member States. Conversely, there are some cases where national level transfers the matter of *ex-ante* conditionalities entirely to the sub-national level (e.g. UK, Belgium and the Netherlands).

Other Member States with a large number of regional OPs have distributed the work between national/central authorities and sub-national/regional authorities. For example, France has established a division of labour between national and regional authorities where national authorities delegated certain activities to the regional authorities.

A similar approach has been implemented in Italy where some conditionalities have been fulfilled at regional level but not at national level. Some of the conditionalities have also been duplicated between national and regional levels, because of the occasionally ambiguous breakdown of legislative responsibilities between the two levels (e.g. environment).

Table 4: Distribution of elaboration of conditionalities between national and regional levels

MS	Level of involvement
AT	National level, with the exception of ExAC 1.1, 1.2
BG	National level
BE	Sub-national and OP level
CY	National level
CZ	National level
DK	National level
DE	National level only relevant for thematic ExAC 2.2, 3.1, 4.1, 6.1, 5.1 11.1 Regional level OP is responsible for thematic ExAC 1.1, 1.2, TO, 8,9,10
EE	National level
ES	National level with some regional contribution
FI	National level with the exception of the Aland Islands
FR	Parts of the thematic ExAC have been fulfilled at central level with some delegations on regional level. Mainly <i>ex-ante</i> conditionalities related to TO1,2, 5,6, 7, 11 and thematic ExAC 8.6, 9.3, 10.2, 10.3, 10.4
EL	Central level with exception of thematic ExAC 1.1, 6.2, 9.1
HR	National level
HU	National level
IE	National level
IT	Regional and national level

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

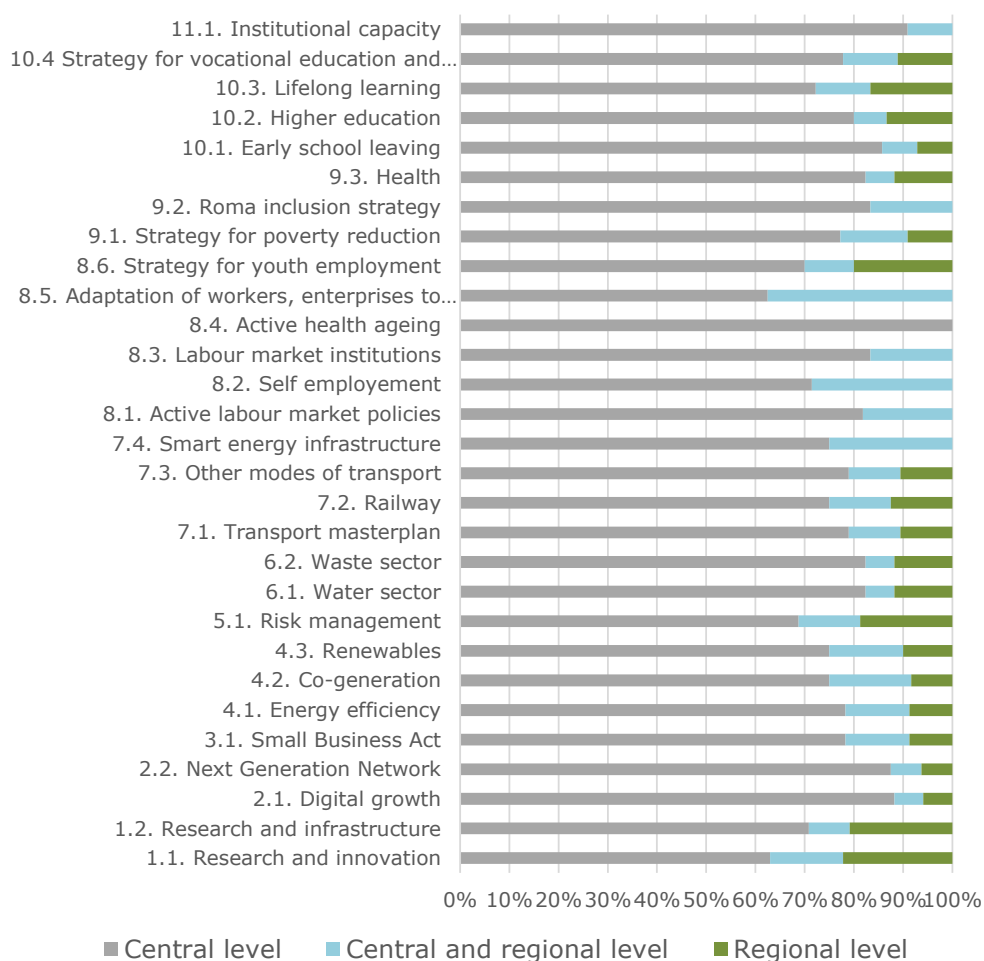
MS	Level of involvement
LT	National level
LU	National level
LV	National level
MT	National level
NL	Regional/OP level
PL	National as well as regional ; Regional thematic ExAC: 1.1, 6.2, 7.1, 7.2, 7.3
PT	National level with the exception of thematic ExAC 8.6 and 10.2
RO	National level
SE	National /PA level
SI	OP level
SK	National level
UK	devolved administration/OP level

Source: MA Interviews

There are also areas and *ex-ante* conditionalities where the process has been less centralised (see Figure 5, below). The thematic *ex-ante* conditionality with the highest involvement of regional authorities is related to the smart specialisation strategy (RIS3). The process of developing the RIS3 already requires a high involvement of regional stakeholders. Even in those Member States with a centralised approach in fulfilling *ex-ante* conditionalities the RIS3 has been developed for each regional OP where available (e.g. Greece and Poland).

Figure 5: Distribution of fulfilment of conditionalities between national and regional levels

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.



Source: MA Interviews

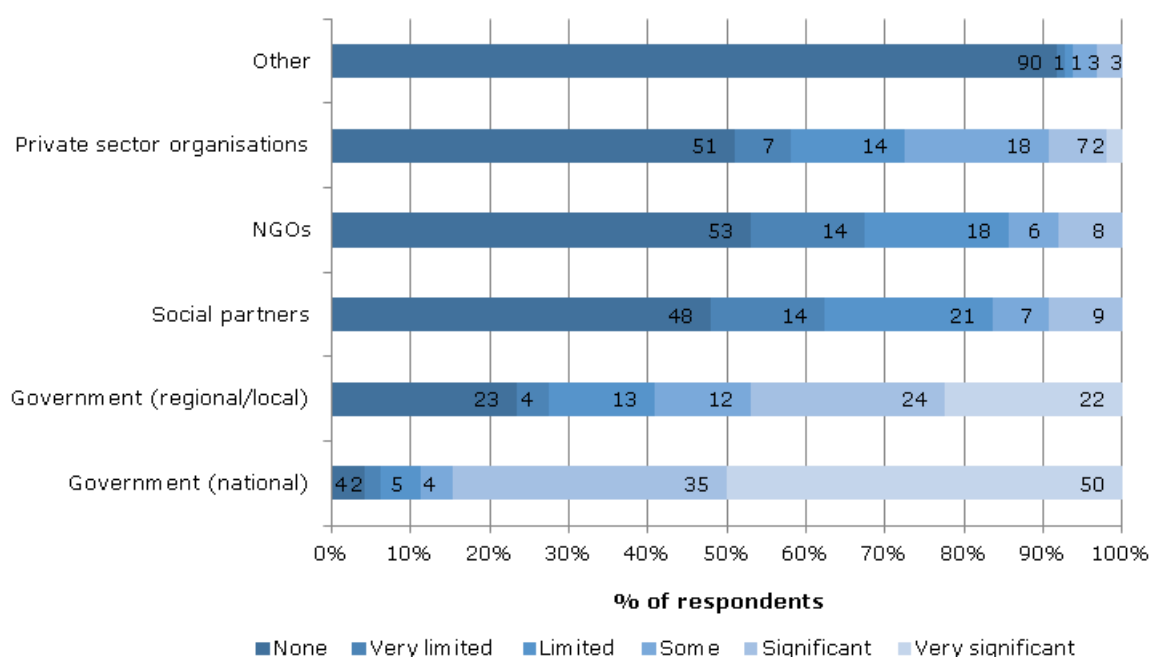
3.4 Stakeholder involvement

The responses to the web survey provide useful findings in terms of the stakeholder involvement concerning the applicability processes.

Figure 6, below illustrates respondents' views on the level of involvement of different stakeholders with the applicability process. Respondents reported significant national and – to a lesser extent – regional/local government involvement. Eighty-five per cent of respondents selected either as 'significant' or 'very significant' national government department and agency involvement. Apart from national and regional/ local government involvement, it would also appear that the private sector had a reasonable level of involvement in the applicability process (27% stated that they had been involved). The number of respondents reporting at least some involvement of NGOs and social partner stakeholders were broadly the same (14% and 16% respectively).

Figure 6: Level of involvement of different stakeholders in the assessment of applicability

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

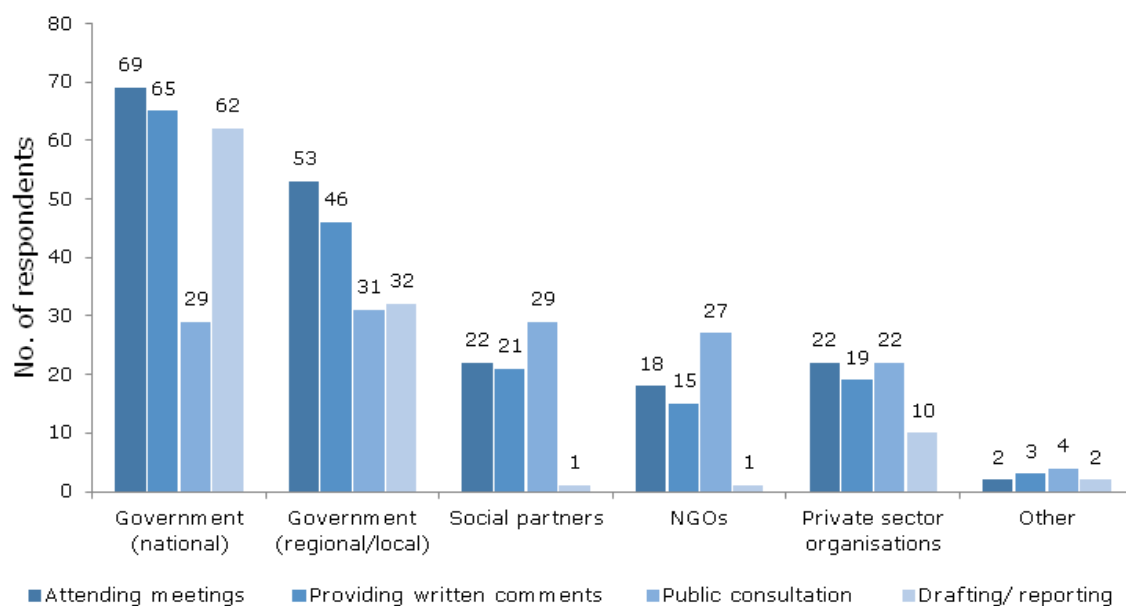


Source: ICF survey data; total number of respondents: 98; in some cases figures do not add up to 100% because of rounding. For both fulfilment and applicability, a limited number of respondents indicated that 'Other' stakeholder had 'Some' to 'Very significant' involvement. The 'Other' stakeholders were exclusively reported as either universities or research institutions.

Attending meetings was the most reported stakeholder activity for the assessments of applicability (see Figure 7, below). This activity is dominated by national and regional/local governments, with 73% and 56% of respondents respectively citing this for applicability. Thirty per cent (29 respondents) reported national government public consultation activity for applicability. Social partners and NGOs, as a proportion of their cited activity, were primarily involved with public consultation. However, public consultation was broadly at the same level for all stakeholder categories.

Drafting and reporting activity was undertaken at a national, and to a lesser extent, regional/local governmental level (see section 3.3). The other stakeholders are largely removed from drafting/ reporting, perhaps with the exception of private sector organisations. Eleven per cent (10 respondents) stated that private organisations were involved in drafting/ reporting for the assessment of applicability.

Figure 7: Stakeholder types and involvement in the assessment of applicability by type of activity



Source: ICF survey data; total number of respondents: 95; multiple response were allowed

In most cases, the assessment of applicability and fulfilment was not separated from each other in terms of the involvement of stakeholders and the process of decision-making. According to interviews, most Member States established a coordination unit (for example a Ministry or central working group) to ensure that all thematic national and regional stakeholders were involved and contributed to the process.

3.5 Main conclusions on the applicability of *ex-ante* conditionalities

Overall, all general ExACs were considered applicable in all Member States. Most of the Member States confirmed the applicability of the majority of GexAC already at national level and further considered them at OP level. The **applicability of the 'statistical systems' (GExAC 7)** was reported by one third of Member States solely at OP level. Belgium, due to its **institutional context** (federalisation), dealt with conditionalities only at sub-national level.

The analysis shows that for a few OPs and for a number of interventions some general *ex-ante* conditionalities were not applied by the Member States though they should have been.

In practice, thematic *ex-ante* conditionalities set out in the regulation have all been considered as applicable, although their application varies in OPs. Member States applied most extensively conditionalities related to smart specialisation, Small Business Act and energy efficiency, which are all related to investment financed by the ERDF.

In addition to the aforementioned conditionalities, EU-15 addressed more often digital growth, while EU-13 applied research infrastructure and transport.

Thematic conditionalities related to active health ageing, labour market institutions and smart energy infrastructure have been applied in OPs the least. Modest usage of the latter two conditionalities is common to both, EU-15 and EU-13 Member States. In addition, EU-13 considered rarely applicable the conditionality related to administrative capacity.

About 77% of **TExACs** are tackled at national level, though national OPs represent only a quarter of screened OPs. Member States' approach to apply thematic *ex-ante* conditionalities either on the national or regional level differs. Some Member States applied thematic *ex-ante* conditionalities at both levels and some had varying approaches depending on the conditionality. Initially, there had been some confusion over which conditionalities apply to which level and how to reflect them in PAs and OPs. This has become clearer through discussions between Member States and the Commission, but there is still evidence of both, duplication and gaps between PA and OPs.

Interviews revealed that for several Member States the guidance on applicability was not clear during the preparation of PA, which was also largely due to the late adoption of the regulation in the preparation stage of the programming period and to the fact that in all cases PAs have been developed and approved before the adoption of the OPs. However, **the majority of the Member States stated the usefulness of the *ex-ante* conditionality grid provided with the OP template.**

In general, Member States assessment of applicability of thematic *ex-ante* conditionalities in PAs and OPs is broadly consistent. However, Member States tend to fail to refer to the relevant provisions in the regulation, which allow exceptions to the presentation of information in the OP about applicable *ex-ante* conditionalities.

It was generally considered by interviewees, that **the identification of applicable *ex-ante* conditionalities has not raised major issues and disagreements with the Commission.** However, the OPs' analysis identified a substantial number of selected specific investment priorities without corresponding thematic *ex-ante* conditionalities. About a quarter of the cases can be considered problematic because the selected investment priorities were directly linked to the specific objective in the OP. However, missing conditionalities result mainly from a misunderstanding of Member States as to where applicable ExAC should have been reported.

The applicability of the **conditionalities** was mainly assessed at national and regional/local **level** with a certain involvement of the social partners, NGOs and private organisations. Stakeholders at national and regional level mainly attended meetings, provided written comments and participated in drafting/reporting. Other types of stakeholders, above all, were involved through the public consultation. The smart specialisation strategy (RIS3) was one of the thematic *ex-ante* conditionalities requiring the involvement of both national and regional levels for an appropriate development. Independently of the type of process Member States accustomed to fulfil conditionalities, developed a smart specialisation strategy for each regional OP where available.

Most Member States established a coordination unit or a central working group to ensure the assessment of all conditionalities and to involve all relevant stakeholders.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

4 FULFILMENT OF *EX-ANTE* CONDITIONALITIES

Member States have to assess whether each of the applicable ExAC has been fulfilled. The assessment of fulfilment is included in the PA and the OPs.

The fulfilment of *ex-ante* conditionalities is assessed against the criteria laid down in Annex XI of (EU) Regulation No 1303/2013. An applicable *ex-ante* conditionality is considered as:

- 'fulfilled' if all corresponding criteria are fulfilled;
- 'partially' fulfilled if only some of the criteria mentioned in the Regulation are fulfilled;
- 'not fulfilled' if all criteria have been assessed as not fulfilled.

The overall assessment of the fulfilment of *ex-ante* conditionalities at Member State level is established by summing up all *ex-ante* conditionalities considered as applicable in the OPs under scrutiny.

4.1 Data analysis

4.1.1 General *ex-ante* conditionalities

Overall, general *ex-ante* conditionalities present a high level of fulfilment (64% of the conditionalities considered as applicable in the PAs (see Table 5, below) and 74% in the OPs at the time of their adoption). The highest level of fulfilment was reported for the 'state aid' implementation (GExAC 5). General *ex-ante* conditionality 7 'statistical system' is the *ex-ante* conditionality, which had proved most difficult to fulfil during the programming phase. This was due to several reasons. In many Member States the statistical system has been developed at OP level, during (rather than before) the programming phase. Only these Member States, which already had a well-adapted statistical system and concept of monitoring in the previous programming period considered this *ex-ante* conditionality as fulfilled before the programming phase. In Member States with GExAC 7 not fulfilled, the non-fulfilment was predominantly linked to the lack of targets of result indicators.

Table 5: Level of fulfilment of general *ex-ante* conditionalities in Member States based on adopted PAs

MS	AT	BE	BG	CY	CZ	DE	DK	EE	ES	FI	FR	EL	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK	
1																													
2																													
3																													
4																													
5																													
6																													
7																													

Fulfilled

Partially fulfilled

Not fulfilled

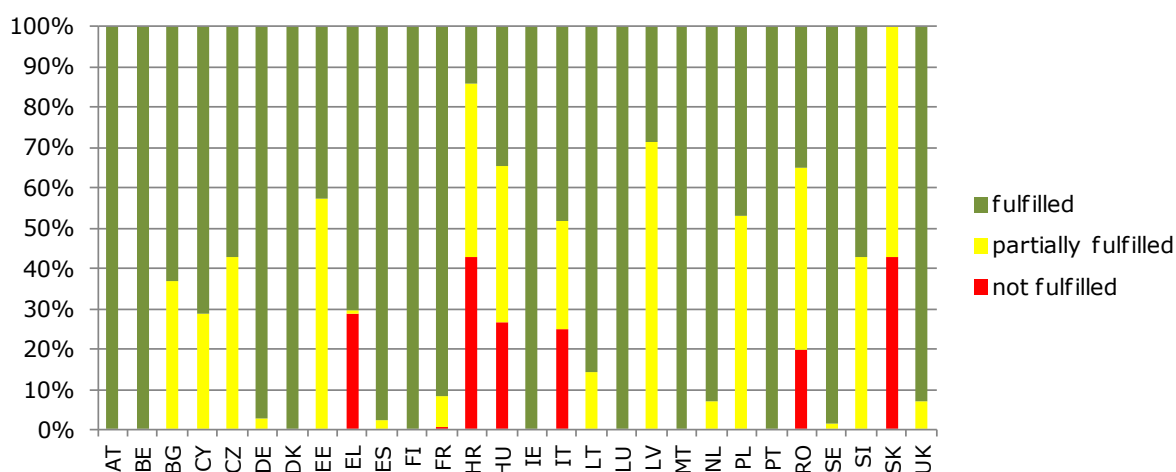
No information or reference to OP

Overall, only eight Member States¹³ had all general conditionalities fulfilled during the programming phase:

- AT, DK, FI, IE, PT - all seven conditionalities had been confirmed fulfilled at PA level and subsequently at OP level. DK - conditionalities had only been assessed in the PA and there is no reference to these conditionalities in the OP.
- LU - general conditionalities 1 to 6 in the PA and GExAC 7 at OP level, MT - general conditionalities 1, 2, 3, 5 and 6 in the PA and 4 and 7 in the OPs.
- BE - at OP level as Belgium entirely refers to sub-national OPs for the fulfilment of all GExACs.

As shown in Figure 8 the overall share of not fulfilled and partially fulfilled general *ex-ante* conditionalities shows the level of fulfilment for the 216 OPs at the time of their adoption or by the cut-off date of the end of July 2015 for the ones not yet adopted by then. Twenty Member States had more than half of all general *ex-ante* conditionalities fulfilled at that date and eight Member States had to deal with more than half of partially or not fulfilled *ex-ante* conditionalities.

Figure 8: Overall share of not fulfilled and partially fulfilled general *ex-ante* conditionalities



Differences in level of fulfilment between PAs and OPs

Comparing PAs and OPs, seven Member States have reported all general *ex-ante* conditionalities fulfilled at PA level (AT, DE, DK, FI, IE, PT, SE) and seven have reported all general *ex-ante* conditionalities fulfilled at OP level (AT, BE, FI, IE, LU, MT, PT). Inconsistencies between PAs and OPs occur for various reasons. One of them is the timeline between the PAs' adoption and the OPs' adoption. Often OPs have already fulfilled conditionalities which had not been in place at the time the PA was adopted (EE, EL, CZ, MT). Differences between PA and OP level have been noted in the following Member States (see Box1).

¹³ Two specific cases:

DE, for which all general *ex-ante* conditionalities had been fulfilled in the PA, but action plans had been reported at OP level for general *ex-ante* conditionalities.

MT, whose PA contain an action plan for conditionality 4, which had been fulfilled though at the time of the OP adoption.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Box 1: Examples of differences between PA and OP regarding fulfilment

Czech Republic: The differences in PA and OPs regarding general ExAC 6 occur due to the time difference between the submission of these documents. Subsequently, general ExAC 6 was fulfilled and all OPs now refer to it.

Estonia: Estonia only reported general ExAC 7 at OP level, while all other general ExAC were reported at PA level.

Greece: The general ExAC fulfilled are general ExAC 1, general ExAC 2, general ExAC 5 and general ExAC 6. The National Coordination Authority fulfils them at a national level. General ExAC 3 has been partially fulfilled during the preparation of the PA (therefore it is stated as partially fulfilled in the PA) but was already fulfilled at the time of the adoption of the OPs and ROPs (therefore stated as fulfilled).

Italian regions had to fulfil regional aspects of the general *ex-ante* conditionalities 1 - 3 where the national aspects had already been fulfilled and as such assessed in the PA. Regarding general ExACs 4-6 all regional OPs refer to nationally coordinated *ex-ante* conditionalities, which are not yet fulfilled at national level. ExAC 2 will be assessed at national level.

Germany: In this case, like in Italy, regional OPs have to fulfil regional aspects of general *ex-ante* conditionality 7.

Malta: *Ex-ante* conditionality 4 (public procurement) had been fulfilled in the period between PA and OP adoption.

Romania: The OPs did not consider all general *ex-ante* conditionalities as relevant in the OPs.

Summarising the analysis, the differences between PAs and OPs in the assessment of fulfilment are caused by the different approaches that Member States follow when addressing/handling general *ex-ante* conditionalities and to a certain extent the difference in the timing of adoption of PAs and OPs.

There are four types of approaches:

- Member States tackling GExACs entirely at national level (AT, CZ, CY, DK, FI, IE, LT, LV, MT, PT, SE, SI, SK);
- Member States where GExAC 7 has been transferred to OP level and the rest have been tackled at national level (BG, EE, HR, HU, LU, NL, RO, PL, EL);
- Member States where national and regional authorities divide responsibilities or even duplicate conditionalities (FR, DE, IT, ES,);
- Member States transferring the implementation of GExAC fully to regional, OP level (BE, UK).

State of fulfilment at the level of the criteria

Each *ex-ante* conditionality is broken down to a number of criteria that should be fulfilled (See Table 6, below).

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Table 6: Criteria to be fulfilled

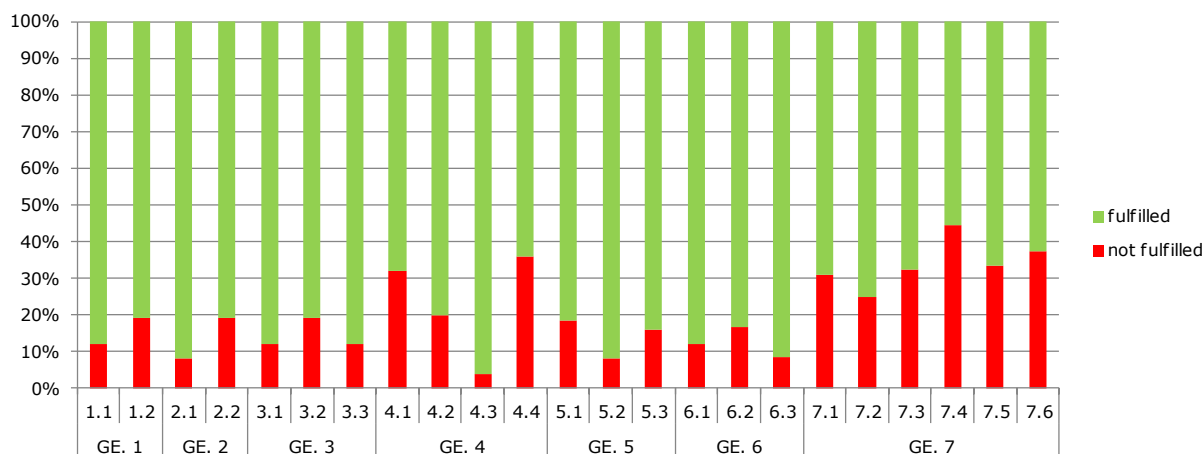
No.	General <i>ex-ante</i> conditionalities	Criteria	No.
1.	Anti-discrimination	Legal framework	1.1.
		Training	1.2.
2.	Gender	Legal framework	2.1.
		Training of staff	2.2.
3.	Disability	Legal framework	3.1.
		Training of staff	3.2.
		Monitoring	3.3.
4.	Public procurement	Application of Union public procurement rules	4.1.
		Transparent contract award procedures;	4.2.
		Training and dissemination	4.3.
		Administrative capacity	4.4.
5.	State aid	Application of Union State aid rules;	5.1.
		Training and dissemination	5.2.
		Administrative capacity	5.3.
6.	Environmental legislation relating to Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA)	Application of EC directives	6.1.
		Training and dissemination	6.2.
		Administrative capacity	6.3.
7.	Statistical systems and result indicators	Collection and aggregation of statistical data and the identification of sources	7.1
		Public availability of aggregated data;	7.2
		Selection of result indicators	7.3
		Definition of targets	7.4
		Consistency of each indicator	7.5
		All operations financed by the programme adopt indicator system	7.6

Source: Annex XI of (EU) Regulation No 1303/2013

OP screening revealed differences between the degree of fulfilment of the different general *ex-ante* conditionalities criteria¹⁴. Figure 9, below shows the balance of fulfilment and non-fulfilment for each the general *ex-ante* conditionality criterion.

¹⁴ The analysis also covers elements of the PA for those Member States for which information has been reported only at PA level (DK and LV: all general ExAC; EE: general ExAC 1 to 6; LU: general ExAC 4, 5 and 6). Where Member States elaborated general *ex-ante* conditionalities at central level, criteria are only counted once for each Member State. In cases were OPs described additional actions to fulfil criteria those have been added. This was mainly the case in GExAC 7 'statistical systems'.

Figure 9: State of fulfilment of the criteria related to general *ex-ante* conditionalities based on OP screening¹⁵



Source: DG REGIO data, SFC data

The highest level of non-fulfilment appears in the definition of targets for result indicators/adoption of systems of indicators, as well as in the area of administrative capacity for public procurement and in the application of public procurement rules.

Types of activities taken to fulfil general *ex-ante* conditionalities before OP adoption

In cases where the applicable *ex-ante* conditionalities are not fulfilled (either completely or partially not fulfilled), Member States should indicate in their programmes and their Partnership Agreement the actions to be taken, the responsible bodies and a timetable for their implementation to ensure that they will be fulfilled at the latest by the end of 2016. Member States thus have to prepare an action plan.

These action plans must always be set out in the programmes notwithstanding that their summary should be included in the Partnership Agreement where the responsibility for fulfilment lies at national level. There should be a direct correspondence between the weaknesses identified in the assessment of the criteria giving rise to non-fulfilment and the actions to be undertaken aiming to achieve complete fulfilment.

Actions undertaken to fulfil general *ex-ante* conditionalities before the adoption of programmes may involve the following elements as listed in Box 2.

¹⁵ Reported data reflect the state of fulfilment of *ex-ante* conditionalities at the time of the programme adoption or by end July 2015 for the 13 OPs not yet approved at date. It is likely that there will have been some changes in the fulfilment of *ex-ante* conditionalities since then.

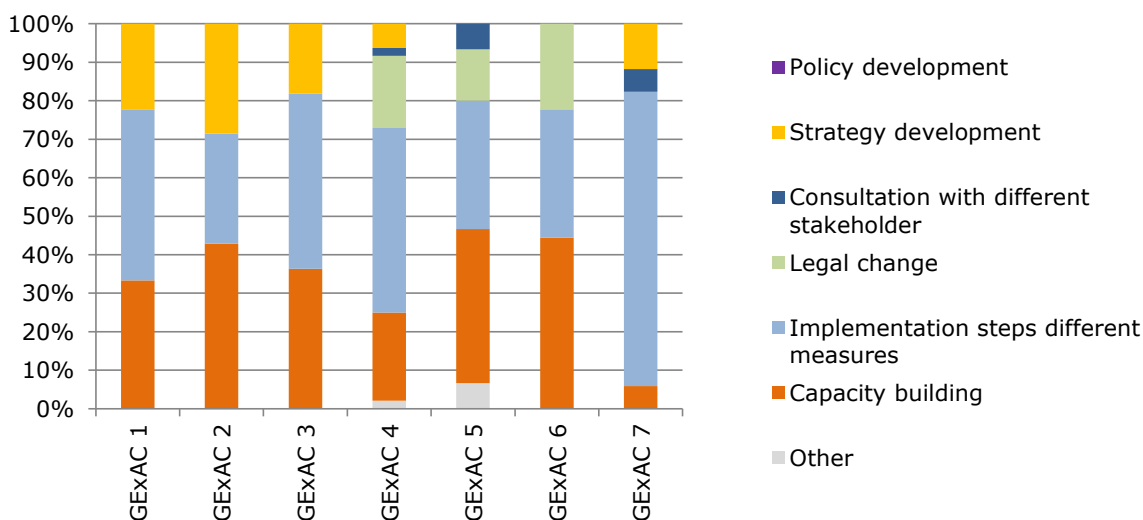
Box 2: Types of actions to fulfil general *ex-ante* conditionalities

- Policy development: At governmental level to provide a policy framework.
- Strategy development: Strategies used to achieve policy goals and relevant actions to achieve such strategies.
- Legal change: Legal adaptation of national or regional law.
- Capacity building: The respective action should relate to capacity building. For instance, “the recruitment of procurement experts in a central public procurement body until a certain deadline...” could be considered as such an action.
- Stakeholder consultation: A planned policy, a strategy, a legal act is subject to consultation with different stakeholders.
- Implementation steps: Under the wider category of ‘implementation steps’ different measures are reported which either relate to evaluation, monitoring, training as well as support in implementing new legislative issues.
- Other: Under ‘other types of action’, the following are reported: evaluation system development, development and quantification of indicators.

Figure 10 below, illustrates the main approaches taken in the process of fulfilling each of the general *ex-ante* conditionalities. It reflects actions completed to fulfil each general *ex-ante* conditionality¹⁶.

Most of them were a combination of ‘implementation steps (such as training and dissemination, evaluation and monitoring), capacity building and legal changes. Frequent actions involved the designation of specially authorised persons on matters concerning anti-discrimination or gender equality, as well as the training and capacity development of persons involved in state aid implementation, gender and public procurement. Legal changes mainly concerned GExAC 4 ‘public procurement’ and GExAC 6 ‘environmental legislation’.

Figure 10: Types of action taken to fulfil the general *ex-ante* conditionalities



Source: PA/OP screening

Ex-ante conditionalities relating to anti-discrimination, gender and disabilities

¹⁶ Actions are only counted once per Member State. Only in the case where specific actions have been reported in single operational programmes, action plans have been counted more than one time (e.g. in Poland, Italy and France).

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

These three *ex-ante* conditionalities apply to all Member States and several steps have been undertaken to ensure their implementation. The majority of these involved capacity building and dissemination actions. Some of the Member States also established specific commissions or announced specific representatives (see Box 3)

Box 3: Types of activities related to equal treatment and anti-discrimination

- Seminar programmes, information and education sessions, staff training (AT, BE, CY, FR, EL, HU, IE, IT, LV, NL, PT, SK), and indicative training plan (SI),
- Involvement of relevant stakeholder organisations in the programme cycle (AT, DE, IE),
- Public awareness campaigns (CY),
- Roundtables were intended to change public attitudes and to support the realization on the labour market of young people in homes for children who are in their final year of training (BG),
- Guidelines (CZ, CY, DE, SI),
- Ombudsman (EL, HR, SE),
- Equal opportunity commission (EL, ES, HR, LT),
- Labour inspection (EL),
- Country agreements between national and regional authorities (IT),
- Agenda for action (PL),
- Monitoring procedures (UK).

The *ex-ante* conditionalities relating to public procurement, state aid and environmental legislation are mainly addressed by the actual adoption of EU regulations combined with training and capacity building measures. Specific activities are listed in Box 4.

Box 4: Actions related to public procurement, state aid and environmental legislation

Public procurement

- Seminar and workshops (AT, CZ, ES, FI, FR, HU, EL, SK, PT, RO),
- Consultant services (AT, CZ),
- E-procurement introduction (EL),
- Increase of human resources (BG, HU, SI),
- Assessment of procurement procedures (BE),
- Arrangements towards transparent contract procedures (CZ, HU).

State aid

- Training and seminars (AT, EE, ES, FR, IE, LV, SI, SK, SE),
- Attendance of European Commission seminars (CY),
- Staff increase (CY),
- Special office, contact points (CZ, DE, IE, NL, SE),
- Information transfer between national and regional level (DE, IT, LV, NL),
- State aid check list and monitoring (EE, NL),
- Information publication (FR, IE, IT),
- Guidance (HR, HU, PT),
- State Aid Monitoring Office (HU),
- Database (RO).

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Environmental legislation relating to Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA)

- Training and dissemination (CZ, DE, EE, FR, SK, NL, IT),
- Special exam for staff working in the field (CZ),
- Simplifying the nation process (DE),
- Working groups (AT),
- Website (AT),
- Seminars financed by JASPER (SI),
- Guidance (FR, SE, IT),
- National network 'Partnership: Environment for Development' (PL).

Statistical systems and result indicators

In the case of GExAC 7 'statistical systems', a majority of PAs referred it to the OP. This is explained by the fact that the indicator system is developed at OP level. In many cases OPs have been developed at a later stage than PAs. At OP level 10 Member States (AT, BE, FI, HR, IE, LT, LU, MT, PT, UK) have reported this conditionality as fulfilled.

The main actions to fulfil this *ex-ante* conditionality comprises the evidence of a comprehensive statistical system compatible with EU funding needs and the development of the indicator system for OPs. Furthermore, activities include evaluation and monitoring plans. In some specific cases, as for example in Italy, France and Spain, regional statistical systems complement the national system. The indicators are corresponding to the regional statistical systems. In France, the regional authorities are developing an online tool for participants' data collection at application stage.

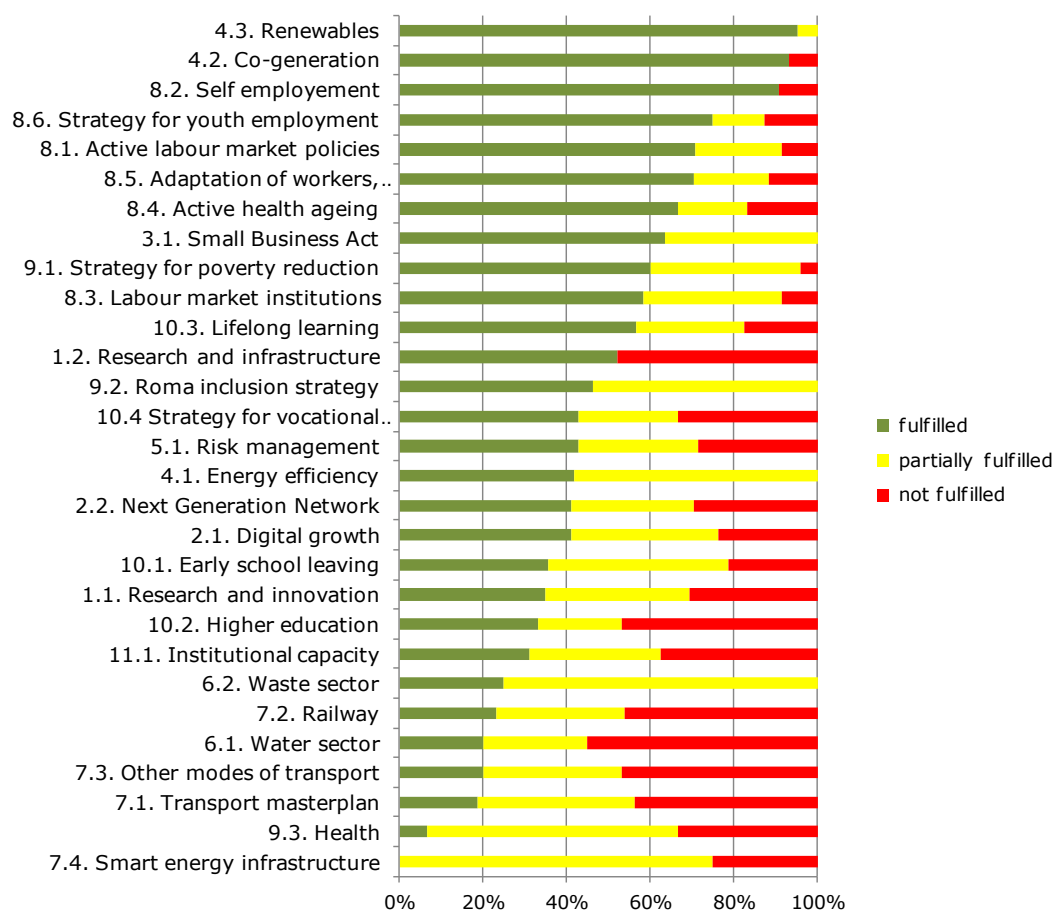
This additional module allows for the collection, analysis and control of monitoring data contributing to the national IT tool called 'Synergie'.

4.1.2 Thematic *ex-ante* conditionalities

State of fulfilment

The state of fulfilment of thematic *ex-ante* conditionalities has been analysed at PA level (Figure 11, below) as well as at OP level (Figure 13, below). Differences between these two types of document lie in the coverage of ESI Funds. While the PA covers all ESI Funds of the Member States the OP analysis focuses only on ERDF/CF programmes and multi-fund programmes that include ERDF and or CF.

Figure 11: State of fulfilment at PA level per TExAC

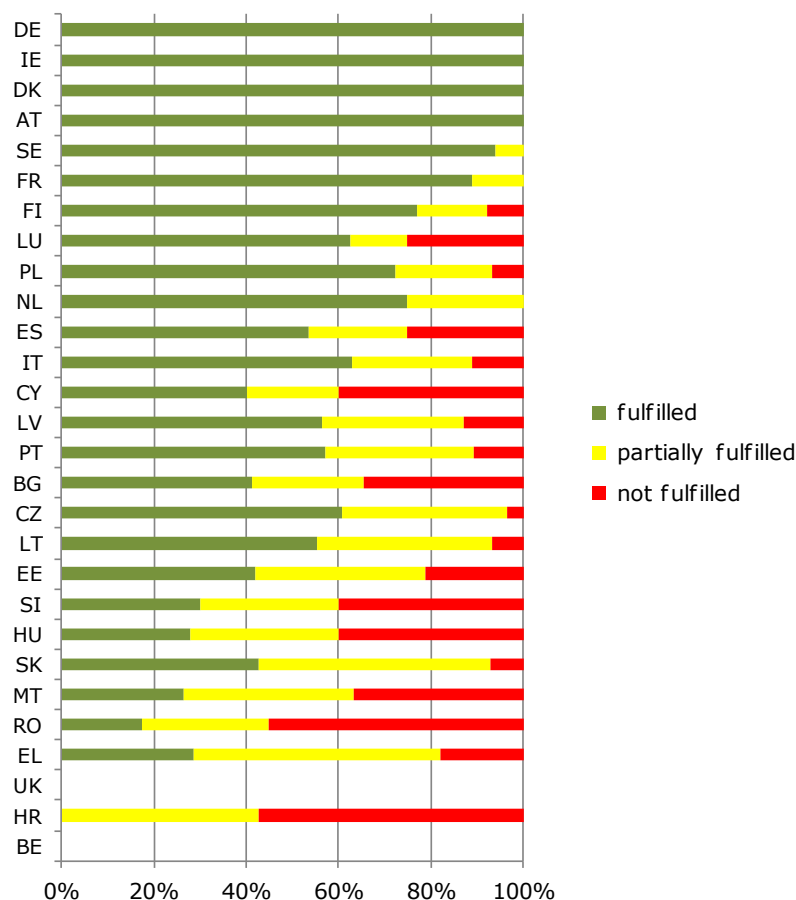


Source: PA/OP screening

Overall, thematic *ex-ante* conditionalities present a rather satisfactory level of fulfilment.

At PA level 48% of the 549 *ex-ante* conditionalities considered as applicable have been fulfilled. Twenty-six per cent have been considered as partially fulfilled and 18% as not fulfilled. The remaining 8% correspond to the UK and BE PAs, which do not provide any information concerning the fulfilment of *ex-ante* conditionalities, since ExAC assessment has been established at OP level. (Figure 12, below)

Figure 12: State of fulfilment at PA level per Member State



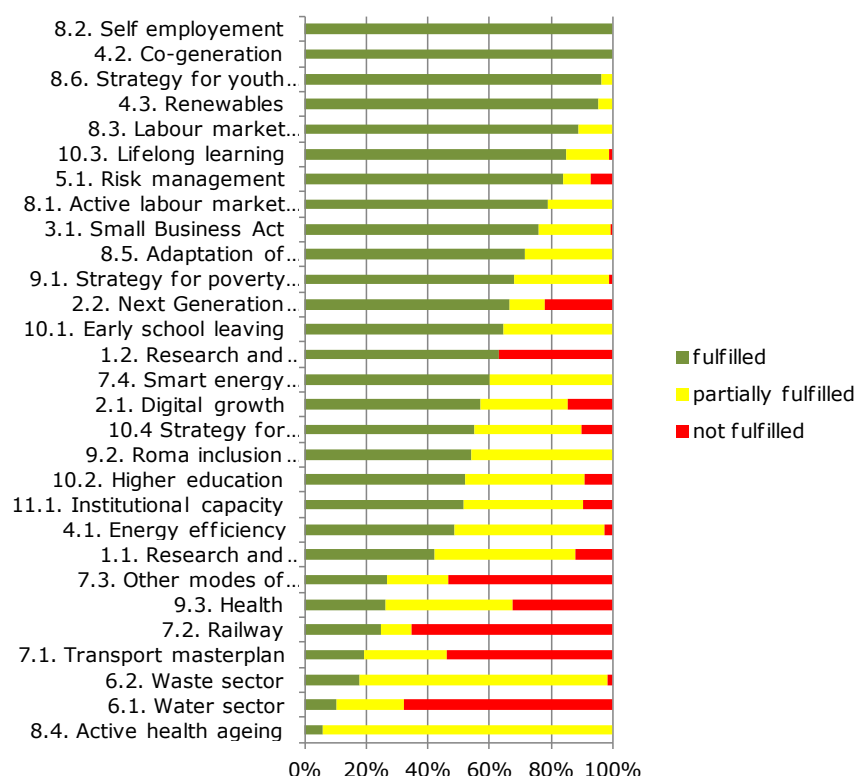
Source: PA/OP screening
UK and BE reported only at OP level

At OP level, 58% of the 1,962 applicable thematic ExACs have been considered as fulfilled, 27% as partially fulfilled and 15% as not fulfilled.

At programme level (Figure 13, below), the group of conditionalities with the best rating in terms of fulfilment (above 70% of fulfilment) comprises 'self-employment' (8.2), 'co-generation of heat and power' (4.2), 'youth employment' (8.6), 'renewables' (4.3), 'labour market' (8.3), 'lifelong learning' (10.3), 'risk management' (5.1), 'active labour market policies' (8.1), 'Small Business Act' (3.1) 'access to employment and promotion of entrepreneurship' (8.2). It should be kept in mind, however, that overall most of the funding allocated to thematic objectives 8 'labour market', 9 'inclusion' and 10 'education' is covered by the 95 ESF mono-funded programmes. Therefore, the listed *ex-ante* conditionalities covered by the analysis represent only a small number of the total *ex-ante* conditionalities related to ESF.

Thematic *ex-ante* conditionalities 'active ageing' (8.4) and 'water sector' (6.1) are the *ex-ante* conditionalities which had proved most difficult to fulfil during the programming phase, followed by 'transport master plan' (7.1), 'railways' (7.2) 'health' (9.3) and 'other modes of transport' (7.3). All of them remain below 30% of fulfilment.

Figure 13: State of fulfilment of thematic ExAC at OP level¹⁷



Source: PA/OP screening

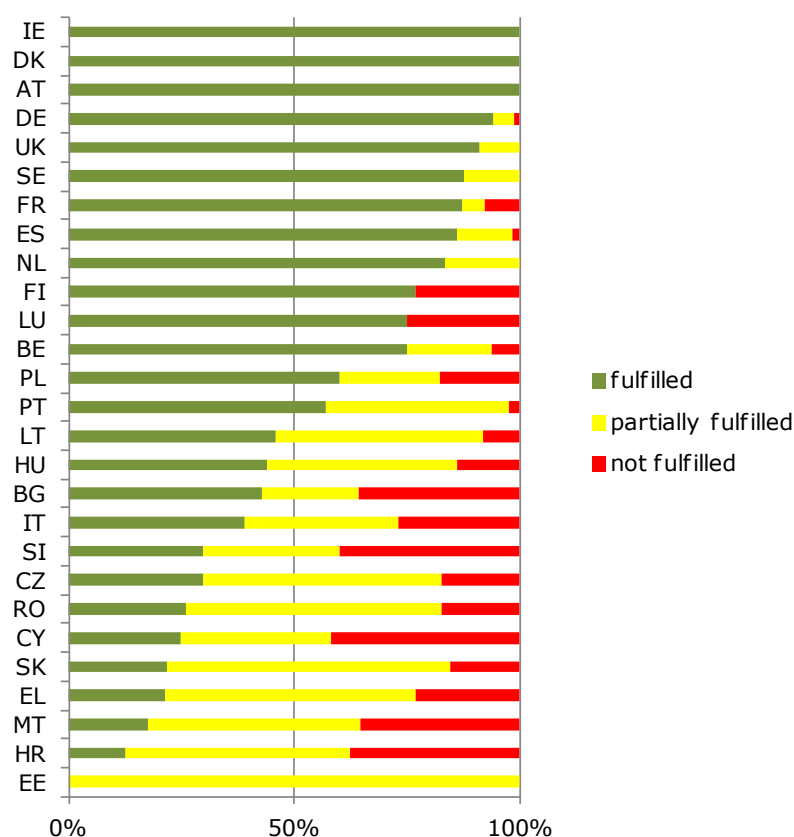
In the period between the adoption of the PA and of the OPs, the degree of fulfilment of some thematic *ex-ante* conditionalities improved. Thirty per cent of the thematic ExACs, though, did not improve and that state of non-fulfilment still exists. This concerned 'active healthy ageing' and the 'waste sector'. The assessment did not show an improvement either for the 'water sector' conditionality as well as for three transport *ex-ante* conditionalities, which remained below 30% of fulfilment. The analysis of thematic ExACs at Member State level shows that only three Member States could demonstrate the fulfilment of all applicable thematic conditionalities at the time of programme adoption: AT, DK, and IE.

Figure 14, below, shows that the majority of those Member States with a high number of *ex-ante* conditionalities have a higher number of not fulfilled ones. In the case of Estonia most of the *ex-ante* conditionalities have been fulfilled at PA level therefore the figure below does not reflect the total state of fulfilment in Estonia. Latvia has described all the *ex-ante* conditionalities solely at PA level and therefore Latvia is not listed in the figure below.

Figure 14: State of fulfilment of thematic ExAC at OP level by Member States

¹⁷ In total 205 OPs had been adopted and another 13 have not been adopted by the end of August. However, the LV OP does not contain data relating to ExAC, in accordance with Article 96(8). The OP database has, therefore, been completed by data duplicated from the LV PA.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.



Source: PA/OP screening

The screening of the 28 **Partnership Agreements** revealed that four countries (AT, DK, DE, IE) had marked all applicable *ex-ante* conditionalities as 'fulfilled'. Twenty-two Partnership Agreements considered at least one *ex-ante* conditionality as not fulfilled or partially fulfilled. Among them, nine Member States had to envisage action plans for more than 50% of their applicable *ex-ante* conditionalities. Two Member States (BE, UK) transferred the assessment of *ex-ante* conditionalities at the level of their OPs – there was therefore no information on ExAC fulfilment in the respective PAs.

Table 7 below, provides an overview of the thematic *ex-ante* conditionalities status in all Member States based on the 28 **Partnership Agreements**, which have been screened. AT, DK, DE, IE marked all applicable *ex-ante* conditionalities as 'fulfilled'. Twenty-two Partnership Agreements considered at least one *ex-ante* conditionality as not fulfilled or partially fulfilled. Among them, nine Member States had to envisage action plans for more than 50% of their applicable *ex-ante* conditionalities. Two Member States (BE, UK) transferred the assessment of *ex-ante* conditionalities at the level of their OPs – there was therefore no information on ExAC fulfilment in the respective PAs.

Table 7: Fulfilment of thematic *ex-ante* conditionalities information based on Partnership Agreements

MS	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1	
AT	Green	Green			Green											Green			Green	Green		Green	Green		Green		Green			
BE	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange
BG	Red	Red	Red	Red	Green	Yellow	Green	Green	Red	Red	Yellow	Yellow	Yellow	Yellow	Red	Green	Green	Green	Green	Green	Green	Green	Yellow	Yellow	Green	Red	Green	Red	Red	
CY	Red	Red	Yellow	Red	Yellow	Green	Green	Green	Red	Red	Yellow	Green		Green		Green						Red	Yellow					Red	Red	Green
CZ	Red	Green	Yellow	Red	Yellow	Yellow	Green	Green	Yellow	Red	Yellow	Red	Red	Red	Green	Yellow	Yellow	Yellow		Yellow	Green	Green	Yellow	Red	Yellow	Red	Red	Red	Red	
DE	Green	Green			Green	Green	Green	Green	Green		Orange					Green	Green			Green	Green		Green	Orange		Green	Green	Green	Green	
DK	Green				Green		Green	Green	Green							Green	Green	Green	Green	Green	Green	Green	Green			Green	Green	Green	Green	
EE	Green	Red	Green	Green	Green	Yellow			Yellow	Green		Red	Red	Red		Green						Yellow		Yellow	Yellow	Green	Yellow	Green	Yellow	
ES	Green	Green	Green	Green	Green	Green	Green	Green	Yellow	Red	Yellow	Yellow	Yellow	Red	Red	Yellow	Green	Yellow	Red	Red	Green	Green	Green	Red	Green	Red	Green	Green	Green	
FI	Red	Green		Green	Green	Green	Green	Green	Green	Green						Green			Green	Green	Green	Green	Green			Yellow	Red			
FR					Green	Green	Green	Green	Yellow	Yellow						Green	Green	Green	Green	Green	Green	Green	Green	Green	Green		Green	Green	Green	
EL	Yellow	Red	Yellow	Yellow	Green	Yellow	Green	Green	Green	Red	Yellow	Red	Red	Red	Green	Yellow	Green	Yellow		Yellow	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow	
HR	Red	Red	Red	Yellow	Yellow	Yellow	Red		Red	Red	Yellow	Red	Red	Red		Yellow		Red			Yellow	Yellow	Yellow	Yellow	Yellow	Red	Yellow	Red	Red	
HU	Red	Red	Yellow	Yellow	Green	Yellow		Green	Green	Red	Green	Red	Red	Red		Yellow	Green		Green	Green	Green	Yellow	Yellow	Red	Red	Red	Red	Yellow	Yellow	
IE	Green	Green		Green	Green	Green	Green	Green	Green	Green						Green						Green	Green		Green	Green	Green	Green	Green	
IT	Yellow	Red	Red	Yellow	Yellow	Green	Green	Green	Green	Yellow	Green	Yellow	Red	Yellow		Green	Green	Green	Green	Green	Green	Green	Yellow	Green		Green	Green	Green	Green	
LT	Red	Red	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Yellow	Yellow	Yellow	Yellow		Green	Green	Green	Green	Green	Green	Yellow	Yellow	Green	Yellow	Yellow	Yellow	Yellow	
LU	Orange	Green			Green			Green								Green						Red				Green	Green	Green	Green	
LV	Yellow	Green	Green	Green	Green	Green	Orange	Green	Yellow	Red	Yellow	Yellow	Red	Yellow		Green			Green	Green	Green	Green	Green	Yellow	Red	Green	Green	Green	Yellow	
MT	Yellow	Red	Green		Yellow	Yellow		Green	Red	Red	Green	Red		Red		Green						Yellow		Yellow	Yellow	Red	Yellow	Red	Green	
NL	Green				Yellow		Green	Green	Green	Green						Green			Green	Green	Green	Green	Green	Green		Green	Green	Green	Green	
PL	Yellow	Green	Green	Green	Yellow	Yellow	Green	Green	Green	Red	Yellow	Green	Green	Green	Yellow	Green	Green	Green	Yellow	Green	Green	Green	Green	Yellow	Green	Green	Green	Green	Green	
PT	Yellow	Green	Yellow		Yellow	Yellow	Green	Green	Red	Yellow	Yellow	Red	Green	Red		Green	Green	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Green	Yellow	Yellow	
RO	Yellow	Green	Red	Red	Yellow	Green	Green	Green	Red	Yellow	Yellow	Red	Red	Red	Yellow	Red	Green	Red	Red	Yellow	Yellow	Yellow	Red	Yellow	Red	Red	Red	Red	Red	

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

MS	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1
SE	Fulfilled	Fulfilled	Fulfilled	Fulfilled	Fulfilled	Partially fulfilled			Fulfilled	Fulfilled	Fulfilled	Fulfilled	Fulfilled	Fulfilled		Fulfilled					Fulfilled	Fulfilled					Fulfilled	Fulfilled	
SI	Not fulfilled	Not fulfilled	Partially fulfilled	Not fulfilled	Partially fulfilled	Partially fulfilled	Fulfilled	Partially fulfilled	Partially fulfilled	Not fulfilled		Not fulfilled	Not fulfilled	Not fulfilled		Fulfilled			Partially fulfilled		Fulfilled	Fulfilled		Partially fulfilled	Not applicable		Fulfilled	Fulfilled	Not fulfilled
SK	Partially fulfilled	Not fulfilled	Fulfilled	Fulfilled	Partially fulfilled	Fulfilled	Fulfilled	Fulfilled	Partially fulfilled	Not fulfilled	Partially fulfilled	Partially fulfilled	Not fulfilled	Not fulfilled		Partially fulfilled	Fulfilled	Partially fulfilled	Fulfilled	Not fulfilled	Fulfilled	Partially fulfilled	Partially fulfilled	Partially fulfilled	Partially fulfilled	Partially fulfilled	Partially fulfilled	Partially fulfilled	Partially fulfilled
UK	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable		Not applicable	Not applicable			Not applicable	Not applicable	Not applicable		Not applicable					Not applicable	Not applicable		Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

Key:

- Fulfilled
- Partially fulfilled
- Not fulfilled
- No information or reference to OP
- Not applicable



Table 8 below, shows the state of fulfilment of thematic *ex-ante* conditionality in 216 **Operational programmes** covered by the analysis. In cases where all criteria of a thematic *ex-ante* conditionality could not be fulfilled in the respective OP of a Member States, the TExAC has been marked as partially fulfilled in the figure. The summary of the approved OPs shows that only three Member States have all TExACs fulfilled at OP level: AT, DK and IE.

In particular, for those Member States where TExACs are tackled at national as well as regional level they show a different state of fulfilment at PA level. Most significant is the case of Germany where the PA reports all TExACs fulfilled, the OPs in their totality do not confirm this status. It is also clear that the state of fulfilment has improved since the adoption of the Partnership Agreements in some of the Member States. This is the case in HU, PL, PT and SE.

Table 8: Fulfilment of thematic *ex-ante* conditionalities ¹⁸

MS	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1
AT																													
BE																													
BG																													
CY																													
CZ																													
DE																													
DK																													
EE ²⁰																													
EL																													
ES ²¹																													
FI																													
FR																													
HR																													
HU																													
IE																													
IT																													
LT																													
LU																													

¹⁸ Information based on all 216 OPs separate TA OPs are not included (PT, PL, FR, ES, RO, SK)

¹⁹ The thematic EAC was not required but has been fulfilled anyway

²⁰ EE has only listed 9.1 in OP the rest has been referred in the PA

²¹ ES OP 2014ES16RFOP006 not yet adopted by end of July 2015 did not contain at date any ex-ante conditionalities

²² This conditionality does not address any selected Investment Priority

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

MS	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1	
LV ²³	Green	Green	Green	Green	Green	Green	White	Green	Yellow	Red	Yellow	Yellow	Red	Yellow		Green				Green	Green	Yellow		Yellow	Red	Green	Green	Green	Yellow	
MT	Yellow	Red	Green		Yellow	Yellow		Green		Red	Green	Red		Red								Yellow		Yellow	Yellow	Red	Yellow	Red		
NL	Green					Yellow		Green														Green								
PL	Yellow	Green	Green	Green	Yellow	Yellow	Green	Green	Green	Red	Yellow	Yellow	Yellow	Yellow	Yellow	Green	Green	Green	Yellow	Green	Green	Green	Green	Red	Green	Green	Green	Green	Green	
PT	Yellow	Green	Yellow		Yellow	Yellow	Green	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow		Green	Green	Green		Green	Green	Green		Yellow	Green	Green	Green	Yellow	Yellow	
RO	Yellow	Red	Yellow	Yellow	Green	Green	Green	Green	Red	Yellow	Yellow	Red		Red	Green							Yellow	Green	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	
SE	Green	Green	Green	Green	Green	Yellow						Green	Green	Green																
SI	Red	Red	Yellow	Red	Yellow	Yellow	Green	Yellow	Yellow	Red		Red	Red	Red		Green			Yellow			Green	Green		Yellow		Green	Green	Red	
SK	Yellow	Red	Green	Green	Yellow	Green	Green	Green	Yellow	Yellow	Yellow	Yellow	Red	Red		Yellow		Yellow				Green	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Red	Red
UK	Green	Green	Green	Green	Green	Green		Yellow	Green			Yellow	Yellow	Green																

Key:

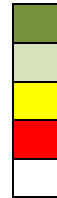
Fulfilled

Fulfilled although not required according to the CPR Annex II

Partially fulfilled

Not fulfilled

Not applicable



Source: PA/OP screening, the information provided from the screening of programmes is based on the submission of approved programmes. Our cut off point for screening was end of July 2015 and it is likely that there will have been some changes in the fulfilment of *ex-ante* conditionalities since then.

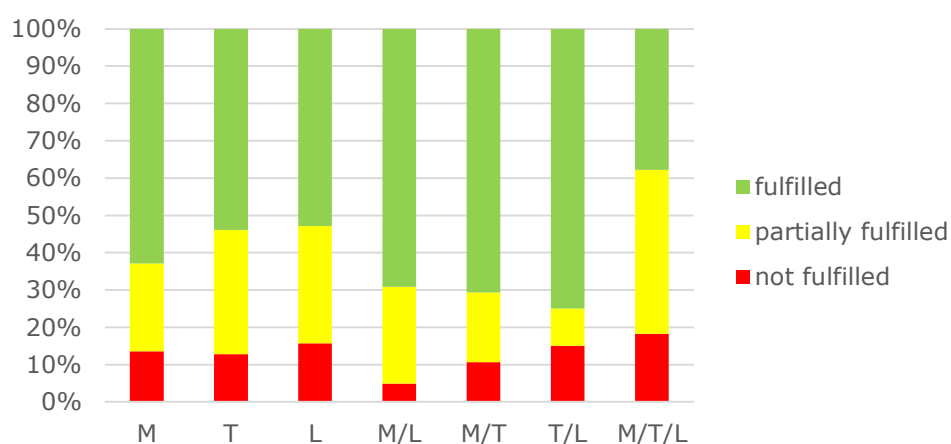
²³ Data have been taken from the PA.

Patterns of regions and OPs

Some 82 % of the OPs cover only one category of regions (31% for less developed regions, 12% for transition regions and 39% for more developed regions). Eighteen per cent of the OPs cover a combination of regions, among which 19 national OPs.

OPs covering only less developed or transition regions or a combination of more and less developed regions present the highest share of partially and not fulfilled *ex-ante* conditionalities (Figure 15). More developed regions and mixed regions including more developed and transition, as well as transition and less developed regions are those with the highest share of fulfilment.

Figure 15: Share of fulfilment of TExAC by type of region



M	More developed region
T	Transition region
L	Less developed region
M/L	More developed, less developed region
M/T	More developed and transition region
T/L	Transition region and less developed region
M/T/L	More developed, transition region and less developed

Moreover, the level of fulfilment is less advanced in national OPs (40% fulfilled – see Figure 16, below) than in regional OPs (65% fulfilled – see Figure 17, below)²⁴. This can be explained by the fact that the majority of the ‘hard’ infrastructure programmes are managed at national level.

The corresponding *ex-ante* conditionalities are mostly infrastructure policy frameworks (waste, water, transport) as well as social infrastructure related strategies (health, education)²⁵. In both cases the state of fulfilment is less than for other types of conditionalities related for example to thematic objectives such as ‘digital growth’, ‘SME’ and ‘CO₂ reduction’ which are in their vast majority represented in regional OPs.

²⁴ NB: There is a high share of regional programmes compared to national programmes. Out of the 216 Operational Programmes analysed 70% are regional operational programmes and 27% are national programmes and seven Technical assistance (TA) programmes.

²⁵ Keeping in mind, however, that not all conditionalities related to thematic objective (TO) ‘environment’ and TO ‘transport’ are tackled in the same way by Member States. While many are coordinating water and waste management as well as transport investment centrally there is also a significant part of transport and waste/water management plans implemented at regional level (especially in Poland and Italy).

Figure 16: Degree of fulfilment in national OPs

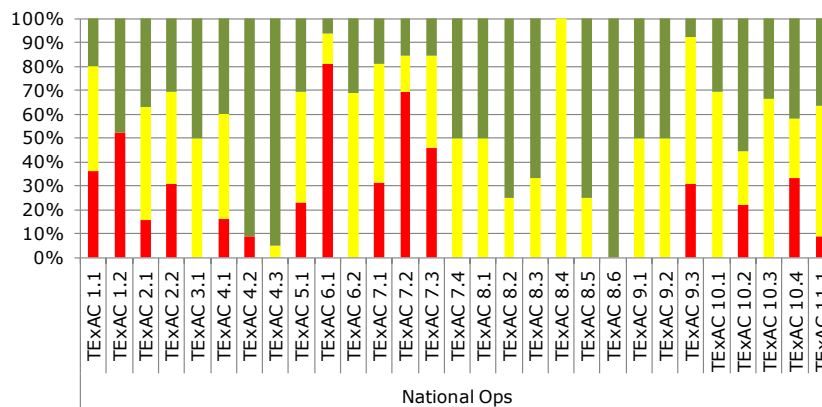
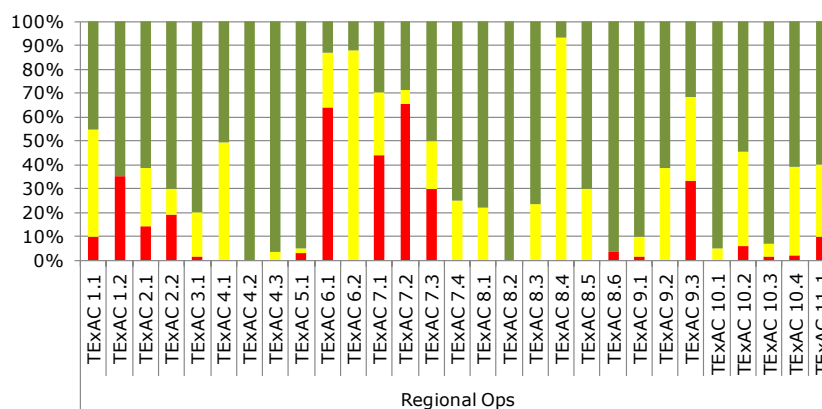


Figure 17: Degree of fulfilment in regional OPs



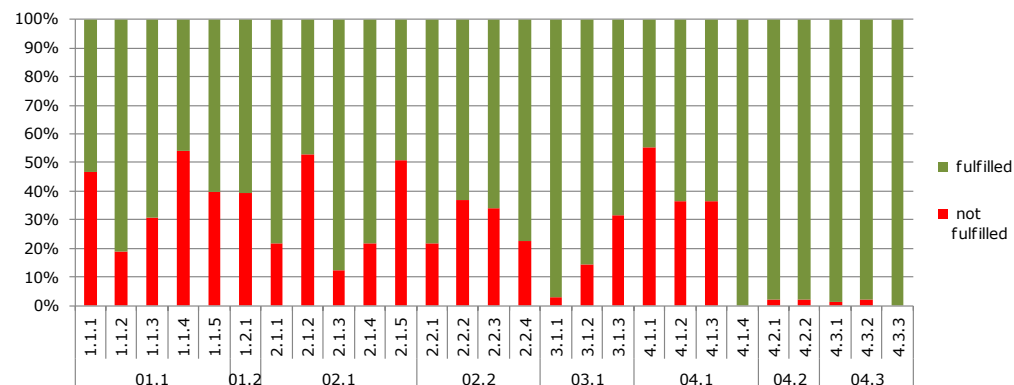
Fulfilled
Partially fulfilled
Not fulfilled



Fulfilment at the level of criteria

The analysis of ExAC fulfilment at criteria level covers all OPs, but also elements of the PAs for the Member State for which some information has been covered exclusively at PA level (LV all TExACs; DK all TExACs except for 1.1 covered at OP level; EE all TExACs except for 9.1 covered at OP level). Figure 18, below shows the level of fulfilment at the level of criteria for TExACs 1 to 4.

Figure 18: State of fulfilment at criteria level related to TO 1-4



Under TExAC 1.1 which requires the existence of a national or regional smart specialisation strategy, results are quite mixed. While the SWOT analysis (1.1.2) and measures to stimulate private RTD (1.1.3) for the regional innovation strategy (RIS) are fulfilled in more than one-third of the cases, the overall national or regional smart specialisation strategic framework (1.1.1), investment and monitoring mechanism (1.1.4) and a budgetary framework (1.1.5) are showing a high level of non-fulfilment. TExAC 1.2 relating to research infrastructure shows a considerable high share of non-fulfilment (1.2.1).

Regarding TExAC 2.1 the data show that the general framework for digital growth (2.1.1) is in place in almost 75% of the OPs addressing TO 2. However, half of the OPs report non-fulfilments with budgeting (2.1.2) and needs assessment (2.1.5). This is an interesting result since it can be assumed that the needs assessment should be a basis for any policy framework.

With regard to TExAC 2.2 next generation network (NGN) plans (2.2.1) are in place in more than 70% of the OPs however only 60% reported that the plan is yet based on economic analysis (2.2.2) and sustainable investment models (2.2.3).

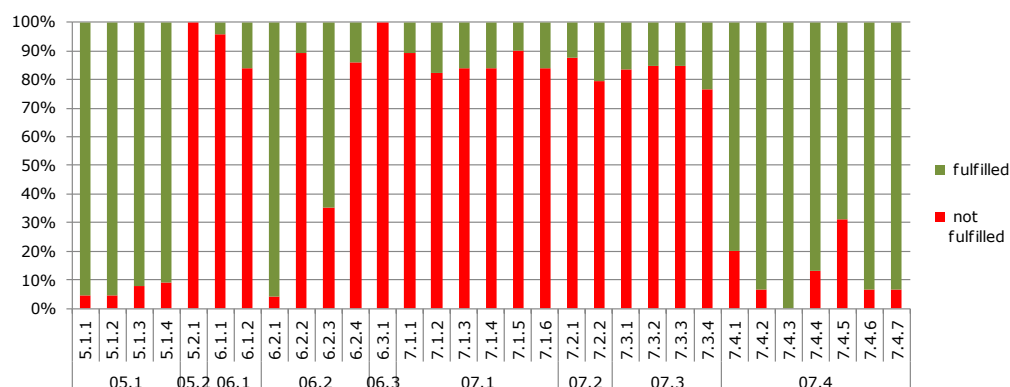
The state of fulfilment of criteria related to TExAC 3.1 promoting entrepreneurship are generally high, however, the lowest fulfilment is marked for monitoring mechanism at 70% (3.1.3).

Criteria related to energy efficiency (4.1) show different status of fulfilment. While measures for minimum energy performance requirements (4.1.1), measures for certification system establishment (4.1.2) and at the date of assessment 15.7.2015, in the case of Italy and Poland, measures for strategic planning (4.1.3) mark a high share of non-fulfilment – respectively at 55%, 48%, 34%. On the other hand, measures consistent with Article 13 of Directive 2006/32/EC mark a share of fulfilment of almost 100%.

TExAC 4.2 related to co-generation and 4.3 renewable energy show a fulfilment rate of almost 100% for all criteria.

Figure 19 shows the state of fulfilment of criteria related to TExAC 5 'risk prevention and management' to TExAC 7 'transport and networks'.

Figure 19: State of fulfilment at criteria level related to TO 5-7



Regarding risk prevention and risk management (5.1) all four criteria show a high share of fulfilment (85-90%).

The status of fulfilment of criteria related to the water sector (6.1) is low overall (5-20%) while the fulfilment of criteria related to the waste sector (6.2) is diverse. The implementation report (6.2.1) has been submitted in almost 95% of the cases, and waste prevention programmes (6.2.3) exist in at least 60% of the OPs. Conversely, waste management plans (6.2.2) and recycling measures (6.2.4) exist only in 12% and 15% of the OPs, respectively, addressing the relevant TO.

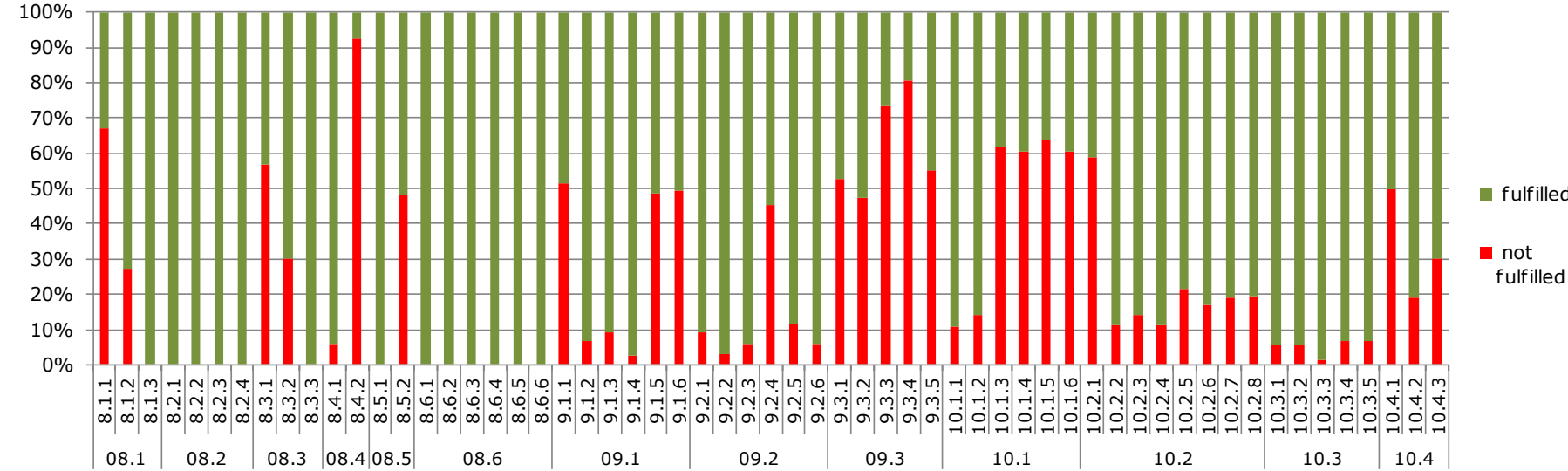
Thematic *ex-ante* conditionalities related to road (7.1), rail (7.2) and other modes of transport show a low level of fulfilment (around 20%), while smart energy distribution (7.4) shows a very high share of fulfilment (greater than 85%) Only the criteria related to project pipeline (7.4.5) show a lower fulfilment rate of around 73%.

Figure 20, below, illustrates differences in the state of fulfilment of criteria relating to TExAC 8 'employment', 9 'social inclusion' and 10 'education'.

In the field of employment, for TExAC 8.1 'active labour market policies in line with employment guidelines', the level of fulfilment related to the capacity of employment services (8.1.1) is relatively low (33%). 'Services and labour market' measures (8.1.2) as well as the actual 'set up of an employment service' (8.1.3) are fulfilled in 73% and in almost 100% of the TExACs respectively. Regarding TExAC 8.3, 'modernised and strengthened labour market institutions' actions to reform labour market institutions (8.3.1) have the lowest fulfilment rate (45%). For TExAC 8.4 'active ageing' measures in place to promote active ageing (8.4.2) show a considerable low performance (7% fulfilment), while 8.4.1 'involvement of stakeholders in the design and follow-up of active ageing' measures is nearly always fulfilled. Only three Member States have addressed the conditionality 'active ageing' TExAC 8.4 (FR, SI, PL). In the case of Poland, almost all regional OPs are referring to the conditionality that is regulated at national level. The percentage of non-fulfilment therefore, is exaggerated due to the weight of Polish OPs compared to only one OP in France and one in Slovenia. Regarding the 'adaptation of workers' (TExAC 8.5), the criteria related to the 'preparation and management of the restructuring process' (8.5.2) shows only 55% of fulfilment. The *ex-ante* conditionality related to 'youth employment' (8.6) only applies to OPs which include YEI. However, the state of fulfilment for all criteria is above 95%.

In the field of social inclusion, the status of fulfilment related to 'reduction of poverty' (9.1) is lower, particularly those parts of the policy framework concerning 'needs identification' (9.1.5) and 'project support' (9.1.6). The level of fulfilment regarding the Roma strategy (TExAC 9.2) is marked high with the exception of the monitoring methods (9.2.4). In the case of TExAC 9.3, the establishment of a 'health strategy' presents a rather high rate of not fulfilled conditionalities, around 50%. Criteria related to efficiency in 'the health sector' (9.3.3) and 'monitoring and review' systems (9.3.4) are even lower in their performance with only around 30% fulfilment rate.

Figure 20: State of fulfilment at criteria level related to TO 8-10



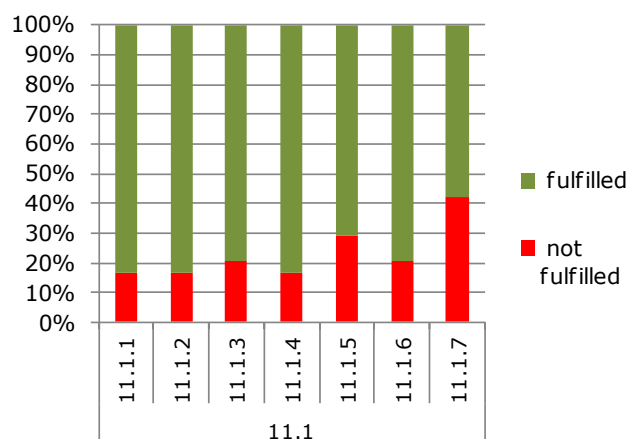
In the field of education, TExAC 10.1 'early school leaving' shows that the overall system for collecting and analysing data is in place and the strategic policy framework indicates a significantly higher degree of non-fulfilment (10.1.3 to 10.1.6).

TExAC 10.2 'higher education' consists of ensuring the set-up of national or regional strategic policy framework. In view of this, the analysis distinguishes between measures to 'increase participation' (10.2.2-10.2.5) and attainment and measures to 'increase employability and entrepreneurship' (10.2.6-10.2.8). Both groups of criteria show a high performance with around 80-90% fulfilment.

Regarding TExAC 10.3 'lifelong learning' all criteria are fulfilled by more than 90% while for TExAC 10.4 'VET system' the overall national or regional strategy framework (10.4.1) shows a fulfilment rate of around 55%.

A comparable lower fulfilment rate is marked in criteria related to TExAC 11 'administrative capacity' with the lowest rate of fulfilment in the 'development of monitoring and evaluation tools' (11.1.7) (see Figure 21).

Figure 21: State of fulfilment at criteria level related to TO 11



Overall, the criteria with the greatest difficulties are related to the implementation dimension of the conditionalities. For example, criteria related to the establishment of the monitoring and review system (e.g. smart specialisation, health strategy or Roma strategy, administrative capacity) and training and capacity-building requirements appear difficult to fulfil in the water and waste sector; the implementation of management plans and recycling measures are also particularly problematic. In the transport sector, while all criteria show a low fulfilment rate, interviews demonstrated that the most problematic issue touched upon the fulfilment of the project pipeline.

Types of action taken to fulfil TExACs

Thematic *ex-ante* conditionalities differ in the way they need to be implemented. Moreover, Member States may take different approaches towards implementing them. As a first step, TExACs have been listed and labelled according to their main character, as foreseen in Annex XI of Regulation No 1303/2013 (Table 9).

Table 9: Character of TExAC

	Strategy development	Management plan	Policy changes	Legal changes	Evaluation and monitoring	Implementation measures
1.1.	1				1	
1.2.	1	1				
2.1.			1		1	
2.2.	1					
3.1.				1		1
4.1.				1		1
4.2.				1		1
4.3.				1		1
5.1.						1
6.1.		1				1
6.2.		1	1	1		
7.1.			1	1		1
7.2.			1	1		1
7.3.			1	1		1
7.4.			1	1		1
8.1.						1
8.2.				1		1
8.3.			1	1		1
8.4.			1			1
8.5.			1			1
8.6.	1		1			
9.1.	1		1			1
9.2.	1		1		1	1
9.3.	1		1		1	1
10.1.	1		1			1
10.2.	1		1			1
10.3.	1		1			1
10.4.	1		1			1
11.1.	1	1	1	1	1	1

The analysis of different criteria (Figure 22, below) reveals that the majority of actions required by the regulations are implementing measures²⁶. These include the following measures: General description of measures to implement conditionalities, measures to support the project pipeline related to specific conditionalities, evaluation and monitoring activities and promotion activities.

²⁶ Figure 22 shows the number of entries of Table 9.

The second highest share comprises actions related to policy change that needs to be carried out in order to fulfil the TExAC. Another important type of action is linked to the management plans mainly related to infrastructure such as transport, waste or water sector.

Figure 22: Types of action required by TexAC criteria

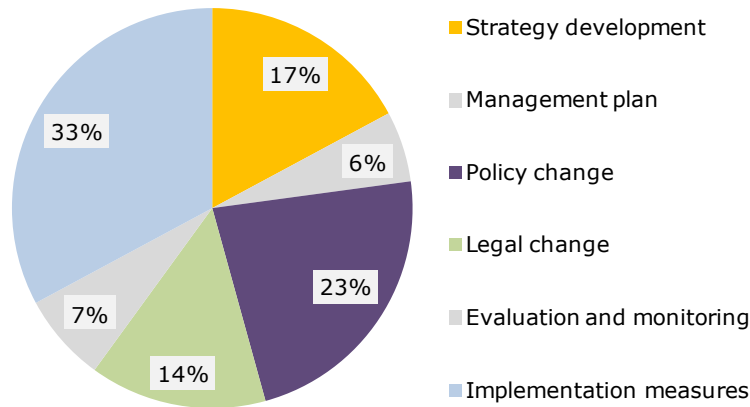
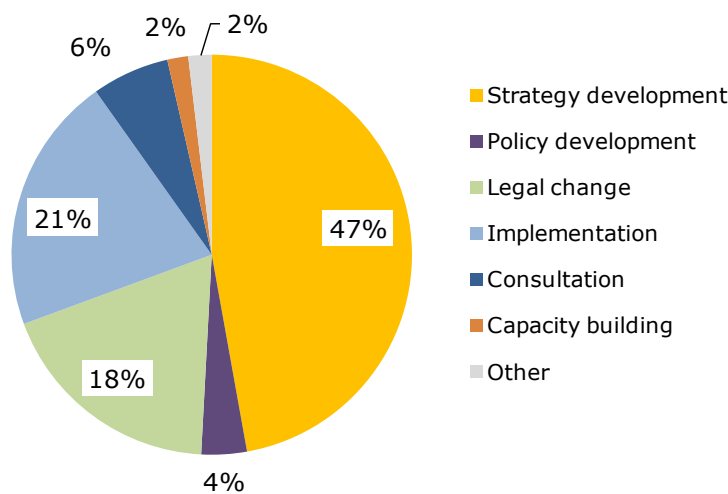


Figure 23 illustrates what kind of actions Member States undertake in order to meet the requirements outlined in the Regulation (EU) No 1303/2013.

Figure 23: Type of actions reported to fulfil thematic *ex-ante* conditionalities



Source: PA/OP screening

The analysis of the weight of different actions in the Member States shows that the main actions reported are strategic developments (Figure 23, above). This however includes actions related to management plans and policy development. The second highest share of actions concerns the implementation of different measures. This includes evaluation, monitoring, training as well as support in implementing new legislative issues. A considerable number of Member States reported the legal changes with EU-15 reporting a larger share of these changes.

When comparing the type of actions of Member States with the typology of actions required by the *ex-ante* conditionalities the differences that occur are due to the different ways of labelling the actions. The high share of strategic development in Figure 22 can be compared with the combined share of policy and strategic development in Figure 23. A similarity emerges between the two figures regarding legal changes and implementation actions.

Types of approach taken by Member States and Managing Authorities to demonstrate the fulfilment of *ex-ante* conditionalities

The following summary provides an overview of the main approaches taken by Member States to address *ex-ante* conditionalities with reference to examples.

With regard to **smart specialisation strategy** (1.1) there has been a clear difference between Member States with an already established structured strategy and Member States with a weaker strategic framework. According to the interviews and the experience²⁷ of the experts, those Member States and regions that considered themselves as advanced in their strategic policy framework have been reluctant to follow the detailed requirements of the guidelines in order to fulfil the Research and Innovation Strategy development process. Most of those Member States or regions adapted existing strategies with only little effort or even merged different existing strategies together and presented them as one innovation strategy. In contrast, EU-13 Member States as well as Eastern Germany developed their regional (e.g. Poland and Eastern Germany) and national strategies according to the guidelines of the European Commission.

Member States' approaches also differ in terms of national/ regional uptake. The larger Member States such as France, Germany and Italy chose for each regional OP one strategy. In the case of Italy a complementary national strategy has been developed. In France, a number of innovation strategies already in place have been adapted and renewed. Spain and Portugal chose to develop a new national innovation strategy along the given RIS3 requirements. According to the description in the OPs both Member States followed the whole process starting with a SWOT analysis, stakeholder involvement, monitoring system etc. Overall, the RIS3 has been the conditionality with the highest involvement of regions.

The **multiannual budgetary framework** (1.2) is not yet in place in many of the Member States. Generally, it is planned to be implemented as part of the national budgetary framework.

The majority of the Member States implemented the conditionality related to **digital growth** (2.1) at national level with the elaboration of a national digital strategy (e.g. CZ, LV, HR,) or in combination with the smart specialisation strategy (e.g. EL, IT, LT, SI). Other Member States developed a strategy in adjustment with the innovation strategy (e.g. HU, PT). France implemented the digital growth strategies in each regional OP. Some of the French regions combined the digital aspect with the RIS3 process, others developed separate documents.

²⁷ Expert participation in ex-ante evaluations

Ex-ante conditionality (2.2) **next generation network** has been strongly linked to the digital growth strategy. In some Member States it has been one element of the strategy or even one element of the RIS3. In all cases (except France), it was elaborated at central level. In the case of Italy, France or Greece a needs assessment has been the basis for the new master plan. In some countries (e.g. IE, IT, LT, FR, ES) private investments have also been taken into account.

The **SME *ex-ante* conditionality** (3.1) mainly focuses on the implementation of Small Business Act.

Actions to fulfil conditionalities related to **the low carbon economy** are mainly related to legal adaptation and establishment of energy performance certification systems.

Risk management plans (5.1) are mainly reported at national level. Most of the regional OPs refer to those mainly national documents. In some areas with higher risk awareness, risk assessments have been conducted. The main issue has been floods. Some of the overseas regions included seismic risk management (e.g. Martinique FR). Federal regionalised states established their own protection programmes (e.g. DE, IT).

Conditionalities related to transport (7.1, 7.2, 7.3) proved more difficult to address. They imply the preparation of a comprehensive transport ('master') plan as well as to prepare a pipeline of realistic and mature projects. These should cover all modes of transport. Exceptions exist, for example in Malta or Cyprus where there is no rail and hence no need for TExAC 7.2. Comprehensive Transport plans have been mainly elaborated at national level with the involvement of all necessary stakeholders. Poland, France, the UK and some Italian regions have reported regional transport plans.

The whole process is of long duration, starting with the engagement of a wide range of different stakeholders, requiring an adequate assessment as a basis and involving afterwards the legally binding strategic environmental assessment (SEA Directive). Interviews revealed that the process had been highly political with the involvement of a wide range of different stakeholders at national as well as regional and local level. A number of experts claim that the political character of the process tends to hinder an effective prioritisation according to the actual needs of the respective Member State in favour of those with the highest political influence.

Beside the development of the transport comprehensive plans that are overall at a more advanced stage, the development of the required project pipelines seems to be the biggest challenge.

The lack of adequate measures for capacity building of beneficiaries has been raised as one key obstacle in some countries (e.g. CZ, SK). However, other Member States (e.g. EL, ES, HU, HR, LT) reported that measures for capacity building are in preparation.

Only 26 OPs have addressed the *ex-ante* conditionality (7.4) **smart energy infrastructure**. Of those 26 OPs 11 have reported the fulfilment of the respective conditionality. These are all Greek, Romanian and Czech OPs. The OPs are referring to the national plan of energy infrastructure. Lithuania reports that plans describing the national energy infrastructure priorities are in place but they are not comprehensive enough. Plans concerned are not fully compatible with Article 3(4) of the Regulation (EU) No 1303/2013 (8).

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

The *ex-ante* conditionality relating to **self-employment** (8.2), which requires the existence of strategic policy framework for inclusive start-ups, has been mainly addressed at national level and was often already implemented before programmes started. For example, in Greece and Hungary, a range of measures have been implemented in recent years to reduce the administrative burden for start-ups and specifically for disadvantaged groups. In Italy, the National Authority for micro business and SMEs is responsible for assessing the *ex-ante* and *ex post* impact of the legislation on enterprises.

Regarding *ex-ante* conditionality **strategy for poverty reduction** (9.1) Member States present either one national plan for poverty reduction (e.g. FI, FR, DE, PL) or refer to several different strategies, which all cover aspects of poverty reduction (e.g. AT, EE). In most of the cases, it falls under national coordination. Only some Member States described regional activities (e.g. IT, Finish region of Alands). Member States reported the development or reference to national strategies, but also the support of project applications, consultation and financial support. Some of the EU-13 Member States have been supported by World Bank projects in their development process. For example, the Romanian National Strategy regarding Social Inclusion and Poverty Reduction 2014-2020 has been supported by technical assistance from the World Bank.

The **Roma strategy** (9.2) has been considered as applicable in only 14 Member States. The strategy however is almost everywhere in place and implemented at national level. Only a few of the Member States foresee actual regional activities for better implementation. Activities related to the data and monitoring systems are less developed. For half of the Member States, the issue of data collection is still at an early stage. For example in Greece the monitoring system of the implementation of the Roma Strategy is part of the broader set of actions 'Organisation of Monitoring of Social Policies', which started in 2015. In France, indicators have been proposed as proxies for monitoring Roma inclusion though covering a much larger population than the Roma community (number of travel permits assigned to travellers, number of persons living in campsites - based on regular surveys made by the inter-ministerial delegation on shelter and access to accommodation).

The **health strategy** (9.3), which has been considered as applicable in 15 Member States, presents a comparatively less advanced stage of fulfilment. Although the strategy has been mainly elaborated at national level there are exceptions (e.g. in ES). In Greece, the elaboration of the National Strategic Framework supported by the Initiative 'Health in Action' was completed in late 2014. Under the 'Health in Action' initiative, the Ministry developed a monitoring system for the implementation of reforms, in collaboration with the World Health Organisation. The Croatian National Health Care Strategy 2012-2020 has prepared and adopted an umbrella strategic document for the health sector. Priorities and measures defined in the Strategy aim to improve access to high-quality health services and to ensure efficient and sustainable health care system.

Ex-ante conditionalities relevant to **education** are closely related to each other. They include 'early school leaving' (10.1), 'higher education' (10.2), 'lifelong learning' (10.3) and 'strategy for vocational education and training' (10.4). For all four topics, national education strategies are a pre-requirement. Some Member States have included all four aspects in one single strategy, e.g. Poland with the Human Development Strategy and Lifelong Learning Perspective and the Czech Republic with the national education strategy.

With regard to *ex-ante* conditionality (10.1) **early school leaving**, the focus of the strategic framework was to ensure the existence of the system of data collection.

Only some of the PAs included other activities in their strategy. Some Member States reported the active involvement of regions in the data collection system. For example, Germany supports the alliance for dual training in regions that combines work training with school education. In France, a national database system has been established, allowing interoperability of data on young people, information and guidance platforms for young dropouts, a network of contact points providing enhanced support to early school leavers and facilitating access to training, skills and employment and online tools.

Regarding *ex-ante* conditionality (10.2) **higher education** the strategy development is mainly conducted at national level with data contribution by regions. Most of the other Member States addressing the conditionality introduced strategies (BG, EL, HR, HU, RO).

Lifelong learning (10.3) has often been implemented with a strong involvement of stakeholders. In Germany for example the strategic framework, which was developed at 'Land' level (Initiative for Professionals), involved several stakeholders to work out actions to strengthen lifelong learning and to secure the need for professionals. In Greece, the Conference on Lifelong Learning and Association with Employment organised a social dialogue on development directions and social needs, programmes and lifelong learning policy measures. The Conference was attended by the presidents of organisations of social partners, the Association of Regions and the Central Union of Municipalities. The National Lifelong Learning Programme envisages measures for upgrading the system of initial vocational training and the strengthening of continuing vocational training system.

In Slovenia, the national coordination point was set up at the Institute of the Republic of Slovenia for Vocational Education and Training whose assignments are linked to the Slovenian Quality Assurance Agency for Higher Education. Article 13 of the Slovenian Act for Vocational and Professional Education sets out that parts of the education programme are defined together by schools and social partners (referred to as open curricula), which allows the schools and employers to fill the contents of open curricula with additional hours of work-based learning. The local economy and social partners thus get the chance to have their say in the design of education programmes in accordance with the legislation and to incorporate therein the contents that help address the skills mismatch.

Regarding *ex-ante* conditionality (10.4) **vocational education and training** Member States either reported simple strategic developments or provided a list of activities. Germany for example introduced a comprehensive list of different activities, which combine interventions at national and regional level. The so-called 'initiative educations chains' supports pupils in entering the working environment and supports the recognition of foreign degrees. In Hungary, a specific project ('Developing the quality and content of VET and adult education') has been launched to set up a quality control system. An expert implementation group, coordinated by the Tempus Public Foundation (the Lifelong Learning National Agency) is working on the transposition of requirements and procedures. Sweden assigned a national Agency for National Programme Board. The government announced a wide range of interventions based on schools and training centres assessment, with the aim to better match labour market needs and skills.

Finally, actions taken in order to fulfil the **administrative capacity** (11.1) development comprise all types of activities starting from analyses and strategic planning of legal, organisational and procedural reforms (e.g. EL, LT, CY, IT). Other activities are related to e-governance where a digital strategy includes the modernisation of public administration and provision of public electronic services (e.g. CY, EL). Furthermore, Member States described the setup of a specific monitoring and evaluation system and finally training activities to improve administrative efficiency (HU, IT, LT, PT).

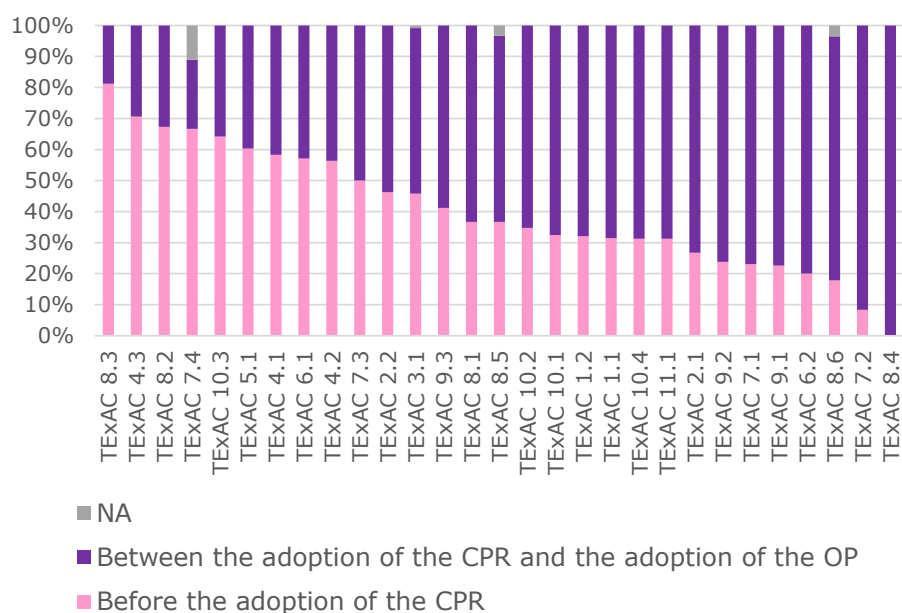
Most of the Member States described the implementation of the respective conditionality at national level. However, training activities are implemented at regional level. In Italy, for example each Managing Authority has prepared a document entitled 'Piano di rafforzamento amministrativo (PRA)' to support the quality, effectiveness and efficiency of the public administration. This document includes an analysis of weaknesses and foresees specific action to improve administrative capacity in order to strengthen the capacity of bodies involved in the management and delivery of ESI funds programmes, and in particular in the less developed areas to reduce administrative burden for businesses and to promote e-government services / e-public procurement.

Timing of fulfilment

The timing of the fulfilment of *ex-ante* conditionalities has been assessed by the most recent documents provided as references in adopted OP. The screening of programmes demonstrates a distinction between documents dated before the adoption of the CPR (i.e. before December 2013) and between the adoption of the CPR and the adoption of the OP (i.e. between January 2014 and the date of adoption of the programmes). The majority of the *ex-ante* conditionalities have been fulfilled between the adoption of the CPR and the adoption of the OP (56%). However, a number of *ex-ante* conditionalities had already been fulfilled before the adoption of the CPR in December 2013.

Figure 24, below, shows that thematic *ex-ante* conditionalities largely fulfilled before the adoption of the CPR were the following: 'Labour market institutions' (8.3), 'renewables' (4.3), 'self-employment' (8.2), 'smart energy infrastructure' (7.4), 'lifelong learning' (10.3) and 'risk management' (5.1). *Ex-ante* conditionalities aiming to be fulfilled between January 2014 and the date of adoption of the programmes were 'active health ageing' (8.4) and 'rail transport' (7.2).

Figure 24: Timing of fulfilment of thematic ex-ante conditionalities²⁸



NA: the share of unknown fulfilment dates in the case of smart energy infrastructure appears only in one OP. However, the total number of OPs in which the conditionality is addressed amounts to nine.
Source: PA/OP screening

4.1.3 Specific ex-ante conditionalities related to Union priorities of the EAFRD

PA analysis has established that *ex-ante* conditionalities related to EAFRD Union priorities had been fulfilled in most of the cases at the time of PA adoption. Some of them are however, missing either partly or fully from some Partnership Agreements. In some cases this can be explained by the Member State choice to report on *ex-ante* conditionalities at programme level (UK, SI, BE). In other cases, the reporting seems to be incomplete.

4.2 Assessment of fulfilment

The process for assessing the fulfilment of *ex-ante* conditionalities has been a joint undertaking between national authorities and the European Commission. The European Commission has provided extensive guidance on how to implement and fulfil *ex-ante* conditionalities²⁹. Member States were asked to self-assess *ex-ante* conditionalities' fulfilment according to the guidelines provided by the European Commission.

The European Commission then assessed ExAC fulfilment at a second stage providing the basis for negotiations with Member States/ Managing Authorities. In this context, the European Commission delivered assistance and support to Member States and Managing Authorities to develop and implement expected action plans to fulfil corresponding ExACs.

²⁸ Only those conditionalities, which are fulfilled, are counted. The date of fulfilment has been analysed by screening the documents in the references and taking the latest dated document as the date of fulfilment.

²⁹ European Commission 2014. Guidance on Ex-ante Conditionalities for the European Structural and Investment Funds PART I and PART II, February 2014

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Regarding the organisation of the assessment process from a Member State perspective, it has been necessary to aggregate, merge and process a large amount of information from a range of Ministries before submitting it to the European Commission. The main methodologies deployed have been either the organisation of working groups or the establishment of a virtual platform.

Indeed, findings from the interviews with the Member States/ Managing Authorities reveal the existence of specific working groups and/ or meeting platforms established by Member States in order to ease the communication flow amongst ministries, agencies and regional governments. However, interviews with the EC desk officers suggested that such activities were not always easy to manage for the Member States.

Three main difficulties have been reported throughout the process:

- First, there has been in certain cases a lack of common understanding between the European Commission and Member State on what to expect from the assessment of ExAC fulfilment. This materialised for instance through the fact that the Commission had to ask Member States/ Managing Authorities to add links to specific strategies, policies and/ or legislation in their programming documents, which often led to a discussion about what constituted ExAC fulfilment. Some Member States indeed considered that the existence of draft legislation could be sufficient to justify the fulfilment of an ExAC. The Commission had to clarify that fulfilment implies having the legislation adopted and an implementation mechanism set up. Member States/Managing Authorities highlighted during their interviews that the assessment of fulfilment was not clear because of different interpretations of the character of the ExAC. Particularly problematic areas for the assessment of fulfilment included a range of general and thematic ExACs such as public procurement and smart specialisation strategies, but also social inclusion, water management or energy efficiency.
- Second, information provided by Member States was sometimes insufficient. According to the interviews conducted with the EC desk officers, information provided by the Member States/ Managing Authorities on the assessment of fulfilment of ExAC was often not sufficient. The information was too vague and general to assess fulfilment. The EC desk officers suggested during the interviews that they frequently had to request additional information from the Member States / Managing Authorities in order to judge the fulfilment of the ExACs. In some cases, the EC desk officers had to be persistent in order to get this additional information.
- Third, there have been differences between assessment at national and regional levels. Many Member States/ Managing Authorities also took the view that if the ExAC was fulfilled at national level, it would not be necessary to evidence fulfilment at the regional level. Because of the different approaches adopted by the Member States/Managing Authorities, there are some differences in the assessment of fulfilment of ExACs at the regional OP level. In addition, the distinction between the PA and OPs was unclear since it was difficult for the Member States/ Managing Authorities to determine what information was supposed to be addressed in which document.

Some of the Member States/ Managing Authorities felt that the European Commission put a lot of pressure on them through the ExAC process. A third of the Managing Authorities also considered that the effort required in relation to the ExAC was disproportionate to the financial allocation from ESI Funds. Finally, around five Member States (primarily smaller EU-15 countries) stated that the process could have been more focused on individual Member States and on selected priorities, and should have started much earlier. Roles and competences should have been better clarified.

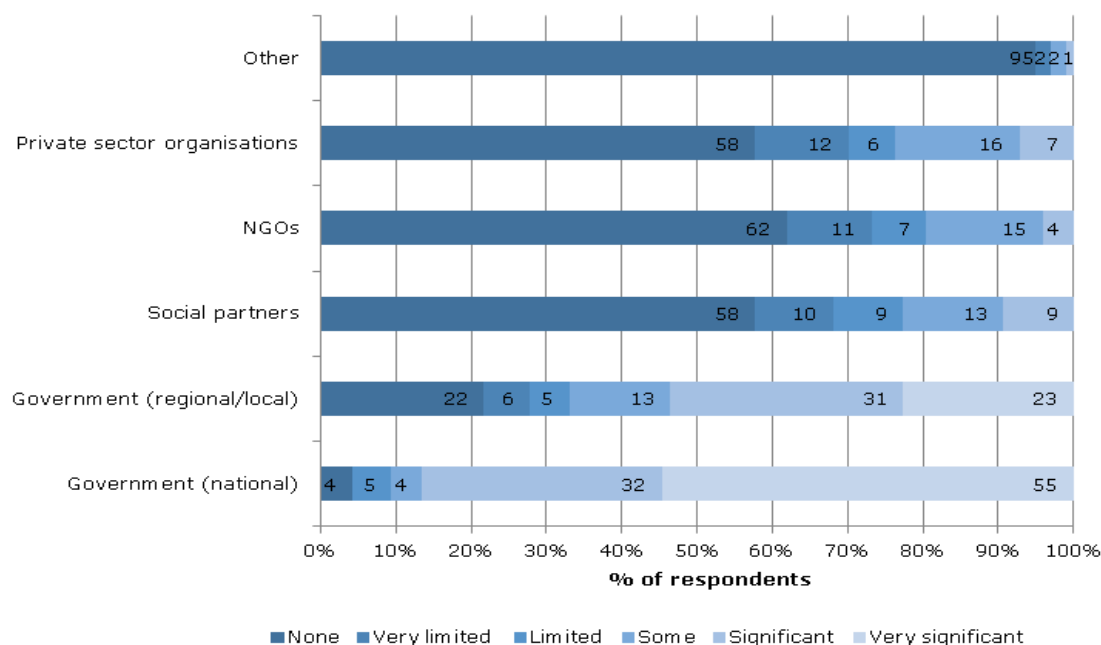
Despite the difficulties to assess the ExAC and some disagreement in terms of fulfilment, most issues on the assessment of fulfilment were resolved following the submission of additional information by the Member States/ Managing Authorities.

4.3 Stakeholder involvement

The responses to the web survey provide useful findings in terms of the stakeholder involvement with the fulfilment processes. Figure 25 below, illustrates respondents' views on the level of involvement of different stakeholders with the fulfilment process. Respondents reported significant national and – to a lesser extent – regional/local government involvement in the assessment of fulfilment. Nearly 90% of respondents selected either 'significant' or 'very significant' involvement as far as national government departments and agencies are concerned.

The proportion of respondents reporting at least some involvement of NGOs, private sector and social partner stakeholders was broadly the same (between 19-23%).

Figure 25: Level of involvement of different stakeholders in the assessment of fulfilment

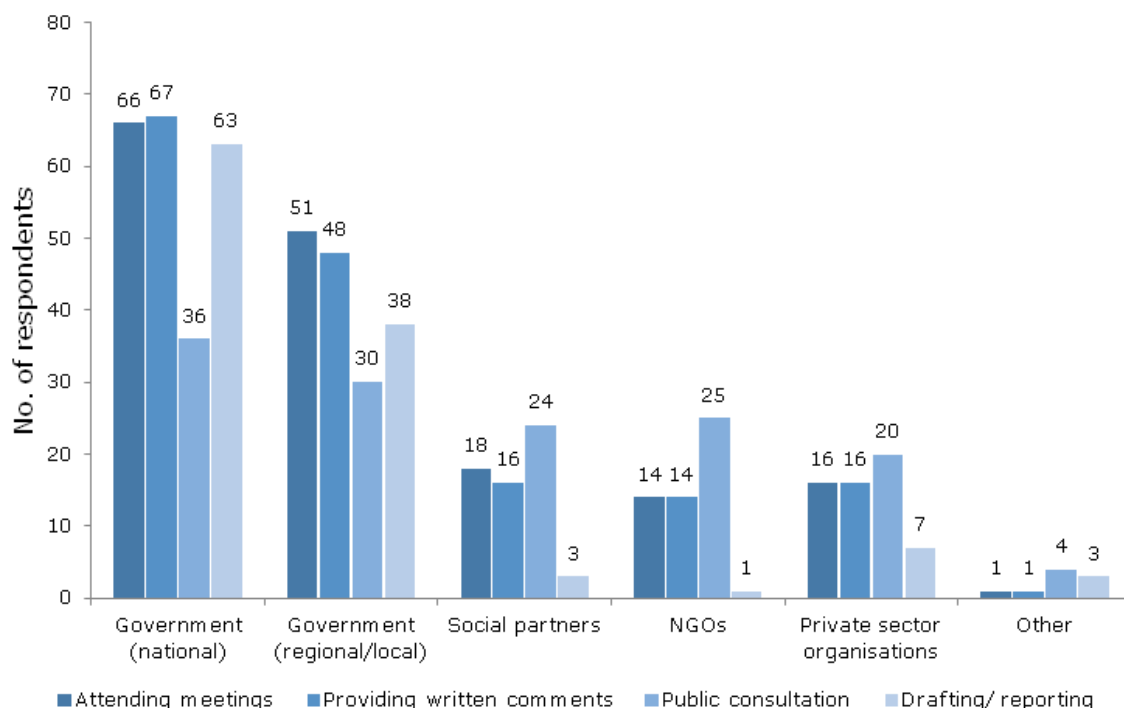


Source: ICF survey data; total number of respondents: 97; in some cases figures do not add up to 100% due to rounding

Attending meetings, providing written comments and drafting/ reporting were the most reported stakeholder activity for the assessments of fulfilment (see Figure 26). National and regional governments dominated these activities. Social partners, private sector organisations and NGOs, as a proportion of their cited activity, were primarily involved with public consultation.

Drafting and reporting activity was undertaken largely at a national, and to a lesser extent, regional/local governmental level. The other stakeholders have only had very limited involvement in the drafting/ reporting.

Figure 26: Stakeholders participating in the assessment of fulfilment by type of activity



Source: ICF survey data; total number of respondents: 94; multiple response were allowed

4.4 Main conclusions on the state of fulfilment of *ex-ante* conditionalities

The analysis is based on the state of play at the time of the adoption of the PAs and OPs by the European Commission. Therefore, some of the conditionalities, which were not fulfilled at the time of programme adoption, might be fulfilled by now.

Overall, around three-quarters of general *ex-ante* conditionalities and 58% of the thematic *ex-ante* conditionalities were considered as already fulfilled at the time of programme adoption.

The highest level of fulfilment was reported for the general *ex-ante* conditionalities 'state aid implementation' and the highest level of non-fulfilment for 'statistical systems' followed by 'public procurement'.

In many Member States, the statistical system has been developed at the OP level, during (rather than before) the programming phase. In most of the cases the non-fulfilment was predominantly linked with the lack of targets of result indicators.

Only **eight Member States**, dominantly from the EU-15, **had fulfilled all general *ex-ante* conditionalities during the programming phase**. For the majority of Member States more than half of GExACx were fulfilled by the end of July 2015 (the cut-off date of the study). Eight Member States, largely EU-13 had to deal with more than half of partially or not fulfilled *ex-ante* conditionalities.

Member States undertook many types of actions to fulfil general *ex-ante* conditionalities, mostly related to the combination of implementation steps (e.g. the designation of specially authorised person on matters concerning anti-discrimination or gender equality), capacity building for state aid, gender equality and public procurement implementation or legal changes for public procurement and environmental legislation.

The most problematic criteria to fulfil general *ex-ante* conditionalities are the ones relating to capacity building and monitoring mechanisms.

Thematic *ex-ante* conditionalities presents a rather satisfactory level of fulfilment. Among Member States, DE, IE, DK and AT demonstrated total fulfilment of all thematic conditionalities at the **PA level**. In addition, in Sweden and France the rating in terms of fulfilment was high (over 90%). The lowest fulfilment rate was demonstrated by RO (less than 20%), EL, MT, HU and SI (approximately 30%).

A very high fulfilment rate was demonstrated for TExACs related to **renewables, co-generation and self-employment** (over 90%). A large extent of non-fulfilment applies to conditionalities involving 'hard' environment and transport sectors as well as the smart specialisation strategy, health strategy, active ageing as well as early school leaving.

The best ratings in terms of fulfilment, at over 70% at OP level, were achieved by the conditionalities on self-employment, youth employment, co-generation of heat and power and renewables. However, most of the funding allocated to TO 8, labour market, TO 9 inclusion and TO 10 education is covered by the 95 ESF mono-funded programmes. The listed *ex-ante* conditionalities covered by the analysis represent only a small share of the total *ex-ante* conditionalities related to ESF.

IE, DK and AT reported all thematic conditionalities fulfilled (100%) at OP level. For the majority of the remaining EU-15 Member States (BE, LU, FI, NL, ES, FR, SE, UK, DE) the level of fulfilled conditionalities was also high. Lowest rate of fulfilled conditionalities was recorded for HR, MT, EL, SK, CY, RP, CZ and SI.

Regarding thematic *ex-ante* conditionalities reported as not-fulfilled, lowest rate was among DE, UK, SE, ES, NL and PT and highest rate among CY, SI, HR, BG and MT. The majority of those Member States with **a higher number of *ex-ante* conditionalities have a higher number of not fulfilled conditionalities**.

Comparing the fulfilment by regions, the share of fulfilled and partially fulfilled TExAC was highest for more developed and transition regions.

Patterns of regions show that **most of the OPs cover only one category of regions**. OPs covering only less developed or transition regions present the highest share of partially and not fulfilled conditionalities. Fulfilment is less advanced in national OPs than in regional OPs.

Most of the Member States reported that the implementation of the respective conditionality took place at national level. However, any required training activities were generally implemented at regional level.

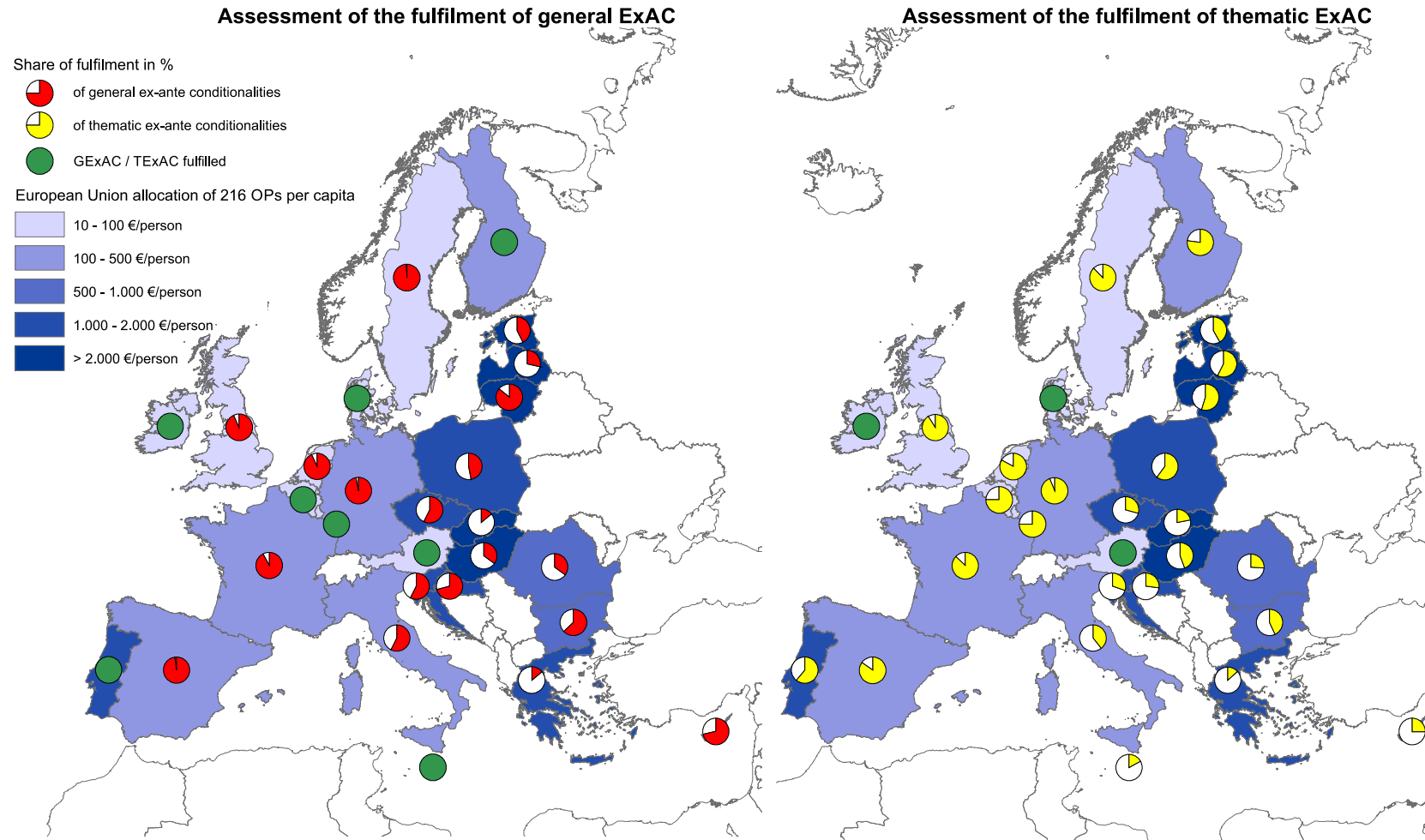
The most problematic criteria again are mainly related to the implementation dimension of the conditionalities. For example, criteria related to the establishment of the monitoring and review system (e.g. smart specialisation, health strategy or Roma strategy, administrative capacity) and training and capacity-building requirements appear difficult to fulfil for the water and waste sector. The implementation of management plans and recycling measures are also particularly problematic. In the transport sector, while all criteria show a low fulfilment rate, interviews demonstrated that the most problematic issue touched upon the fulfilment of the project pipeline. However, with regard to the environmental and transport infrastructure most of the criteria are problematic due to their political implications and timing constraints associated to project development.

Different approaches to fulfil the *ex-ante* conditionalities have been described in the PAs and OPs. The analysis of different criteria reveals that half of the action taken to fulfil thematic ExAC is related to the development of strategies and policy framework, followed by implementation measures and legal changes. Member States have elaborated their approaches to fulfilling *ex-ante* conditionalities according to the requirements. Nevertheless, there are still some differences in the approach between national and regional OPs as well as between more developed and less developed regions. More developed regions, mostly adapted existing strategies and action plans rather than conducting the whole development process in order to fulfil conditionalities as it happened in most of the less developed regions.

The fulfilment of the conditionalities was mainly assessed at the national level involving to a lesser extent regional/local authorities in the assessment of fulfilment. At least some involvement of social partners, NGOs and private organisations were reported. Stakeholders at government level, mainly attended meetings, provided written comments and participated in drafting/reporting. Other types of stakeholders, above all, were involved with the public consultation.

Overall, the long preparation of conditionalities and the fact that less developed regions have more thematic objectives and more conditionalities leads to significant differences between Member States with a higher number of less developed regions and those with none or fewer less developed regions, as illustrated in Figure 27, below.

Figure 27: State of fulfilment compared to union support allocated per capita



Source: DG REGIO data and PA, OP screening of 216 OPs.

5 ACTION PLANS

Action plans should be provided according to Article 19(1) of Regulation (EU) No 1303/2013: “where the applicable *ex-ante* conditionalities are not fulfilled, the programme shall contain a description of the actions to be taken, the bodies responsible and the timetable for their implementation. Member States shall fulfil those *ex-ante* conditionalities not later than 31 December 2016 and report on their fulfilment not later than in the annual implementation report in 2017 in accordance with Article 50(4) or the progress”. Therefore, each Operational Programme should include an action plan for each *ex-ante* conditionality reported as not or partially fulfilled.

The assessment of the action plans has covered only those general and thematic *ex-ante* conditionalities where the criteria have been either partially fulfilled or not fulfilled at all. The analysis included the assessment of the existence of an action plan, the timing, the responsible administrative bodies, as well as the different approaches for the fulfilment of conditionalities.

The assessment of the action plans focused at OP level. Action plans were considered at the level of *ex-ante* conditionalities and their quantification in the analysis given in this chapter is at that level.

5.1 Data analysis

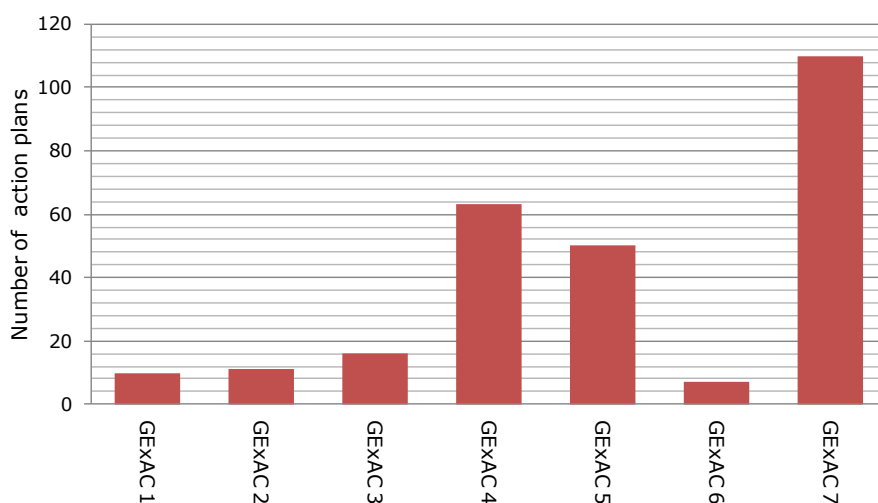
5.1.1 Action plans regarding general *ex-ante* conditionalities

As a general point, the screening of PA and OP documents showed that some form of action plan has accompanied all *ex-ante* conditionalities' criteria that were not fulfilled at the time of PA/OP adoption. Around 50 action plans have been reported at PA level in 15 Member States and around 250 action plans have been reported at OP level in 18 Member States³⁰. Altogether 22 Member States have reported action plans either at PA or at OP level. In line with the above mentioned findings on the fulfilment of general ExACs (see Section 4.1), the highest number of action plans of OPs were reported in connection with the general *ex-ante* conditionality 7 (statistical systems), corresponding to around 41% of the total action plans reported (see Figure 28)³¹.

³⁰ Duplications of considered action plans cannot be completely excluded since many regional OPs have referred to one single action elaborated at national level.

³¹ Action plans have been counted in that way that if in a given MS has more than one programme the same action plan that should be completed by the same institution(s) is counted as one distinct action plan.

Figure 28: Number of distinct action plans to be completed by general ExAC



Source: European Commission DG Regio

Action plans have been counted in that way that if in a given MS has more than one programme the same action plan that should be completed by the same institution(s) is counted as one distinct action plan.

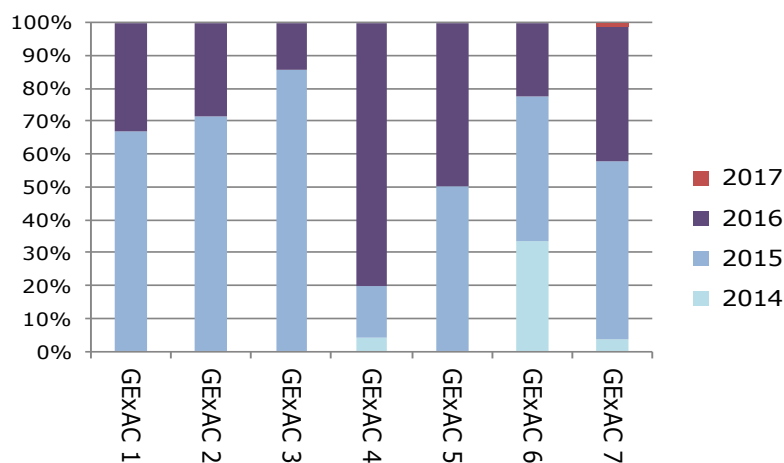
Timing of action plans

The timing of action plans related to the different general *ex-ante* conditionalities varies (see Figure 29, below). Eighteen per cent of the action plans reported should have been completed by the end of 2014 and 51% completed by the end of 2015, while 30% should be completed by the end of 2016.

Public procurement (GExAC 4) and state aid (GExAC 5) are the general *ex-ante* conditionalities for which most action plans are to be implemented in 2016. For general ExAC 4 'public procurement', 80% of the action plans are planned to be fulfilled in 2016. For general ExAC 5 'state aid' half of the action plans are to be fulfilled by end 2016.

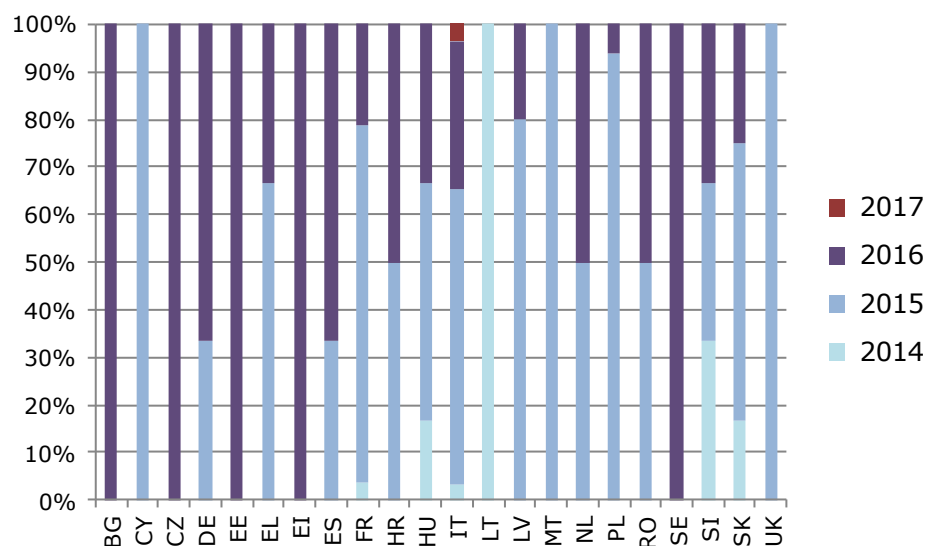
In the case of public procurement, the highest share of non-fulfilment and thus respective actions to be fulfilled appears for criterion 4.1 'Arrangements for the effective application of Union public procurement rules through appropriate mechanisms'. This criterion includes legal adaptations and therefore time-consuming legal decision procedures. In the case of *ex-ante* conditionality 'statistical systems' (GExAC 7) the highest number of action plans refer to criterion 7.1 'an effective system of result indicators'.

Figure 29: Deadline for fulfilment of action plans per general *ex-ante* conditionality³²



The 22 Member States for which general ExAC had been assessed as not fulfilled are proposing action plans. As shown in Figure 30, Member States with a significant number of action plans (more than 10) to be fulfilled by 2016 are IT, SK, FR, PL and HU, representing 74% of the total number of action plans. However, Italy shows the highest number of action plans to be fulfilled above 100, while France reported around 20. The other three Member States reported between 10 and 20 action plans to be fulfilled. Italy reported the majority of the action plans for public procurement, state aid and statistical systems while the other Member States mainly focus on statistical systems.

Figure 30: Deadline for fulfilment of action plans per Member State



Source: PA/OP screening

³² One action plan for one IT OP regarding conditionality 7 will be completed only 2017 (see Figure 16), which is not in line with the regulation.

For some Member States, the timetable seems unrealistic. Some deadlines have expired before *ex-ante* related conditionalities could be fulfilled. Political changes have occurred in some Member States and the complexity related to the development of certain *ex-ante* conditionalities has been sometimes underestimated. Especially conditionalities related to transport and environmental infrastructure proved difficult to fulfil on time. Time lags between different steps to fulfil the conditionalities are often underestimated and seem to be unrealistic to meet.

Responsible authorities

Regarding the responsibility for implementing action plans related to general *ex-ante* conditionalities the previous statement about the national level being mainly responsible for implementing general *ex-ante* conditionalities is reflected in the results of the OP screening and the interviews. Only in the case of general *ex-ante* conditionalities, 'public procurement' and 'statistical systems' regional authorities are also relevant (see Box 5).

Regional authorities are involved in BE, FR, DE, IT, NL, PL, ES and UK. In the case of France, there is one OP where interregional authorities are involved in the fulfilment of statistical systems.

Box 5: Examples of work division between national and regional bodies

National authorities are mainly ministries hosting a Partnership Agreement Coordination Committee as in Poland for example. In the case of **Hungary**, two different national authorities are responsible: a Managing Authority located in the Ministry of National Economy, Prime Minister's Office and the State Secretariat for EU Developments responsible for public procurement policy for 'public procurement'. In the case of **Italy** for each conditionality, national as well as regional authorities are equally responsible. In the case of **Greece**, responsibilities are shared between several authorities depending on the ExAC³³.

In the case of **Slovakia**, the main national authority responsible is the Central Coordination Body at the Government Office of Slovakia, which monitors the overall process of *ex-ante* conditionality fulfilment and is in charge of reporting on general *ex-ante* conditionalities. For thematic *ex-ante* conditionalities and general *ex-ante* conditionality on statistical systems and indicators, the responsibility lies with respective Managing Authorities.

For all other Member States, the ministry responsible for ESI-Funds has been named as the main responsible authority. In many cases, this ministry is developing the conditionality together with either public procurement bodies (e.g. RO), or Office for Human Rights and Rights of National Minorities (HR), the Ministry of Finance (SI, EE, LV) and the Ministry of Social Affairs (EE, UK). In the case of **Italy**, **France**, **Netherlands** and **Germany** regional authorities have a high degree of involvement in general *ex-ante* conditionalities fulfilment.

Types of action required to fulfil general *ex-ante* conditionalities

Depending on the general *ex-ante* conditionalities, action plans involved different type of action.

³³ The General Secretariat of Commerce as well as the Public Procurement Authority, Line Ministries and Local Government (EKDDA), General Secretariat of Commerce, Single Public Procurement Agency, National Coordination Authority, National Confederation of Persons with Disabilities, National Coordination Authority, Ministry of Rural Development, Ministry of Labour, Authority for Data Protection, Management Information System Service, ESF Coordination Authority, Special Service for Institutional Support, ROP and OP MA, bodies delivering statistical data, Management and Operation Unit société anonyme with the National Confederation of Persons with Disabilities.

For general *ex-ante* conditionalities (1) **anti-discrimination**, (2) **gender** and (3) **disability** information provided in the programming documents related to the action plans is similar for all three conditionalities. Action plans refer almost entirely to training of staff members engaged in the ESI Funds implementation, designation of officials responsible for coordinating action plans and staff recruitment. Only Poland reports about the elaboration of an agenda of action related to the subject of anti-discrimination and gender.

Regarding GExAC 4 **public procurement**, action plans describe in some cases the adoption of the national strategy and the establishment of legal acts (e.g. BG, HU, IT, RO, SK); the establishment of an adequate control system (e.g. BG, RO); introduction of e-procurement (e.g. HU, IT, LV); simplifications of procedures and increase of efficiency (e.g. IT, SI); specific advisory unit and consultation groups for identifying key issues and proposing improvements (e.g. SI); guidelines (e.g. RO, IT, SI) and training and capacity building (e.g. BG, EL, HR, HU, IT, MT, RO, SI, SK). Romania developed a comprehensive action plan (see Box 6).

Box 6: Romania's action plan

Romania envisages ensuring a clear, stable and coherent legal framework by:

- Empowering the national agency for public procurement to assure consistency with sectoral legislation.
- Establish an effective monitoring and management of the procurement market through setting up a 'observatory' of the procured markets, managed by ANRMAP and filled through award notices published in the Society for Excellence in Public Administration, in order to detect and tackle, through adequate corrective measures, market inefficiencies.
- Impact assessment and stakeholders' consultation prior to initiative.
- Transposition of the future directives and improving the quality of legal drafting (horizontal issue in the wider context of the administrative reform).
- Promoting future codification.

Romania makes efforts in order to assure an efficient institutional framework through quality, coherence and foreseeable of opinions and decisions through:

- Coordination between institutions (through coordination mechanisms and subsequent guidance).
- Within the same institution (through internal governance mechanisms).
- Making the 'jurisprudence' accessible and user friendly, in particular CNSC's decisions.

Romania will take action to have efficient verification and control mechanisms through:

- Streamlining the *ex-ante* controls
- Empowering the Unit for Coordination and Verification of Public Procurement in enforcing their observations to avoid signature of unlawful contracts
- Reinforcing the effectiveness of prevention and detection of conflict of interests, including for nationally funded contracts

Romania takes measures to reinforcing the effectiveness of the remedy system through:

- 'Discouraging' (without legal / financial obstacles) abusive complains, making complainers more responsible.
- Training and specialising judges from the courts of appeals.
- Making National Council for Solving Complaints decisions more expectable.

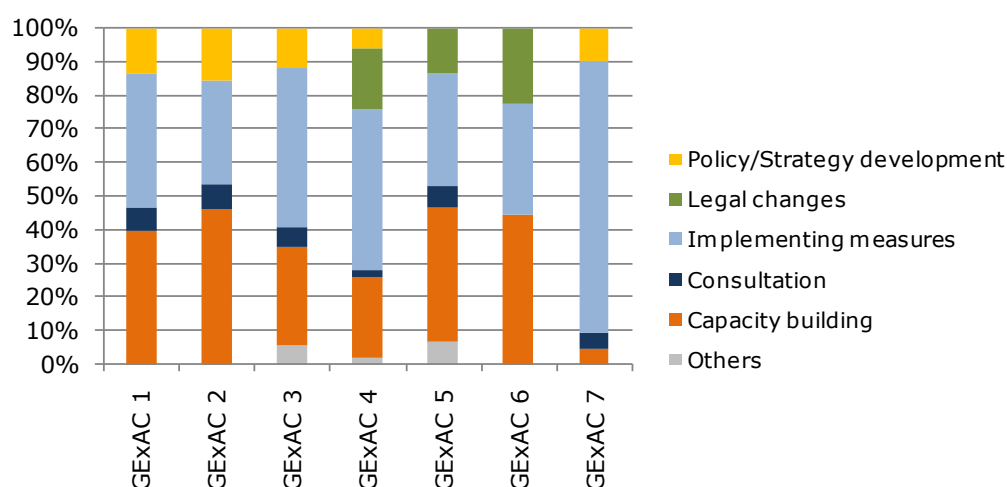
Regarding general *ex-ante* conditionality (5) on **state aid**, only six Member States reported action plans. Actions include the adoption of legal acts (e.g. RO, SK), the set-up of a central State aid electronic register and database (e.g. HR, IT), the publication of the list of recipients at the website (IT, RO), management and control system (e.g. LV) and finally training (e.g. HR, IT, RO, SK). Some of the actions are jointly undertaken with actions to fulfil general *ex-ante* conditionality (4) on public procurement.

The *ex-ante* conditionality (6) regarding **environmental legislation** is at a considerable advanced stage. Only seven Member States reported action plans, which contain mainly training and capacity building actions.

Finally general *ex-ante* conditionality (7) **statistical system** has been closely related to the elaboration of the Operational Programmes. Therefore, most of the PAs refer to the OPs, while in some cases the necessary steps for fulfilment were already described in the PA. Fourteen Member States reported action plans related to this conditionally. The type of actions varies from simple adjustments of the existing indicator system (e.g. FR) to a comprehensive change or renewal of the entire statistical systems (e.g. BG, EL). Some Member States selected the performance indicators at national level for each programme (e.g. BG, EL, CZ) while others left it to the regions to decide upon their suitable indicator system (e.g. ES). Action plans are describing the elaboration of a computer system (e.g. FR), identification of data sources (e.g. HU), data collection (e.g. RO), development or adaption of the monitoring system and evaluation plans (e.g. SI, RO, SE), identification of missing indicators at regional level (e.g. FR), identification of target and baseline values (e.g. BG, EE, CY, FR, DE, PL).

When comparing the types of actions implemented by Member States to fulfil the ExACs before the adoption of an OP (Figure 23 in chapter 4.1) and through action plans with the view to fulfil them by the end of 2016 (Figure 31 below), one can conclude that policy and strategic developments were more important in the programming phase than in the implementing phase. Overall, implementing and capacity building measures have been evenly required in both phases.

Figure 31: Types of action involved in action plans



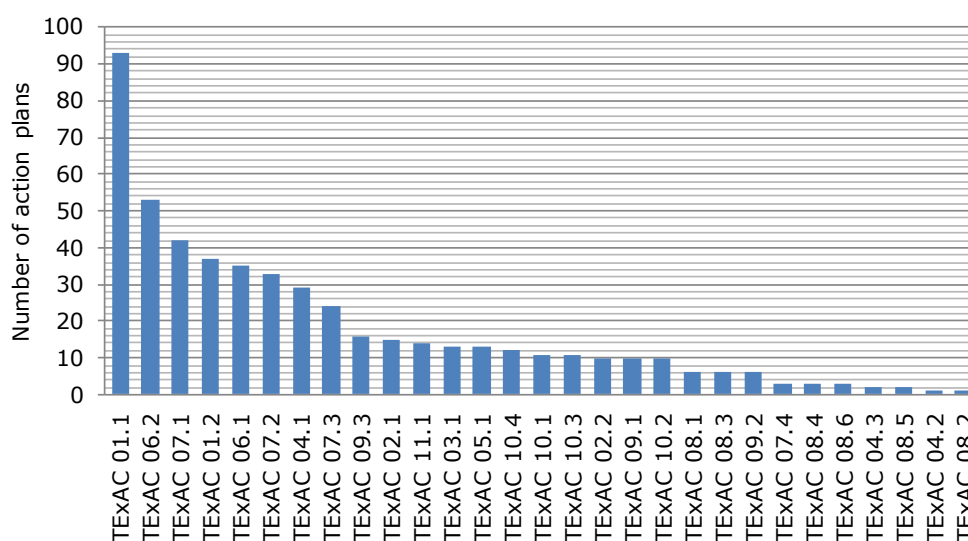
Source: Partnership Agreements

5.1.2 Action plans regarding thematic *ex-ante* conditionalities

The implementation and fulfilment of thematic *ex-ante* conditionalities is divided between national and regional authorities where OPs sometimes refer to one single action plan, while in other cases each region presents its own action plan. The analysis of action plans focused on the differences between the national and regional focus of action plans. For some Member States (EL, FR, PL, PT) and some conditionalities, all OPs refer to one single action plan. In this case, the plan has been counted only once. The adjusted number of action plans by thematic *ex-ante* conditionalities is shown in Figure 32, below³⁴.

There are around 500 action plans reported at OP level. In line with the above mentioned findings on the fulfilment of thematic ExAC (see Section 4.1)³⁵, the largest number of action plans was reported for 'research and innovation' - smart specialisation (1.1), which is also due to the fact that smart specialisation was the thematic *ex-ante* conditionality with the highest share of regional applicability. Considerable numbers were also reported for some other thematic conditionalities, namely: waste sector (6.2), road transport (7.1), R&I infrastructure (1.2) and water sector (6.1). However, the total number of not fulfilled conditionalities for TO 6 and TO 7 is considerably lower than for TO 1.

Figure 32: Action plans for thematic *ex-ante* conditionalities



Source: European Commission, DG Regio

Action plans have been counted in that way that if in a given MS has more than one programme the same action plan that should be completed by the same institution(s) is counted as one distinct action plan.

³⁴ The analysis is based on OP data however, in cases where conditionalities are only prepared at PA level the data has been added to the OP data (e.g. EE, FI, LV, DK).

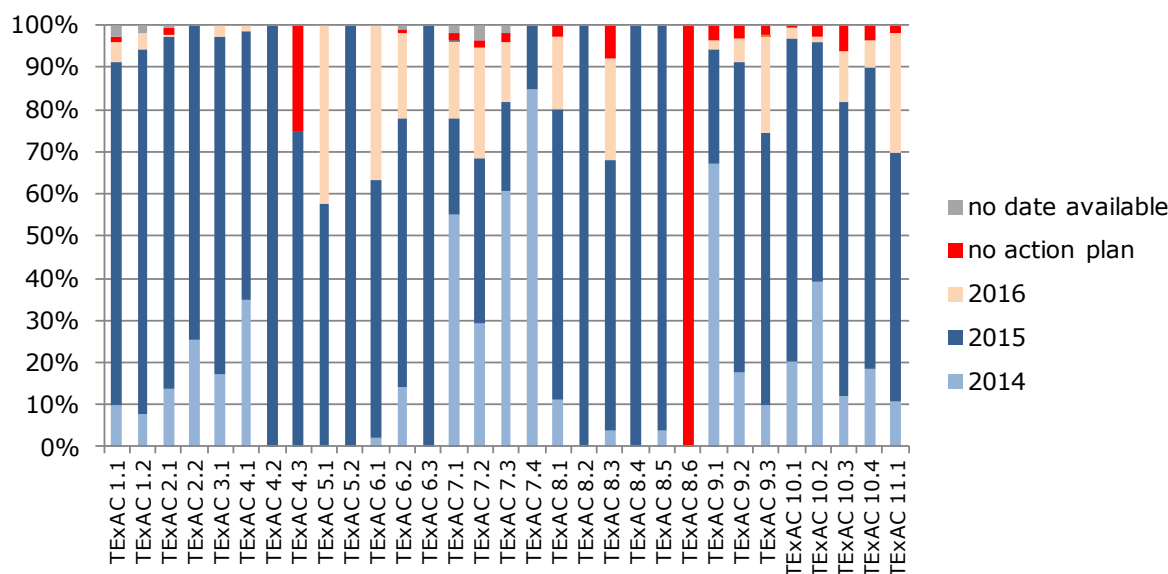
³⁵ Action plans have been counted in that way that if in a given MS has more than one programme the same action plan which should be completed by the same institution(s) is counted as one distinct action plan.

Timing of the action plans

The action plans must always be set out in the programmes notwithstanding that their summary should be included in the Partnership Agreement where the responsibility for fulfilment lies at national level.

The regulatory deadline for the completion of action plans is not later than the end of 2016. The majority of the action plans (80%) were due to be fully implemented by the end of 2015 (see Figure 33, below). However, a significant number of thematic *ex-ante* conditionalities related to thematic objectives 'environment', 'transport', 'labour market' and 'administrative capacity building' were also due in 2016. In some cases, the deadlines are related to legislative requirements concerning a specific topic (e.g. River Basin Management Plans due to be reported in March 2016).

Figure 33: Deadline for action plan fulfilment per thematic ExAC

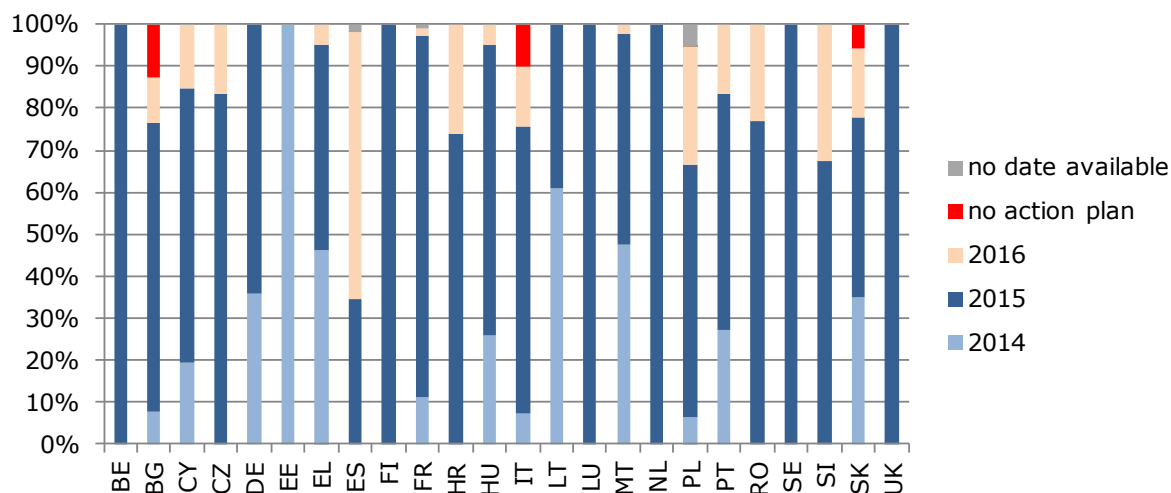


Source: PA/OP screening

Out of 25 Member States concerned by partially or not fulfilled *ex-ante* conditionalities (see Figure 34, below), 14 (IT, PT, FR, EL, ES, PL, RO, SK, CZ, HR, SI, HU, BG, LT) cover 88% of the action plans. The high number of not fulfilled action plans for example in Poland lies in the fact that each regional OP is preparing its own regional waste and transport plan which is not yet in place. The large number of action plans in Greece can be explained by the regional action plans related to 'research and innovation'. Due to its regional focus Italy has the highest number of non-fulfilled action plans different *ex-ante* conditionalities developed at national as well as at regional level.

For several national strategies, a complementary regional activity is reported as action in the OP: For example 'energy efficiency'. In France, a similar situation causes the need for a substantial number of action plans at regional level.

Figure 34: Deadline for fulfilment of action per Member State



Source: PA/OP screening

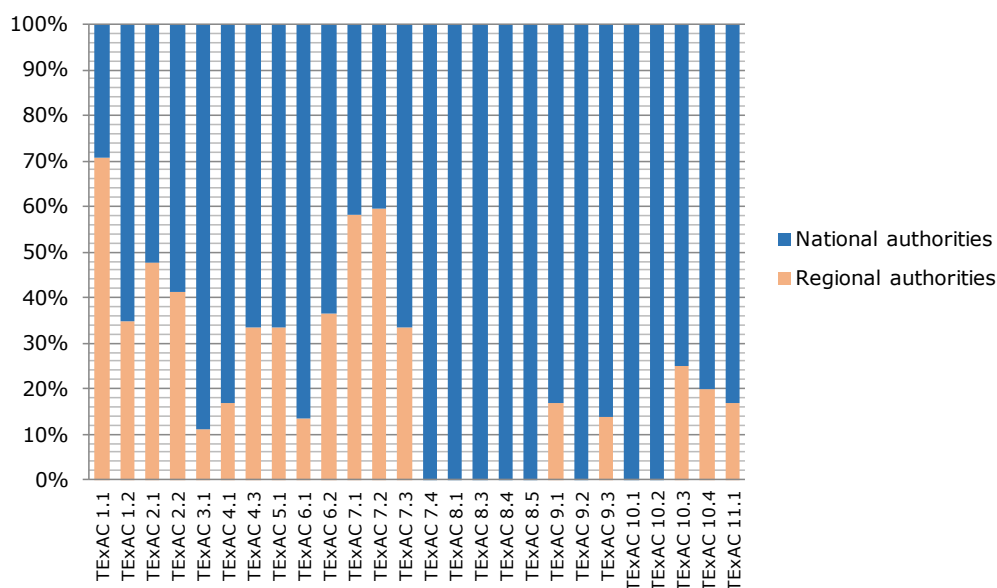
The majority of the deadlines (around 60%) were planned for 2015. Nevertheless, geographical experts reported that some deadlines passed without a published fulfilment of the corresponding *ex-ante* conditionalities. Experts also noticed that, although the *ex-ante* conditionality or a respective criterion had not been fulfilled, some action plans were 'missing' (see Figure 34). In those cases, the OP screening did not allow any further analysis. Interviews revealed that in many cases the reason lies in mistakes in the OP. For example, action plans are foreseen but not included in the OP or the conditionality has been fulfilled already and no action plan is needed. However, a systematic analysis of the status quo of the fulfilment of conditionalities after the OP submission has not been the scope of the study.

Responsible authorities

The role of regional authorities in fulfilling action plans for thematic *ex-ante* conditionalities (see Figure 35, below) is, to a certain extent, greater than for general *ex-ante* conditionalities. Especially in case of the fulfilment of criteria related to capacity building and monitoring systems regional authorities have a higher level of involvement. While action plans related to infrastructure are mainly the responsibility of national authorities (with the exception of Poland) the capacity building issues and action plans related to smart specialisation are to a higher degree at the level of regional authorities.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Figure 35: Level of responsibility of implementing action plans of TExAC



Source: PA/OP screening

Coherence with the position paper and observation paper of the EC

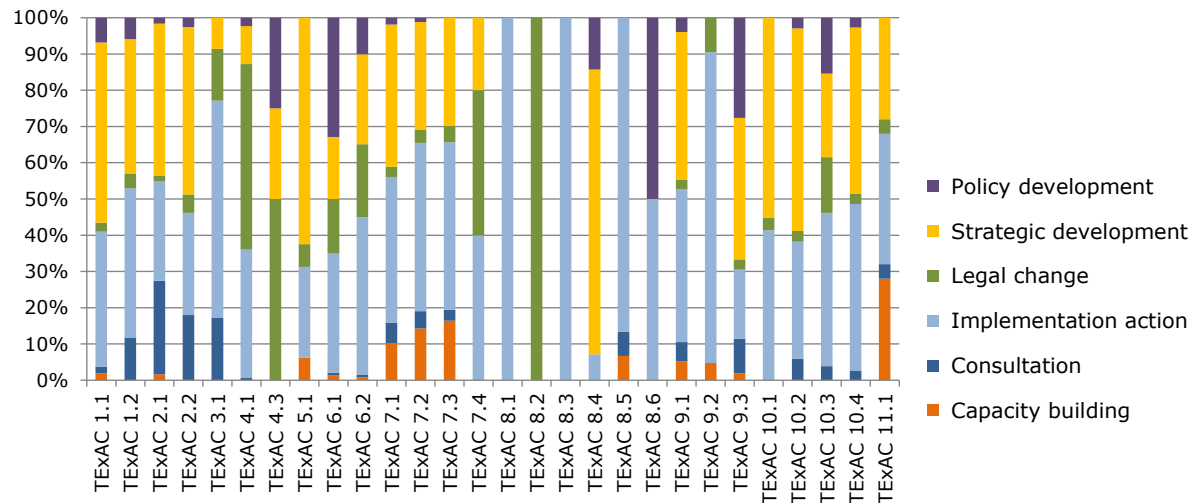
The way some *ex-ante* conditionalities have been implemented also reflects largely the requirements of the position and observation papers of the EC. This is not unexpected as all OPs adopted underwent several negotiation phases with the EC.

In instance where the geographical experts did not find any information this was mainly because neither the position paper nor the observation paper had considered all the regional OPs in detail. However, general coherence could be assessed for each Member State by summing up all the different OPs.

Types of action required to fulfil thematic *ex-ante* conditionalities

Types of action reported to be fulfilled in action plans are shown in Figure 36. The greater variety of different actions is listed for TExAC 11 (administrative capacity) followed by TExAC related to TO 9 (social inclusion). The majority of conditionalities require implementation measures and approximately half of the conditionalities require policy changes.

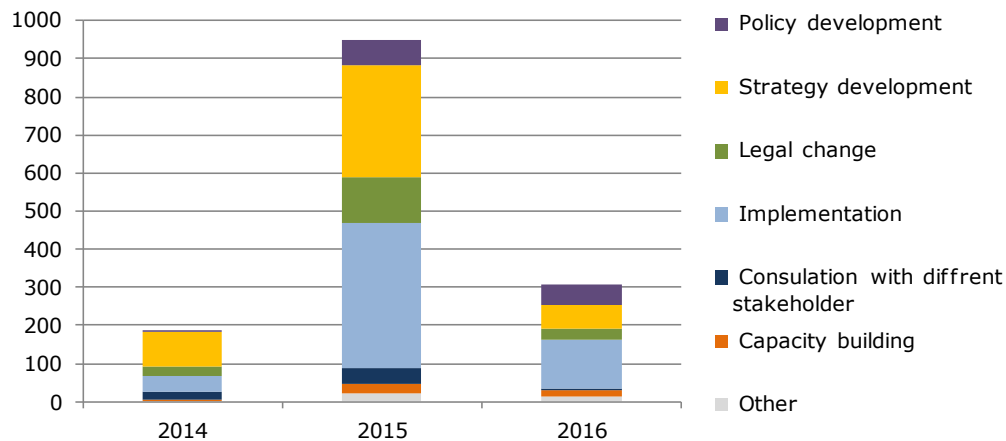
Figure 36: Types of action to fulfil thematic *ex-ante* conditionalities action plans



Source: PA/OP screening

In some of the action plans legal changes are foreseen, particularly in PL, IT, EE, HU, LV, PT and SK. Policy development is planned mainly in PL and BG. For both types of action a certain decision process is needed which might hinder the fulfilment of the action in time. What is even of greater concern is that most of the legal and policy changes were due in 2015 (see Figure 37) and this timeframe seems to have been over-ambitious.

Figure 37: Timing per type of action



Source: PA/OP screening

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Types of actions mentioned in action plans are overall quite comparable to the types of actions implemented to fulfil *ex-ante* conditionalities before OP adoption stage (see Section 4.1.2). There are, however, differences between EU-13 and EU-15 Member States. While EU-15 focused on adapting existing strategies and measures which is less time consuming, EU-13 were expected to develop new strategies and management plans.

The following section summarises action plans reported by Member States in order to fulfil the required *ex-ante* conditionalities.

Smart specialisation strategy

Eighteen Member States reported action plans in order to fulfil thematic *ex-ante* conditionality (1.1) on smart specialisation strategy. A number of OPs reported actual strategy development actions. For instance, Croatia (see Box 7), Bulgaria, Cyprus, Slovenia and some Italian regions (e.g. Abruzzo) reported actions aiming at revising their strategy, adopting SWOT analysis, completion of the action plans. Most OPs also reported the development of the indicator and monitoring system but also the development of the budgetary framework. Finally, some OPs described the organisation of working groups (e.g. PT).

Box 7: Action plan of the Croatian OP on smart specialisation

Smart specialisation strategy (S3) was in the process of elaboration at the time of programme adoption. Its redrafting, according to comments received from *ex-ante* evaluator, was planned in January 2015. After submission to the European Commission and taking into consideration EC opinion, formal adoption by the Government (including public consultation process) was envisaged by the end of June 2015.

The strategy will be composed of seven chapters, in line with RIS guide: Analytical part, SWOT analyses, Strategic part, thematic areas of investments, policy mixes, governance, monitoring, evaluation, and budget plan. In particular, the outcome of the entrepreneurial discovery process will be described, including the elimination process. In addition, identified priority areas will be narrowed down (either by reducing the number of topics, themes or sub-sub areas or by increasing their specificity when they are overly general) through continuous process of entrepreneurial discovery.

Final draft versions of SWOT and priority areas of investments were submitted to *ex-ante* evaluator on 31 October 2014. Based on *ex-ante* evaluation findings SWOT and thematic areas were planned to be revised.

Based on *ex-ante* evaluator comments description of delivery mechanism, policy mixes and its explanation how these are tailored to the needs of stakeholders will be adjusted. In particular, measures to stimulate private RTD investment will be set up and described, providing clear links to the relevant financial resources for their implementation.

Based on received *ex-ante* evaluation comments, the description of the monitoring system for the smart specialisation strategy, including indicators chosen and a governance structure, will be finalised. In particular, the modality of elaboration of results from monitoring and the revision process description will be improved.

In addition, indicators will be improved with distinguishing output and result indicators, providing baseline values and target values.

A framework outlining available budgetary resources for research and innovation will be adopted, indicating the various sources of finance and amounts available on yearly basis (EU, national and other sources as appropriate), including a distribution by horizontal and vertical priorities. The first version of the framework will be relevant for the three-year period in accordance to standardised planning process of State budget and will be updated regularly.

Multi-annual plan for budgeting for research infrastructure

Many Member States reported twin actions for thematic *ex-ante* conditionality (1.1) RIS3 and (1.2) multi annual plan for budgeting. In most of the cases actions related to ExAC 1.2 mainly focused on adapting or developing roadmaps or multi-annual budget plans. France reports the implementation and conclusion of the state-region contractual plan 2015-2020 at regional level. The Italian regions reported the adoption of the national plan for research infrastructure, surveys on national research infrastructures relevant to regional areas definition of synergies of research infrastructures with the system of technology transfer. In Romania, the multiannual budget plan has been planned as part of the national innovation strategy.

Digital growth and next generation network

At PA level nine Member States (BG, CY, EL, HR, HU, IT, PT, RO, SI) out of the 18 addressing *ex-ante* conditionality (2.1) 'digital growth' reported actions to elaborate their respective strategy. In addition, French regional OPs reported actions related to the transcription of the national strategy in regional plans. Italy reported about the participation of regional authorities in the public consultation process on the National Strategy for Digital Growth. Some Italian regional OPs referred to the RIS3.

Hungary mentioned its ICT Green Book and Portugal reported the revision of the Portuguese digital agenda. In Greece, the expected action plan for digital growth envisages several steps in order to fulfil the conditionality (see Box 8).

Box 8: Greek action plan for digital growth

- Consultations on 'budgeting and prioritisation of actions'
- Updating indicator system for measuring progress
- Formulation interdepartmental Memorandum
- Specialised / hierarchy / quantification of categories of interventions in relation to questions in the OP covering RIS
- Recording the responsibilities of the involved agencies, implementation mechanisms and potential beneficiaries
- Integration of the measures proposed in the Management and Control System of OP 2014-2020
- Establishment of a single central structure ICT policy actions and implementation coordination
- Establishment of a simplified ICT project implementation framework throughout their cycle

Ten Member States (BG, CY, EL, HR, HU, IT, LT, PT, RO, SI) reported actions addressing *ex-ante* conditionality (2.2) 'next generation network'. The main action in most Member States concerned is the actual elaboration or finalisation of the National Broadband Plan. Hungary reported for example broadband mapping, consultation, development of priorities, embedment of the plan into the ICT Green Book. Italy and Lithuania reported measures to stimulate private investments.

Low carbon economy

Regarding energy efficiency (4.1) action plans mainly describe the adoption of the legal framework in the Member States (BE, CZ, EE, HU, PT). Some Member States elaborated certificates, guidelines and methodologies for energy efficiency in buildings (EL, IT, MT, PL, SE). Slovenia plans to establish a web-portal for energy efficiency and Mayotte, France redrafts the regional plan for climate, air and energy.

Risk management plan

Ten Member States (BG, CY, CZ, FR, HR, IT, PT, RO, SI, SK) reported actions related to thematic *ex-ante* conditionality (5.1) 'risk management' at state level. Reported actions were for example risk assessment reports, the development of the climate change adaptation strategy, risk scenarios, flood risk management in the context of the river basin management plan, National Action Plan on Climate Changes. In addition, France and Italy reported actions at regional level (a new zoning plan in France and an update of the hydro geological system plan in Abruzzo).

Reported action plans related to risk management overall differ between PA and OP mainly because of the adoption delay between both documents. This was for example the case in Bulgaria (see Box 9) where some actions planned in the PA had already been implemented at the time of OP adoption.

Box 9: Bulgarian action plan to fulfil risk management in the PA³⁶

- Action 1: Adoption of management plans for flood risk, including national catalogue of measures and national priorities for management of flood risks
- Action 2: Preparation of a methodology for assessing the seismic and geological risk
- Action 3: Preparation of a methodology for assessing the risk of forest fires
- Action 4: Preparation of a methodology for assessing the nuclear and radiation emergency risk
- Action 5: Description of the risk-based criteria for defining the investments-related priorities, in the risk assessment drawn up according to Art. 4, para. 1 of the *Ordinance on conditions, order and institutions for analysis, assessment and mapping of the disaster risks*.
- Action 6: Defining clear and coordinated responsibilities of the various state authorities in the realisation of relevant investments in a wide range of sectors
- Action 7: Mapping of disaster risks
- Action 8: Description of single risk and multiple risk scenarios in the risk assessment made according to Art. 4, para. 1 of 'Ordinance on conditions, order and institutions for analysis, assessment and mapping of the disaster risks'.

Transport infrastructure

Ex-ante conditionalities related to 7.1 'transport comprehensive plan', 7.2 'railway' and 7.3 'other modes of transport' represent the highest number of action plans reported. However, in many cases the action plans covering these conditionalities are combined into one action. Expected actions comprise the development of the transport strategy or the update of the existing transport strategy.

³⁶ Some part of the plan dropped off the OPs as non-applicable to any OP risks (seismic and nuclear). Also it should be noted that some OPs, in the case of TExAC 5.1. and not only, are including just a selection of an ExAC Action Plan – the one and only part of the Plan that applies to the concrete investments in this OP.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

Bulgaria for example reported the preparation of National Multimodal Transport Strategy, the adoption of the Strategy for the Development of Road Infrastructure and the elaboration of an Action Plan with JASPERS's support. The Czech Republic, Portugal and Hungary reported the preparation of a realistic project pipeline; Estonia and Hungary are preparing implementation procedures and guidance material (the Hungarian OP refers explicitly to the EC guidance material). Greece and Portugal reported about the launch of a consultation process linked to the Strategic Environmental Assessment legal requirements.

Several OPs also reported capacity building measures for project implementation bodies (e.g. RO, HR, LV, IT, EL).

Action plans related to *ex-ante* conditionality (7.2) 'railways' are almost identical in all those Member States dealing with the investment priority. Only Slovenia reported investment in rail as a key priority in the 2014-2020 programming period. For *ex-ante* conditionality (7.3) 'other modes of transport', only the Czech Republic expressed its intention to adopt an inland waterway strategy.

Smart energy infrastructure

Three Member States reported action plans related to the *ex-ante* conditionality (7.4) 'smart energy infrastructure'. Bulgaria reported actions to improve the Ten-Year Network Development Plan, Lithuania planned to revise all related plans. In general, this *ex-ante* conditionality does not show any risk of delays.

Self-employment

All 216 OPs have reported the *ex-ante* conditionality (8.2) self-employment as fulfilled.

Strategic policy framework for poverty reduction

Regarding *ex-ante* conditionality (9.1) 'strategic policy framework for poverty reduction' 10 Member States reported the preparation of the strategy at OP level (CY, EE, EL, IT, LV, LT, MT, HR, RO, SK). Only Hungary reported the fulfilment of the conditionality between the submission of the PA and OP. Actions described mainly correspond to the development of the strategy (e.g. RO, EL) but also to measures to implement the strategy (e.g. CY, EE, MT, HR, SK). Some Member States also planned the elaboration of guidelines and relating indicator (e.g. LV, EE), as well as the transcription of the national strategy at regional level via projects or regional strategies (e.g. IT - Area Social Plans and the Cohesion Action Plan Care services).

Roma strategy

Regarding *ex-ante* conditionality (9.2) 'Roma strategy' six Member States reported action plans related to this conditionality (BG, EL, HU, LT, RO, SK) at PA level. At OP level Hungary and Romania did not report any action plans in the OPs. Hungary (see Box 10, below) and Romania succeeded in fulfilling the conditionality between the submission of the PA and the OP.

Actions related to the Roma strategy correspond to either the development of strategies (e.g. RO) or action plans (e.g. LT), the adoption of revised strategies (e.g. HU) or the development of an adequate monitoring system (e.g. EL, CZ, and BG).

Box 10: Hungary's actions to fulfil the Roma strategy

The National Social Inclusion Strategy adopted in 2011, emphasises measures for the economic and social inclusion of Roma, covering early childcare, education, employment, healthcare and housing. The strategy is monitored under a multi-stakeholder arrangement. At the end of 2013 the progress was evaluated and the conclusions used to compile an action plan for 2015-2016.

An agreement between the government and the National Roma Self-government includes a number of relevant targets. The revised National Social Inclusion Strategy II, adopted on 4 November 2014 (Government Decree 1603/2014. (XI. 4.)) fulfils the *ex-ante* criterion. The new strategy sets out the same objectives but the situation analysis/baseline data were updated. A new interdepartmental committee within the government is monitoring the implementation of Roma-related measures.

The government has established the 27 member Roma Coordination Council. The council is tasked with reviewing projects, reports, preparing impact assessments. The National Reform Programme foresees local projects (three have been launched already) which aim at supporting the setup and management of local initiatives concerning equal opportunities for the Roma.

Health strategy

At PA level 13 Member States reported actions to fulfil *ex-ante* conditionality (9.3) 'health strategy'. Some Member States also reported action plans at regional level in OPs although the conditionality had been fulfilled at national level (FR, IT). Spain on the other hand managed to fulfil the conditionality between the submission of the PA and the OPs. Bulgaria reduced the number of actions related to this conditionality from six to two in the period between the submission of the PA and the OPs. Malta also reported the implementation of activities fulfilling the conditionality at OP level (see Box 11).

Box 11: Malta's action plan to fulfil the *ex-ante* conditionality reported at OP level

A Health Systems Performance Assessment (HSPA) tool to monitor the National Health System Strategy (NHSS) has been developed

The budgetary framework for the NHSS has been developed. The drawing up of the budgetary framework could not start before the finalisation of the strategy following the extensive feedback received during the consultation phase - 31 December 2014

The interim actions can be summarised as follows:

- Draw up of Action Plan (Completed)
- Development of Terms of Reference for an Economist/ Accountant to assist with drawing up the Budgetary Framework (Completed)
- Review proposed Action Plan and present it for approval (completed)
- Contracting Budgetary Framework (completed)
- Present Budgetary Framework to Permanent Secretary and Parliamentary Secretary (Health) (31/12/14)
- Present Action Plan and Budgetary Framework to Parliamentary Committee on Health (31/12/14)
- Presentation to Cabinet (31/12/14)

The indicators for monitoring the performance of the local public health system have been chosen and prioritised following extensive consultation with a number of stakeholders. The conceptual framework behind the HSPA has now been revisited and refocused following these consultations and the data collection for the compilation of a first assessment is already underway.

Early school leaving

Actions reported with regards to *ex-ante* conditionality (10.1) 'early school leaving' comprise data collection, mapping and stakeholder involvement as well as the development and adoption of the actual strategy. Mechanisms to monitor and control the process of strategy implementation are also envisaged (e.g. MT, EI, RO).

Higher education

Eight Member States reported actions related to *ex-ante* conditionality (10.2) 'higher education' at PA level (BG, ES, EL, HR, HU, LT, MT, and RO). Actions reported are 'the development of a specific tertiary education strategy' and related action plans. Spain reported a university reform (see Box 12).

Box 12: Spanish action plan on higher education described in the PA and in the regional OP Castilla-La Mancha

Since June 2014, a university reform is under way to improve the quality, internationalisation and specialisation of Spanish universities. This should be achieved through a model that focuses on education, research and knowledge transfer. Several Royal Decrees (RD) will be published for the implementation of the University reform, including inter alia: RD on consistency of different degrees with EU level degrees, RD to modify the accreditation model for teachers, RD for the evaluation of university centres, RD for flexibility in the duration of university degrees.

The action plan consists of verifying the approval of these Royal Decrees by the second half of 2015.

At regional level, revision of regional systems has been initiated in order for regional tools to be compatible to the set of objectives and the following criterion:
Improvement of the actions carried out by the University of Castilla-La Mancha related to the integration in higher education of all social groups who have economic independency.

Impulse through the Education Department in all measures already carried out aimed to reduce early school leaving rate in higher education.

Lifelong learning

Nine Member States reported actions related to *ex-ante* conditionality (10.3) 'lifelong learning'. Those actions mainly comprise the development of a lifelong learning strategy, either as part of a comprehensive education plan covering all different aspects of education (e.g. HR) or independently (e.g. EE, CY, HU, RO). Action plans also include the development of roadmaps (e.g. LT, HU) and data collection systems (e.g. IT).

Strategy for vocational education and training

Eleven Member States reported action plans at PA level to fulfil *ex-ante* conditionality (10.4) 'vocational education and training'. There are actions related to legal changes (e.g. BG), action plan development and strategy development (e.g. CY, EL). Hungary has initiated a specific project 'Developing the quality and content of VET and adult education'. Latvia is planning to adopt a dedicated and comprehensive action plan (see Box 13, below). Portugal fulfils all criteria except for the European Credit System for Vocational Education and Training (ECVET).

Actions proposed in order to meet these requirements are the finalisation of a pilot project on qualifications, the application of a new methodology, the implementation of quality models, the follow-up of schools and some elements of quality control.

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

Box 13: Latvia's action plan on vocational education

The action plan aims:

- To improve the labour market relevance of VET systems in close cooperation with relevant stakeholders including through mechanisms for skills anticipation, adaptation of curricula and the strengthening of work-based learning provision in its different forms.
- To increase the quality and attractiveness of VET including through the establishment of a national approach for quality assurance for VET (for example in line with the European Quality Assurance Reference Framework for Vocational Education and Training) and the implementation of the transparency and recognition tools (for example European Credit system for Vocational Education and Training -ECVET).

Institutional capacity

Action plans related to the *ex-ante* conditionality (11) 'institutional capacity' include, *inter alia*, the implementation of civil service act and exams for official staff members (e.g. CZ); approval of the Corruption Prevention and Alleviation State Programme 2014-2020 (LV); quality action plan and capacity improvements (e.g. FR, EL, PT); adoption and implementation of monitoring and evaluation procedures (e.g. HU) and evaluation of the capacity of public administration implementing these measures (e.g. PT). Romania described a comprehensive set of actions including a needs assessment, measurement system for administration costs, pilot career development, and general skill development. Slovenia as well as Estonia referred to the OECD Public Governance Review. Slovenia reported the participation in the OECD workshops on Peer2Peer followed by an analysis of gaps and the development of a public administration development strategy.

5.2 Assessment of action plans

Even though there is little concern about action plans in general, some issues were raised by the interviewees. The action plans developed vary between OPs. Some are very generic whilst others are very detailed. The main challenge has therefore been to find the right balance between generic and very detailed action plans. In addition, actions need to be clearly defined and with clear outputs. In addition, regular monitoring of the implementation of the action plans should be set up. Some desk officers have mentioned that they do not have sufficient information to track the action plans and therefore find it difficult to assess whether the planned actions will ultimately lead to the fulfilment of the relevant conditionalities.

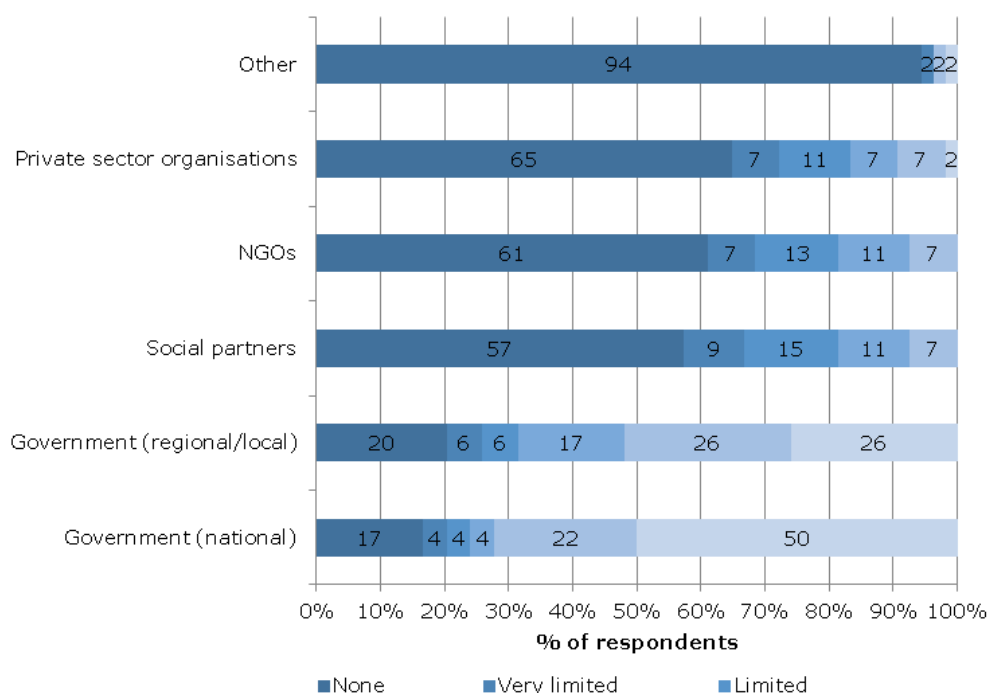
Member States/ Managing Authorities were asked to engage in regular dialogues with the relevant DGs to follow-up on the action plans. They also prepared letters regarding the fulfilment or explanation about how they finally meet the conditionality. The deadlines of specific actions can be extended with agreement from the EC (although they should anyhow be completed before December 2016). According to the interviews conducted at Member State level, action plans development has already started during the OP programming phase. Nonetheless, an intensive communication with the EC is required in order to make sure that all the ExACs will be fulfilled on time.

Furthermore, interviews revealed that the quality of the action plans could be improved and that Member States may need additional support to develop and implement the actions (although some Member States have used TA funding to implement some of the actions).

Finally, it was also stated that some ExACs were causing more difficulties than others to some Member States, especially those relating to public procurement.

Based on the survey results, Figure 38 below, depicts the level of stakeholder involvement in establishing action plans relating to the ExACs. Similarly to the applicability and fulfilment phases³⁷, national and sub-national government departments and agencies are the most important stakeholders. Thirty-nine respondents (72%) involved in the establishment of OP action plans rated national government stakeholders as either 'significant' or 'very significant' to the process. Regional/ local government were also seen as key stakeholders, with more than half (28 or 52%) rating their involvement as significant. NGOs and social partners had four respondents (7%) each citing significant involvement, compared to five (9%) for private sector organisations.

Figure 38: Level of involvement of different stakeholders in establishing the action plan



Source: ICF survey data; total number of respondents: 54; in some cases figures do not add up to 100% due to rounding

5.3 Main conclusions related to action plans

Some form of action plan accompanied all general criteria not fulfilled at the time of the PA/OP adoption. **Action plans reported** by Member States **are generally in line with the requirements** laid down in the Regulations. They are **consistent at PA and OP level** with any existing differences between both documents mainly due to the time lag between their submission.

³⁷ See chapters 3 and 4 of this report

Regarding **general *ex-ante* conditionalities most** of the Member States reported **action plans** already at the PA level with the exception of general *ex-ante* conditionality 7 'statistical system'. This conditionality had the highest number of action plans. Around 50 action plans are reported at the PA level in 15 Member States and around 250 distinct action plans have been reported at OP level in 18 Member States. Altogether 22 Member States have reported action plans either at PA or at OP level.

The analysis showed that the timing of action plans fulfilment for different GExACs varies. Action plans for anti-discrimination, gender and disability were mostly due in 2015 while action plans concerning public procurement and state aid were to, a significant extent, planned to be fulfilled in 2016.

The responsible authority to implement action plans related to general *ex-ante* conditionalities are mostly **at national level**. Only for public procurement and statistical systems, regional authorities are involved.

Expected actions mainly cover capacity building and training measures as well as the provision of different support actions. In the case of public procurement, state aid and environmental legislation the implementation and adoption of legal acts also represent an important part of the action plans.

Activities planned in action plans are at their most advanced stage for GExAC 6 (environmental legislation) and they covered mainly training and capacity building actions. Regarding the conditionality 'statistical systems' which is at the least advanced state, action plans comprise the adjustment of indicator systems as well as the establishment of a new monitoring and evaluation system.

Twenty-five Member States reported action plans concerning thematic *ex-ante* conditionalities. There are around 500 distinct action plans reported at OP level³⁸. Responsibility of fulfilment of action plans is divided between national and regional authorities. Some OPs refer to one single action plan, while in other cases each region presents its own action plan. The largest number of action plans is reported for 'research and innovation' - smart specialisation, which is also due to the fact that smart specialisation was the thematic *ex-ante* conditionality with the highest share of regional applicability and thus with the highest involvement of regional authorities. Considerable numbers are also reported for energy efficiency, water sector and transport master plan.

The majority of the action plans (80%) had an implementation deadline by the end of 2015. However, some deadlines have already expired and some *ex-ante* conditionalities might be already fulfilled. There is a significant number of thematic *ex-ante* conditionalities concerning thematic objective environment, transport, labour market and administrative capacity building due in 2016.

³⁸ At the time of the analysis, 13 out of 216 OPs had not been approved. Therefore, the exact number of action plans remains not precisely defined.

Action plans primarily consist of strategy development and implementation measures. Strategic and legal changes are reported for digital growth, energy efficiency, transport, poverty reduction, Roma strategy, health strategy, education and administrative capacity change. A number of implementation measures such as data collection or the development of a monitoring system is described for smart specialisation, risk management, poverty reduction, Roma strategy and education. Finally, capacity building is an important part of the action plans listed for transport and administrative capacity.

Interviews revealed that the development of the action plans has been started during the OP programming phase. For a small number of cases the quality of the action plans could have been improved. Allowing Member States more time and additional support to develop and implement the action plans may have helped in this regard.

Finally, the way some *ex-ante* conditionalities have been implemented also reflects largely the requirements of the position and observation papers of the EC.

6 SIGNIFICANT PREJUDICE

Significant prejudice is set out by Article 19 (5) of Regulation (EU) No 1303/2013. According to this the European "Commission may decide, when adopting a programme, to suspend all or part of interim payments to the relevant priority of that Programme pending the completion of actions where necessary [in cases where *ex-ante* conditionalities are not or only partially fulfilled] to avoid significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives of the priority concerned". For this reason the European Commission examined during the programming phase the extent to which *ex-ante* conditionalities were likely to be fulfilled by the end of 2016 and whether any potential non-fulfilment would lead to any significant prejudice, i.e. would hamper the effectiveness and the efficiency of the achievement of the specific objective concerned (EC 2013, Guidance on Ex-ante Conditionalities for the European Structural and Investment Funds (ESI)).

The Commission's assessment was based on:

- the degree of non-fulfilment of the applicable *ex-ante* conditionality concerned;
- the level of risk that through the non-respect of the criteria concerned, there will be a negative impact on the effective and efficient achievement of the specific objective of the priority or priorities concerned.

A Committee has been created at EC level to carry out the assessment of 'significant prejudice'. The Committee is composed of members from the four DGs in charge of the ESI Funds.

Cases of significant prejudice are first highlighted by desk officers who then raise them with their senior officers. Should the risk of significant prejudice be confirmed, it would then be sent to the Secretariat of the Committee (REGIO ex Unit F1) for consideration.

No decision on the suspension of payments at programme adoption has been taken.

According to Managing Authorities' interviews some Member States encountered difficulties with the fulfilment of *ex-ante* conditionalities, which could have led to significant prejudice. Some letters to the Member States identifying risks of significant prejudice were drafted by the Commission's services but never formally issued. Instead, some Member States imposed self-suspension of funding until the fulfilment of the outstanding ExAC.

For example, in Portugal, there was a disagreement on the transposition of relevant parts of the Energy Performance of Buildings Directive and the European Commission started to prepare the process of significant prejudice. However, in order to avoid a formal significant prejudice process, Portugal decided to resort to self-suspension. This self-suspension affected those OPs that had selected the relevant investment priority, namely supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector.

Overall, Member States / Managing Authorities mentioned that the procedure regarding the suspension of payments was rather unclear. For instance, it was not clear how the suspension of payments would take place. Some stakeholders even suggested that the Regulation was not sufficiently robust to impose suspension of funding.

6.1 Main conclusions on significant prejudice

There is a provision to suspend payments to Member States if it is felt that there is significant prejudice to the 'effectiveness and the efficiency of the achievement of specific objectives concerned'. To date, no such suspensions have been imposed by the Commission, although there have been examples of self-suspension by Member States to avoid a formal suspension.

7 PROCESS OF IMPLEMENTING EX-ANTE CONDITIONALITIES

This section reviews the process of assessment of *ex-ante* conditionalities taking evidence from all parts of the study but especially interviews and the online (web) survey. It provides an assessment of the overall performance of the ExAC assessment process, of the coordinating role of the Commission (including with regard to the added value of guidance materials, communications and negotiations between the Commission and Member States). It also examines the relevance of the timing dedicated to ExAC assessment, the adequacy of capacity and resources involved in the process, and its overall impact on the effectiveness and the efficiency of cohesion policy's achievements.

Overall performance of the ExAC assessment process

The process for assessing *ex-ante* conditionalities was not a routine or a straightforward task but has been a learning process for all parties involved. *Ex-ante* conditionalities have been a new element for all parties involved and there have been some difficulties at the start in terms of defining roles and responsibilities.

However, the general opinion from Member States/ Managing Authorities is that the ExAC process has been useful albeit very ambitious in terms of strategic reform for many Member States and for their cooperation with the EC regarding the shared management framework. Similarly, desk officers think that Member States are now better prepared for the implementation of cohesion policy investment and have the necessary high standard knowledge in view of this. They consider that overall the ExAC process has provided added value for some Member States, something that could have positive impact beyond the ESI Funds programmes.

On the other hand, some Member States voiced some concerns with regard to the ExAC assessment process. Some considered that the number of ExACs was too high and this view depended on the situation of the Member State. This is why a few Member States (primarily smaller EU-15 countries) considered that a more limited number of *ex-ante* conditionalities combined with a targeted approach for issues that may not be applicable throughout the European Union would have been more appropriate.

According to the web survey, Managing Authorities rated the fulfilment phase of the ExAC assessment process as more onerous compared with the applicability phase of the process. Forty-four respondents (45%) considered the fulfilment phase as either 'difficult' or 'very difficult', against 24 respondents (25%) for the applicability phase.

The respondents generally attributed the difficulty with fulfilment to uncertainty surrounding the required analysis and the information required by the Commission. Difficulties in coordination between regional and national levels were also often mentioned as problematic in countries with a large number of OPs (e.g. France, Greece and Italy). This was especially true for the assessment of applicability.

Three main criticisms on the assessment process have been collected through responses from the web survey:

- First, two respondents suggested that it was not always clear how the fulfilment of the thematic *ex-ante* conditionalities would be achieved (references to high level of subjectivity in the evaluation of satisfaction by the EC, absence of concrete and objective information about the criteria for meeting the *ex-ante* conditionalities).

- Second, there were problems in establishing a direct and genuine link with the specific objective under the relevant investment priority.
- Third, a few respondents were not convinced that the fulfilment of the *ex-ante* conditionalities would have a significant impact on the efficient and effective implementation of the investment priority (especially for ESF; too much focus on legal and regulatory aspects which will have no real impact on the effectiveness of the OP; not sufficiently tailored to Central and Eastern European countries).

Several respondents also expressed concrete concerns with regard to the smart specialisation strategy (TExAC 1.1). The effective implementation of RIS3 was often considered quite difficult and complex to put in place ("High effort and high demands in the innovation strategy"; "forced connections between regional institutions with each other and with national institutions"). However, addressing such shortage of connections among the regional actors relevant for supporting innovation was precisely one of the objectives of smart specialisation.

Coordination role of the European Commission

DG REGIO's main role was to assess fulfilment of the ExAC and to coordinate negotiations with Member States/ Managing Authorities. It is also responsible for managing the coordination of other DGs, including DG EMPL, DG CNECT, DG ECHO, DG CLIMA, DG MOVE, DG ENER and DG ENV, and their input into the assessment and significant prejudice process. The European Commission also provided some assistance and support in relation to the development and implementation of action plans relating to specific ExACs.

Guidance material

An internal guidance document on *ex-ante* conditionalities was prepared and addressed to geographical units before the adoption of the Regulation (EU) No1303/2013. Its purpose was to provide a framework for the assessment by the Commission of the consistency and adequacy of the information provided by Member States on the applicability and fulfilment of *ex-ante* conditionalities. Draft versions of the document were also made available to Member States in March and September 2013.

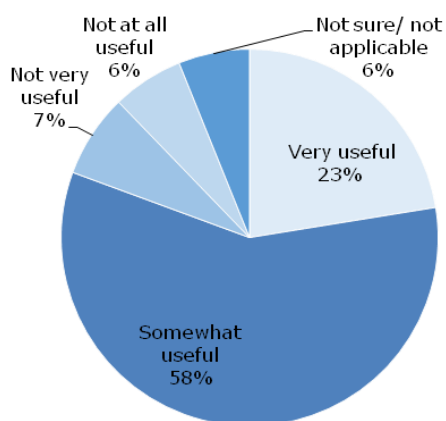
The quality of the guidance material was, despite its length, appreciated by the desk officers. Most of the interviewees were satisfied with the guidance material, particularly during the early stages of the assessment process. The guidance provided details to the desk officers regarding the fulfilment criteria and detailed approach to interpret the annexes in the Regulation (EU) No 1303/2013.

Notwithstanding the above, the interviewees had some concerns regarding the status of the sub-criteria presented in the guidance material. The sub-criteria are not specified in the regulation and represent the Commission's understanding of the regulatory provisions. As such, it has no legal power. This became an issue when the EC focused too much on the sub-criteria in the negotiations with the Member States.

From the interviews with the Member States / Managing Authorities, it is evident that the assessment grid was the most valuable tool for completing the assessment.

According to the web survey (see Figure 39), the majority of respondents, to different extent, found the guidance material useful – 22 respondents (23%) believed the Commission guidance was 'very useful' whilst 57 respondents (58%) felt that it was only 'somewhat useful'. Only 13 respondents (14%) felt that, at best, the guidance was 'not very useful'. Two out of the seven respondents who selected 'not very useful' were involved in the French OPs. Respondents from Spain and Poland were the most critical of the guidance with two respondents each selecting 'not at all useful'.

Figure 39: Usefulness of guidance prepared by the Commission in completing the *ex-ante* conditionality section of the OPs



Source: ICF survey data; total number of respondents: 98

Notwithstanding the generally positive responses regarding the guidance material, there were some more critical responses from the survey stating that:

- The guidance was not always sufficiently concrete and objective, raising therefore interpretation issues and leading to inconsistent messages from the Commission towards Member States and Managing Authorities.
- The guidance was criticised for being not sufficiently tailored to country-specific situations.
- It was also sometimes considered as very technical and too heavy to manage by five Member States.

Similar views were expressed in some of the interviews, with many Member State stakeholders suggesting that the guidance material went beyond the Regulation (EU) No 1303/2013 in terms of the fulfilment criteria. The main criticisms raised by Member States in the interviews were as follows:

- Some Member States complained about the length of the guidance and about the fact that additional information (such as links to different directives and strategies) may leave room for interpretation.
- Some Member States also considered that they should not be assessed as a general rule against the guidelines, but against the regulations. They also considered that it was sometimes a challenge to distinguish what was required by the regulation and what had been added in guidelines.
- Although considering the guidance as a useful document, some Member States also regretted that it lacked a clear target group as it was directed to politicians as well as technical experts and was considered by some stakeholders as being too technical and theoretical.

The remarks made by the Member States/ Managing Authorities were generally shared by the desk officers. Desk officers also mentioned the fact that due to the differences in approaches to the programming Member States did not follow the guidance in the same way, which led to differences in implementation.

Whilst the guidance was still considered useful for the Member States, some mentioned that it was finalised too late due to the late agreement of the co-legislators on the regulatory text (even though first drafts of the guidance had been shared with Member States before the adoption of the CPR, in March and September 2013). The late publication of the guidance material also caused delays, frustration and duplication of work in many Member States.

Communication and negotiations

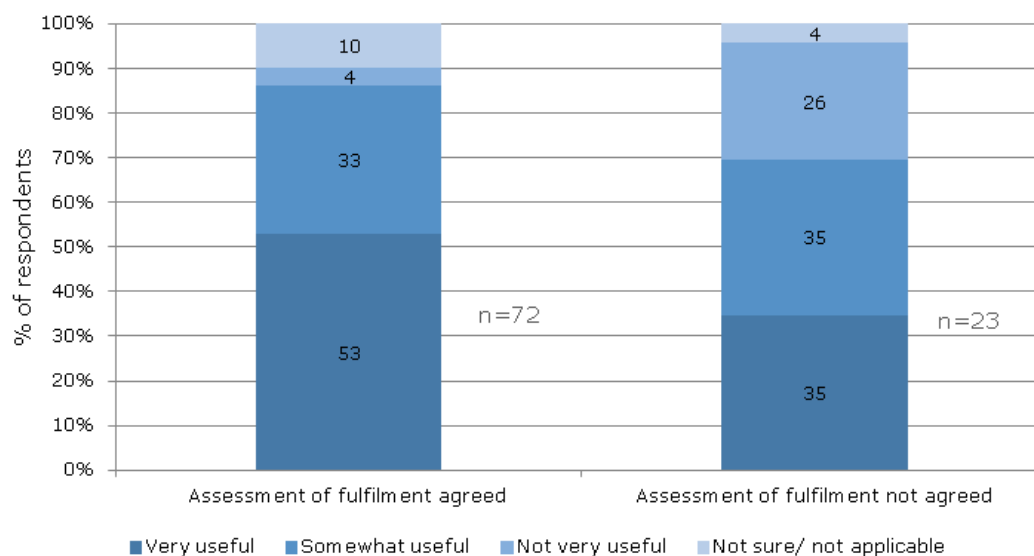
In addition to the guidance material, meetings and training sessions, informal exchanges also took place to assist Member States. Opinions differ amongst the desk officers within the Commission as to whether this was helpful. For example, some interviewees suggested that desk officers from different DGs or even within the same DG were not always communicating a clear and consistent message whether or not an ExAC was considered fulfilled or not.

The opinion of Member States/ Managing Authorities on communication is less critical than for desk officers. Whilst they considered the communication with the EC to be time consuming, they generally considered it to have a positive impact (even though it was sometimes difficult to separate formal and informal communications).

This is also reflected in the responses to the web survey. Indeed, almost half (48% or 46 respondents) felt the informal dialogue was 'very useful'. Less than a fifth (18%) felt that the informal dialogue between themselves and the Commission was 'not very useful'. The majority of respondents finding the dialogue 'not very useful', with four out of the six respondents coming from Germany.

Figure 40 also demonstrates some correlation between the Commission agreeing with Managing Authorities an assessment of fulfilment and their feelings surrounding the informal dialogue. For instance, respondents involved in OPs with a Commission-approved fulfilment assessment were more inclined to rate the dialogue as useful. In contrast, where the Commission disagreed with the assessment of fulfilment, respondents found the informal dialogue less useful. For example, 26% of respondents with fulfilment not agreed believed dialogue was 'not very useful'; this, compared to only 4% with an agreed assessment further illustrates the correlation between difficulty agreeing fulfilment and negative views surrounding informal dialogue.

Figure 40: Usefulness of informal dialogue with the European Commission



Source: ICF survey data; total number of respondents: 95; in some cases figures do not add up to 100% because of rounding

Timing

Overall, the ExAC process was considered as a very lengthy process where more time would be needed in order to ensure higher quality deliverables. One Commission interviewee observed that much time has been spent on the assessment rather than helping Member States to improve their OPs, suggesting that the timing of the process was not optimal. Most of the interviewees also mentioned that Member States needed more time to set up their action plans.

Some interviewees from Member States reported that much more time to plan and implement the ExAC would have been required. Some of them even stated that this lack of time to work on the ExAC had a negative impact on how the role of sound strategies and public policies has been perceived and dealt with in terms of transparency and partnerships, which ultimately could affect the quality of strategies developed.

Capacities

Regarding the organisation of the ExAC process from a Member State perspective, it has been necessary to aggregate, merge and process a large volume of information from a substantial range of Ministries before submitting the OPs to the European Commission.

Indeed, findings from the interviews with the Member States/ Managing Authorities reveal the existence of specific working groups and/ or meeting platforms established by Member States in order to ease the communication flow amongst Ministries, agencies and regional governments. However, the EC desk officer interviews suggest that such activities were difficult to manage by the Member States.

The competences of the staff involved in the ExAC process may have had important implications. The amount of information that desk officers had to deal with combined with insufficient internal resources was a major issue within the EC. The workload, particularly for the desk officers, did not only include the formal assessment, there has also been a lot of time invested in the informal dialogue and in the co-development, monitoring and assessment of the action plans. Such workload was probably not envisaged at the start of the process.

The interviewees also report that the allocation of resources to this process has been determined by the financial allocation in the Member States and the size of the DG within the EC. However, the resources committed to the ExAC process were not always proportional to the financial allocation. This was particularly the view in those Member States with a small financial allocation.

Additional ExACs

Whilst the general feeling among the interviewees was that all the relevant ExACs had been covered by the regulation, a small number of the interviewees suggested that it would have been useful to include ExACs in relation to infrastructure investment in the field of education or health. The existing criteria in relation to health and education focus on access and efficiency rather than a mapping of infrastructure needs.

The above views are also reflected in the web survey responses, with the overwhelming majority of respondents (92%) reporting that all relevant ExACs were covered by the Regulation (EU) No 1303/2013. Only seven respondents (7%) believed additional ExACs would have improved investment effectiveness. One of them specified further that a conditionality relating to the issue of qualification of cultural heritage should have been included.

Impact on effectiveness and efficiency

Figure 41 below, depicts web survey respondents' views regarding the extent to which they felt the ExACs are useful in contributing to the effectiveness and efficiency of the investments under the OPs.

More than half (52% or 50 respondents) thought that the ExAC will help improve the effectiveness and efficiency in the following ways:

- The fulfilment of *ex-ante* conditionalities has been considered by several Member States as the basis for the successful implementation of the programme.
- *Ex-ante* conditionalities help ensuring a greater degree of alignment in measures and actions with regard to the 'operationalisation' and implementation of specific Operational Programmes.
- The *ex-ante* conditionalities are a very useful mechanism, which further encourages the Government to implement improvements in the functioning of the public administration and to launch reforms and processes that otherwise would probably not have occurred or would occur much more slowly and with lower quality results.
- The thematic *ex-ante* conditionalities help public administrations to become more effective and to meet the requirements resulting from EU Directives. They are also a good guide for monitoring and coordinating coverage of the requirements of all stakeholders.

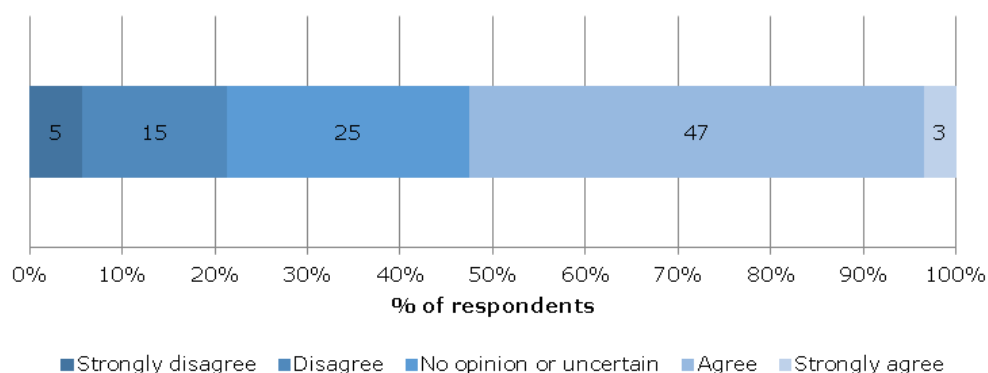
The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

However, around a fifth of respondents (21%) disagreed, feeling that there was no significant increase in effectiveness or efficiency.

- For example, a couple of Member States considered that, except for the innovation strategy, the *ex-ante* conditionalities do not lead to increased efficiency, but rather to additional expenditure in the OP preparation. This was most strongly voiced by one of the larger EU-15 countries especially with *ex-ante* conditionalities with a legal and regulatory character. Some *ex-ante* conditionalities, especially those in relation to ESF, also appeared for a couple of Member States as less important in terms of providing a direct link between the conditions and the results. This point was particularly made by DK.
- The relationship between the assessment of the *ex-ante* conditionalities and the effectiveness and efficiency of programmes was also sometimes considered as too abstract.
- One respondent also commented that the *ex-ante* conditionalities focused too much on Western Europe standards and did not sufficiently address the specific context of Central and Eastern European Member States, and thus would not lead to effective solutions in their regions.

Around a quarter (25 respondents or 26%) had either no opinion or were uncertain as to the impacts the ExAC process had on effectiveness or efficiency of the OPs.

Figure 41: The *ex-ante* conditionalities assessment process was useful in contributing to the effectiveness and efficiency of OPs



Source: ICF survey data; total number of respondents: 93; in some cases figures do not add up to 100% because of rounding

7.1 Main conclusions on the process of implementation

The assessment of applicability and fulfilment of the ExACs has been a new element and it has thus been a learning process for all stakeholders involved.

An initial challenge for the European Commission DGs dealing with ESI Funds was to make sure that the Member States/Managing Authorities understand the importance, objectives and priorities of the assessment process and its expected outcome.

During programming, **Member States/Managing Authorities raised the issue of inconsistency between Partnership Agreements and Operational Programmes** as the PAs had been developed and approved much earlier than OPs. This led to a situation where the fulfilment of some conditionalities could not be confirmed on time at national level and Member States had to find a way to ensure the timely submission of the PA.

At first there were some initial misunderstandings regarding the applicability of the general ExAC in the OPs, which were resolved in the course of the process. Indeed, there were some uncertainties as to the level (national / regional) at which the applicability had to be reflected (PA / OP). In addition, the reporting of thematic conditionalities at PA and/or OP level has been a source of confusion, which was cleared through discussions between Member States and the Commission. Still, there is evidence of both duplication and gaps between PA and OPs. Despite this, there has not been any major disagreements between the Commission and Member States/Managing Authorities in assessing the applicability of the *ex-ante* conditionality with an exception of smart specialisation, where there have been exchanges of views about what constitutes the fulfilment of the conditionality.

In most cases, **the assessment of applicability and fulfilment was not undertaken/conducted separately** in terms of the involvement of stakeholders and the process of decision-making. The assessment of fulfilment was considered as more difficult than applicability. It was also noted that **due to the differences in approaches to programming, Member States did not follow the guidance in the same way and this led to differences in implementation.**

The effort to fulfil *ex-ante* conditionalities was considered to be high and sometimes disproportionate. This was reported by some Member States' representatives in interviews and web surveys, particularly by Member States where a large number of investment priorities had been selected in the OPs and more so where the number of thematic objectives was high in comparison to the programmes' resources. The same view was also expressed by Member States with a small ESI Funds budget focusing on a couple of thematic objectives only, which had been required to adjust strategies and policy standards in order to fulfil the *ex-ante* conditionalities. A few Member States (particularly those with smaller financial allocations) believe that the process would have been more efficient if it had focused on a limited number of ExACs.

Regarding the organisation of the ExAC process from a Member State perspective, it has been necessary to aggregate, merge and process a large volume of information from a number of ministries before submitting the OPs to the Commission. **Member States established specific working groups or meeting platforms in order to ease the communication flow amongst Ministries, agencies and regional governments.** Such activities were often difficult to manage.

Member States tended to provide rather limited and general information to the Commission about the assessment of fulfilment of *ex-ante* conditionalities. As a result the Commission was unable to judge the level of fulfilment without requesting additional information.

In the interviews with the Commission the lack of information to assess whether the planned actions will ultimately lead to the fulfilment of the relevant *ex-ante* conditionality was often mentioned.

The communication with the European Commission has generally been considered as very positive. Both interviewees and web survey responses underlined this positive assessment. However, based on the interviews with Member States it appears, particularly at the beginning of the programming period, that different DGs and even different units in the same Directorate did not always provide the same interpretation of the draft regulations. This however improved following the publication of the guidance.

The guidance material provided by the Commission has generally been well received. For example, 81% of the web survey respondents stated that the guidance was somewhat or very useful. Nevertheless, there have been some issues regarding the sub-criteria specified within the guidance, which were criticised for going beyond the scope of the relevant regulation. For Member States / Managing Authorities **the assessment grid was the most valuable tool for completing the assessment.** In addition to the guidance material, meetings and training sessions, informal exchanges also took place to assist Member States. The informal dialogue was found not useful by less than a fifth of respondents to the web survey.

Some **Member States also expressed concern regarding the time available to implement the action plans.** Whilst the European Commission is monitoring and continuously following up the implementation of the action plans, it will not be clear until the Annual Implementation Reports are submitted in 2017 whether the action plans will have been completed.

However, the **general opinion of Member States/ Managing Authorities is that the ExAC process has been useful,** albeit very ambitious in terms of strategic reform for many Member States and for their cooperation with the EC regarding the shared management framework. Similarly, Commission desk officers think that **Member States are now better prepared for the implementation of cohesion policy investments** and have the necessary knowledge in view of this. They consider that overall the ExAC process has provided added value in some Member States that would have positive impacts beyond the ESI Funds programmes.

The establishment of *ex-ante* conditionalities for investments are in principle seen as positive, particularly by Member States with a high volume of ESI Funds. The reason for this view was that *ex-ante* conditionalities triggered changes at national and regional level, which would not have been put in place or would have happened at a slower rate. Furthermore, many of the EU-13 are still adapting their national and regional policy system in accordance with the cohesion policy requirements in order to implement structural funds more effectively and efficiently. Those Member States are prepared to adjust and willing to do so., In other Member States, the need for adapting their administrative arrangements became clear during the process.

The parallel involvement of national and regional levels in the implementation of *ex-ante* conditionalities led in some cases to situations that could hinder the application of the ExAC mechanism.

A suggestion to consider *ex ante* conditionalities concerning infrastructure investment in the field of education or health, focusing on the mapping of needs was provided and considered as important for the majority of web survey respondents.

8 CONCLUSIONS

Ex-ante conditionalities have been introduced in the regulatory framework for the ESI Funds for the 2014-2020 period to ensure that the effectiveness of EU investment is not undermined by unsound policies or regulatory, administrative or institutional bottlenecks. These conditionalities, established by the EU co-legislators, focus on the framework conditions that are seen as being most relevant for investment. They have been built on existing obligations that Member States have to comply with.

The general conclusions of the study, taking account of the screening of PA and OPs, where Member States reflect applicable conditionalities, their fulfilment and accompanying action plans, the experience of the geographical experts, the results of the web survey of Managing Authorities and the interviews with EC, national and regional authorities are presented below.

Two caveats apply to the results of the study. First, the views of the Member States and Managing Authorities present a snapshot at a time when the process of fulfilment was still on-going in several Member States, especially the completion of action plans concerning the compliance of ExACs. The screening of documents took place between January and July 2015, collecting data from first adopted versions of PAs and OPs. Second, it should be noted that the more critical comments came from Managing Authorities where the ExAC process had been difficult or not yet resolved at the time of this assignment.

8.1 *Applicability and work division between PA and OP level*

Applicability

According to Article 2(33) of Regulation (EU) No 1303/2013 Member States had to assess applicability of the *ex-ante* conditionalities in relation to the specific objectives associated with the investment priorities and Union priorities selected in the programmes. The "assessment of applicability by the Commission shall take account of the principle of proportionality having regard to the level of support allocated, where appropriate" (Regulation (EU) No 1303/2013, Article 19(3)).

All Member States considered all general GExAC applicable and mostly listed them in the Partnership Agreements with the exception of general *ex-ante* conditionality 7 'statistical systems', which was quite often referred to Operational Programmes.

Regarding thematic *ex-ante* conditionalities, all proved relevant. More than 2,000 conditionalities have been included in Operational Programmes, i.e. nine applicable ExACs on average per OP. **Most frequently** applied thematic *ex-ante* conditionalities are the '**smart specialisation**' (1.1), '**Small Business Act**' (3.1), '**energy efficiency**' (4.1), '**digital growth**' (2.1) and '**research and infrastructure**' (1.2) occurring in more than 50% of the OPs.

On the other hand, some *ex-ante* conditionalities have been rarely considered as applicable: 'Labour market institutions' (8.3), 'Active health ageing' (8.4) and 'Smart energy infrastructure' (7.4) apply in less than 10% of the OPs.

The applicability of thematic *ex-ante* conditionalities in PAs and corresponding OPs is broadly consistent. However, Member States tend to fail to refer to the relevant provisions in the regulation, which allow exceptions to the presentation of information in the OP about applicable *ex-ante* conditionalities.

Overwhelmingly, thematic conditionalities were tackled at national level. Some Member States have applied them at both levels and some had varying approaches depending on the conditionality. Different approaches could be explained by the initial confusion over which conditionalities apply to which level and how to reflect them in PAs and OPs. Though this became clearer through discussions between Member States and the Commission, there is still evidence of both, duplication and gaps between both documents.

Interviews revealed that most of the issues relating to the *ex-ante* conditionalities occurred at the start of the programming phase before the official adoption of the regulations in late 2013. Before that, the relevant provisions had changed on a number of cases and it was not clear on what basis the applicability of *ex-ante* conditionalities should be assessed (see chapter 7).

The identification of applicable *ex-ante* conditionalities has not raised major issues and disagreements with the Commission during negotiations, although a substantial number of specific investment priorities selected in the OP without applying corresponding thematic *ex-ante* conditionality, or justifying this approach, specifically at criterion level. In about a quarter of cases, the lack of justification was problematic as selected investment priority was directly linked to the specific objective in the OP.

Work division

The assessment of applicability and fulfilment of *ex-ante* conditionalities spanned the preparation of the PA and the corresponding OPs. In accordance with the regulatory requirements of Article 96(8) of Regulation (EU) No 1303/2013 it was possible to reflect *ex-ante* conditionalities at PA level only. Use of this option has been made, for instance, by Latvia and Estonia. Conversely, Belgium has assessed *ex-ante* conditionalities only at OP level. From the screening and considering the work division between PAs and OPs the following two groups can be distinguished:

First, there are those **OPs where the majority of the *ex-ante* conditionalities have been developed at national / PA level** and the conditionalities have been copied into the OP or reference has been made to the PA. In some regional OPs the conditionalities have not been considered relevant because the corresponding responsibility is at national level. Most of the strategies, especially those related to ESF have been tackled that way (e.g. EL, PT, DE). This applies also to transport and other infrastructure investments which are mainly regulated at national level (the main exception being PL).

Second, other Member States (e.g. EE, FI, DE, FR and IT) **divided the reporting of relevant *ex-ante* conditionalities between the PA and the OPs**. In some OPs references to the PA are completely missing. This seems to be based on the assumption by some Member States that conditionalities, which were assessed at PA level, did not need to be reported and assessed at OP level but this, however, is not in line with the regulations.

8.2 Fulfilment

Setting out the assessment of *ex-ante* conditionalities in both documents, in the PA and corresponding OPs has caused duplication in work and errors. The Commission's regulation proposals adopted in October 2011 were discussed by the co-legislators between 2011 and 2013 and finally adopted in December 2013.

Interviews revealed that the programming process started when the trilogue between the European Parliament, the Council and the European Commission was still ongoing, with the dialogues between the Commission and Member States following subsequently. This led to the fact that Partnership Agreements and Operational Programmes have not been elaborated in parallel, which would have increased the efficiency of the process. According to interviews Managing Authorities would have appreciated if the information on conditionalities had been required only in one of the two documents.

The general *ex-ante* conditionalities are to a large extent fulfilled. Based on the PA and OP screening it can be concluded that the general *ex-ante* conditionalities have been to a large extent fulfilled at national level at the time of the study. Overall, around three-quarters of general *ex-ante* conditionalities were considered as already fulfilled at the time of programme adoption. Only *ex-ante* conditionality 7 related to statistical systems has been mostly transferred to the regional level due to its links with the monitoring and evaluation structure of the Operational Programmes. Criteria relating to training and capacity building requirements appeared as most difficult to fulfil. The highest level of non-fulfilment appears in the definition of targets for result indicators/adoption of systems of indicators, as well as in the area of administrative capacity for public procurement and in the application of public procurement rules. According to desk officers, a significant number of action plans were delayed pending the fulfilment of general *ex-ante* conditionality 7.

Most of the actions completed to fulfil general *ex-ante* conditionalities before the adoption of the programme were a combination of implementation steps (such as training and dissemination, evaluation and monitoring), capacity building and legal changes. Frequently actions involved the designation of specially authorised persons on matters concerning anti-discrimination or gender equality, as well as the training and capacity development of persons involved in state aid implementation, gender and public procurement. Legislative changes mainly concerned GExAC 4 'public procurement' and GExAC 6 'environmental legislation'.

Overall, around 50 **action plans** have been reported at PA level in 15 Member States and around 250 action plans have been reported at OP level in 18 Member States with regard to general *ex-ante* conditionalities. Action plans for general *ex-ante* conditionalities 1 (anti-discrimination), 2 (gender) and 3 (disability) were mostly due in 2015 while action plans related to public procurement and state aid were to a significant extent planned to be fulfilled in 2016.

Thematic *ex-ante* conditionalities required a greater amount of work and this is still in progress in many EU-13 OPs. Overall, more than half of the thematic *ex-ante* conditionalities were considered as already fulfilled at the time of programme adoption. The fulfilment of thematic *ex-ante* conditionalities was considered as particularly complex, often involving differences of views between the Commission and the Member States as to what was required.

The analysis of PAs and OPs showed that Member States with a bigger number of less developed regions have a greater amount of not fulfilled thematic *ex-ante* conditionalities. On the other hand, most of the smaller EU-15 Member States tried to avoid any action plans. In some cases, the choice of investment priorities was influenced by the desire to avoid certain conditionalities³⁹.

The highest share of partial fulfilment and non-fulfilment occurs in thematic *ex-ante* conditionalities related to innovation, which is also because smart specialisation was the thematic *ex-ante* conditionality with the highest share of regional applicability. There is also a considerable share of not fulfilled *ex-ante* conditionalities for transport, environmental requirements, health strategy and social inclusion. However, the total number of unfulfilled conditionalities for TO 6 and 7 is considerably lower than for TO 1.

This has been confirmed by interviews where the most problematic *ex-ante* conditionalities identified were those related to smart specialisation strategy, transport, environment and poverty reduction. The reason for the high number of partially and not fulfilled RIS3 lies in the fact that RIS3 has been in many cases a regional responsibility and RIS3 has been one of the *ex-ante* conditionalities with the most demanding process.

Overall, the criteria with the highest level of difficulties concern the implementation dimension of conditionalities. For example, criteria related to the establishment of the monitoring and review system (e.g. smart specialisation, health strategy or Roma strategy, administrative capacity) and training and capacity building requirements appear difficult to fulfil. In the water and waste sector the implementation of management plans and recycling measures are also particularly problematic. In the transport sector, while all criteria show a low fulfilment rate, interviews demonstrated that the most problematic issue touched on the fulfilment for a "realistic and mature project pipeline".

Twenty Member States reported action plans related to thematic *ex-ante* conditionalities. There are more than 500 action plans reported at OP level⁴⁰. Responsibilities for the fulfilment of action plans are divided between national and regional authorities. Some OPs refer to one single action plan, while in other cases each region presents its own action plan. The largest number of action plans was reported for 'research and innovation' - smart specialisation, which is also due to the fact that smart specialisation was the thematic *ex-ante* conditionality with the highest share of regional applicability and thus with the highest involvement of regional authorities. Considerable numbers are also reported for innovation and to a lesser extend energy efficiency, water sector and transport comprehensive (master) plan.

The majority of the action plans (80%) were due to be fully implemented by the end of 2015. However, some deadlines have already expired and some *ex-ante* conditionalities might be already fulfilled. There is a significant number of thematic *ex-*

³⁹ These has been stated in general terms and cannot be related to specific *ex-ante* conditionalities. However, the statement has been reported in smaller Member States with low number of thematic *ex-ante* conditionalities.

⁴⁰ At the time of the analysis, 13 out of 216 OPs have not been approved. Therefore, the exact number of action plans was still not precisely defined.

ante conditionalities related to thematic objectives 'environment', 'transport', 'labour market' and 'administrative capacity building' due in 2016.

The main actions required to fulfil these *ex-ante* conditionalities have been strategic development and implementation actions of various kinds. Both types of action require substantial manpower and time. Policy framework changes have to go through a lengthy process of democratic decision making and therefore take time. Implementation actions are manifold and of diverse character. First, training and capacity building measures at central as well as regional and local levels require time and manpower. Second, there are measures regarding monitoring and evaluation. These might require help in order to achieve synergies between different monitoring systems.

The division of responsibilities between the national and regional level has often made the management of the ExAC process more complex. In some, mainly smaller, Member States the national level tends to assume the fulfilment of all conditionalities. Other Member States split their responsibilities between the national and the regional level, leading sometimes to situations where *ex-ante* conditionalities could receive different assessment at national and regional levels.

There is a provision to suspend payments to Member States if it is considered that there is significant prejudice to the effective and efficient achievement of the specific objectives sought through the implementation of the programmes. To date no such suspension has been imposed by the Commission although there have been examples of 'self-suspension' by Member States to avoid a formal suspension.

8.3 Strengths and weaknesses with regard to the implementation of the provisions relating to ex-ante conditionalities during the programming phase

Performance of the ExAC process. The assessment of applicability and fulfilment of the ExAC has been a new element and it has thus been a learning process for all stakeholders involved. Consequently, there have been some issues particularly during the early stages of the process. One of the main issues has been the uncertainty regarding the level at which (PA/OPs) ExAC were meant to be applied and fulfilled, and how the fulfilment at national level would relate to OPs implemented at regional level. According to the interviewees, this has been a difficult process for the Commission and the Managing Authorities to manage and coordinate. From the comments received there have also been some inconsistencies in approach, which is to be expected when a new element is introduced to the programming.

For some ExACS there has also been a lack of clarity in terms of the criteria for fulfilment. This has particularly been evident for those ExAC that are not connected to a specific legislation or directive; for instance, smart specialisation was frequently highlighted in the interviews and the web survey. Managing Authorities stated that the delays in adopting the EU regulation and issuing the guidance (though two drafts had been shared with Member States before the adoption of the regulation) have also led to some inefficiencies, such as re-writing parts of the assessment of fulfilment, particularly for countries that were early developers of the PA and OPs.

To facilitate the implementation of *ex-ante* conditionalities, the Commission provided support through guidance, experts and events. Particular efforts were undertaken in respect of smart specialisation strategy and included the development of a

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

comprehensive guide, over 100 experts were contracted to assist Member States and regions, and the creation in 2011 of the Smart Specialisation Platform.

Ex-ante conditionalities are in principle seen as making a positive contribution. Interviews as well as the web-survey revealed that especially those Member States with a high volume of ESI Funds considered *ex-ante* conditionalities as positive. The reason for this was that *ex-ante* conditionalities triggered changes at national and regional level, which would not have been put in place or would have happened at a slower rate. Furthermore, many of the EU-13 are still adapting their national and regional policy delivery systems in accordance with the cohesion policy requirements in order to implement structural funds more effectively and efficiently.

In general *ex-ante* conditionalities were seen as positive in addressing existing problems. Where, after the assessment process, a consensus has been established between Member States and EC this has acted as a confirmation of the need for, and relevance of the conditionalities.

The effort for fulfilling ex-ante conditionalities is considered by some to be high and sometimes disproportionate. Some Member States representatives stated in interviews and the web survey that the efforts required to fulfil *ex-ante* conditionalities has been high, especially in Member States where a large number of investment priorities had been selected in the Operational Programmes (and particularly where the number of thematic objectives is large in comparison to the programmes resources). The same criticism was also expressed by Member States with a small ESI Funds budget focusing on a couple of thematic objectives only, which had been required to adjust strategic and policy standards in order to fulfil the *ex-ante* conditionalities.

The communication with the European Commission has generally been considered as very positive. Both interviewees and web survey respondents underlined this positive assessment. However, based on the interviews with the Member States it appears, particularly at the beginning of the programming period, that different Commission Directorates General and even different units in one Directorate General were not always providing the same interpretation of the draft regulations. This situation, however, improved following the publication of the guidance.

The guidance material provided by the Commission has generally been well received. For example, 81% of the web survey respondents stated that the guidance was somewhat or very useful. Nevertheless, there have been some issues regarding the sub-criteria specified within the guidance, which were criticised for going beyond the scope of the relevant regulation.

Some Member States expressed their concerns relating to the time available to implement the action plans. While the European Commission is monitoring and continuously following up the implementation of the action plans, it will not be clear until the Annual Implementation Reports are submitted in 2017 whether the action plans will have been completed.

A number of observations have been made by the Member States/ Managing Authorities with regard to the overall ExAC process. Some Member States stated during the interviews that the process would have been more efficient if it had focused more on individual Member States and on selected priorities, and had started much earlier. Roles and competences should have also been better clarified.

8.4 The value of the *ex-ante* conditionalities in establishing a better framework to ensure the effectiveness of investments

Although it is too early to assess the impact of the new mechanism of *ex-ante* conditionality in increasing the effectiveness of ESI Funds interventions, it is already clear that their application has helped identify situations in which relevant regulatory, institutional or strategic preconditions for effective intervention had not been met at the time of programme adoption. They have encouraged Member States to put in place necessary remedial actions and mobilise resources needed to address these issues. First indications are, therefore, that programmes have, in many cases, addressed at an early stage problems that would only have become visible once expenditure on projects had already taken place.

The process has also allowed the European Commission to engage in a dialogue with the Member States, resulting in an improved understanding of the situation on the ground, particularly in the newer Member States, such as Croatia.

In some other countries, including many of the EU-15 Member States, the process has been viewed as providing less added value, although they appreciate the logic of the process. In particular, some Member States have taken issue with the time and resources required to complete the assessment, particularly in those countries where the level of EU funding is relatively small and all of the ExACs are fulfilled. Indeed, some Member States argued that the proportionality principle has not been applied effectively, especially those with a lower EU funding.

Nevertheless, there have also been very good reports of added value in the EU-15 Member States. For example, many Member States indicated that the ExAC process helped them in thinking more about their approach to R&D and innovation (e.g. Germany, UK and Sweden). Moreover, some of the Member States considered that the process resulted in better coordination between national stakeholders (e.g. Austria).

In many of the EU-13 countries, there were largely positive views on the added value of the *ex-ante* conditionalities. For example, it was noted that the *ex-ante* conditionalities helped in terms of identifying gaps/issues in the legal, regulatory and institutional environment, as well as ensuring compliance with EU directives. Moreover, it provided an important impetus for change and reform, by requiring action plans to be developed and implemented within strict deadlines.

Notably, the added value of the *ex-ante* conditionalities was not necessarily restricted to the ESI Funds and they may in fact have an impact on the effectiveness of investments from other funding sources.

Many of the frustrations with the 'process' felt by the Commission, Managing Authorities and other relevant actors, stem from 'growing pains' associated with new procedures and the unanticipated time and effort required to implement *ex-ante* conditionalities by all sides. As a general lesson to be learnt from the process, there is a broad agreement that **the conditionalities mostly add value and will result in a more effective and structured deployment of ESI Funds.**

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

9 ANNEXES

9.1 Operational programmes

Member State	EU 12/15	CCI	Funds	Union support	Adopted
AT	EU15	2014AT16RFOP001	RF	€ 536,262,079	Y
BE	EU15	2014BE16RFOP001	RF	€ 94,671,959	Y
BE	EU15	2014BE16RFOP002	RF	€ 173,565,258	Y
BE	EU15	2014BE16RFOP003	RF	€ 681,350,151	Y
BG	EU13	2014BG05M2OP001	M2	€ 596,000,681	Y
BG	EU13	2014BG16M1OP001	M1	€ 1,604,449,168	Y
BG	EU13	2014BG16RFOP002	RF	€ 1,181,615,516	Y
CY	EU13	2014CY16M1OP001	M1	€ 561,840,720	Y
DE	EU15	2014DE16M2OP001	M2	€ 978,308,565	Y
DE	EU15	2014DE16RFOP001	RF	€ 246,585,038	Y
DE	EU15	2014DE16RFOP002	RF	€ 494,704,308	Y
DE	EU15	2014DE16RFOP003	RF	€ 635,213,023	Y
DE	EU15	2014DE16RFOP004	RF	€ 845,643,228	Y
DE	EU15	2014DE16RFOP005	RF	€ 103,021,352	Y
DE	EU15	2014DE16RFOP006	RF	€ 55,472,740	Y
DE	EU15	2014DE16RFOP007	RF	€ 240,723,366	Y
DE	EU15	2014DE16RFOP008	RF	€ 967,806,184	Y
DE	EU15	2014DE16RFOP009	RF	€ 1,211,731,011	Y
DE	EU15	2014DE16RFOP010	RF	€ 186,025,744	Y
DE	EU15	2014DE16RFOP011	RF	€ 143,289,081	Y
DE	EU15	2014DE16RFOP012	RF	€ 2,089,020,063	Y
DE	EU15	2014DE16RFOP013	RF	€ 1,427,495,230	Y
DE	EU15	2014DE16RFOP014	RF	€ 271,244,600	Y
DE	EU15	2014DE16RFOP015	RF	€ 1,165,077,915	Y
DK	EU15	2014DK16RFOP001	RF	€ 206,615,841	Y
EE	EU15	2014EE16M3OP001	M3	€ 3,534,560,285	Y
ES	EU15	2014ES16RFOP001	RF	€ 3,939,184,810	Y
ES	EU15	2014ES16RFOP008	RF	€ 52,657,054	Y
ES	EU15	2014ES16RFOP010	RF	€ 535,649,953	Y
ES	EU15	2014ES16RFOP011	RF	€ 808,433,501	Y
ES	EU15	2014ES16RFOP015	RF	€ 883,369,308	Y
ES	EU15	2014ES16RFOP016	RF	€ 33,806,515	Y
ES	EU15	2014ES16RFOP020	RF	€ 43,373,208	Y
ES	EU15	2014ES16RFOP021	RF	€ 176,449,979	Y
ES	EU15	2014ES16RFSM001	RF	€ 800,036,600	Y
FI	EU15	2014FI05M2OP001	M2	€ 4,995,500	Y
FI	EU15	2014FI16M2OP001	M2	€ 1,299,461,095	Y
FR	EU15	2014FR05M0OP001	M0	€ 482,482,139	Y
FR	EU15	2014FR05M2OP001	M2	€ 203,800,000	Y
FR	EU15	2014FR16M0OP001	M0	€ 459,274,123	Y
FR	EU15	2014FR16M0OP002	M0	€ 255,979,483	Y
FR	EU15	2014FR16M0OP003	M0	€ 255,091,336	Y
FR	EU15	2014FR16M0OP004	M0	€ 228,141,635	Y
FR	EU15	2014FR16M0OP005	M0	€ 289,630,881	Y
FR	EU15	2014FR16M0OP006	M0	€ 424,744,633	Y
FR	EU15	2014FR16M0OP007	M0	€ 460,087,007	Y
FR	EU15	2014FR16M0OP008	M0	€ 299,202,678	Y
FR	EU15	2014FR16M0OP009	M0	€ 610,700,000	Y
FR	EU15	2014FR16M0OP011	M0	€ 520,951,695	Y
FR	EU15	2014FR16M0OP012	M0	€ 847,956,471	Y
FR	EU15	2014FR16M0OP013	M0	€ 433,090,120	Y

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

Member State	EU 12/15	CCI	Funds	Union support	Adopted
FR	EU15	2014FR16M2OP001	M2	€ 226,830,000	Y
FR	EU15	2014FR16M2OP002	M2	€ 223,730,000	Y
FR	EU15	2014FR16M2OP003	M2	€ 369,500,000	Y
FR	EU15	2014FR16M2OP004	M2	€ 115,850,000	Y
FR	EU15	2014FR16M2OP005	M2	€ 184,510,000	Y
FR	EU15	2014FR16M2OP006	M2	€ 144,670,000	Y
FR	EU15	2014FR16M2OP007	M2	€ 408,540,000	Y
FR	EU15	2014FR16M2OP008	M2	€ 379,460,000	Y
FR	EU15	2014FR16M2OP009	M2	€ 267,950,000	Y
FR	EU15	2014FR16M2OP010	M2	€ 509,400,000	Y
FR	EU15	2014FR16M2OP011	M2	€ 392,480,000	Y
FR	EU15	2014FR16M2OP012	M2	€ 214,400,000	Y
FR	EU15	2014FR16M2TA001	M2	€ 72,600,631	Y
FR	EU15	2014FR16RFOP001	RF	€ 34,000,000	Y
FR	EU15	2014FR16RFOP002	RF	€ 33,000,000	Y
FR	EU15	2014FR16RFOP003	RF	€ 40,000,000	Y
FR	EU15	2014FR16RFOP004	RF	€ 25,000,000	Y
FR	EU15	2014FR16RFOP005	RF	€ 33,000,000	Y
FR	EU15	2014FR16RFOP006	RF	€ 87,207,490	Y
FR	EU15	2014FR16RFOP007	RF	€ 1,130,456,061	Y
EL	EU15	2014GR05M2OP001	M2	€ 377,228,416	Y
EL	EU15	2014GR16M1OP001	M1	€ 4,333,917,411	Y
EL	EU15	2014GR16M2OP001	M2	€ 3,646,378,272	Y
EL	EU15	2014GR16M2OP002	M2	€ 771,891,345	Y
EL	EU15	2014GR16M2OP003	M2	€ 320,904,539	Y
EL	EU15	2014GR16M2OP004	M2	€ 260,677,513	Y
EL	EU15	2014GR16M2OP005	M2	€ 392,88,583	Y
EL	EU15	2014GR16M2OP006	M2	€ 264,590,187	Y
EL	EU15	2014GR16M2OP007	M2	€ 95,026,211	Y
EL	EU15	2014GR16M2OP008	M2	€ 216,273,871	Y
EL	EU15	2014GR16M2OP009	M2	€ 181,539,758	Y
EL	EU15	2014GR16M2OP010	M2	€ 241,335,599	Y
EL	EU15	2014GR16M2OP011	M2	€ 347,906,498	Y
EL	EU15	2014GR16M2OP012	M2	€ 911,973,576	Y
EL	EU15	2014GR16M2OP013	M2	€ 84,085,281	Y
EL	EU15	2014GR16M2OP014	M2	€ 406,191,468	Y
EL	EU15	2014GR16M3TA001	M3	€ 317,612,097	Y
HU	EU13	2014HR16M1OP001	M1	€ 6,881,045,559	Y
HU	EU13	2014HU05M2OP001	M2	€ 2,612,789,000	Y
HU	EU13	2014HU16M0OP001	M0	€ 7,733,969,530	Y
HU	EU13	2014HU16M1OP001	M1	€ 3,217,105,883	Y
HU	EU13	2014HU16M1OP003	M1	€ 3,331,808,225	Y
HU	EU13	2014HU16M2OP001	M2	€ 3,389,963,001	Y
HU	EU13	2014HU16M2OP002	M2	€ 463,703,439	Y
IE	EU15	2014IE16RFOP001	RF	€ 160,097,179	Y
IE	EU15	2014IE16RFOP002	RF	€ 249,109,350	Y
IT	EU15	2014IT05M2OP001	M2	€ 1,615,225,000	Y
IT	EU15	2014IT05M2OP002	M2	€ 583,799,997	Y
IT	EU15	2014IT16RFOP001	RF	€ 368,200,000	Y
IT	EU15	2014IT16RFOP005	RF	€ 68,310,599	Y
IT	EU15	2014IT16RFOP008	RF	€ 240,947,636	Y
IT	EU15	2014IT16RFOP010	RF	€ 456,532,597	Y
IT	EU15	2014IT16RFOP011	RF	€ 196,272,620	Y
IT	EU15	2014IT16RFOP012	RF	€ 485,237,258	Y

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Member State	EU 12/15	CCI	Funds	Union support	Adopted
IT	EU15	2014IT16RFOP013	RF	€ 168,691,644	Y
IT	EU15	2014IT16RFOP014	RF	€ 482,922,370	Y
IT	EU15	2014IT16RFOP017	RF	€ 396,227,254	Y
IT	EU15	2014IT16RFOP018	RF	€ 54,334,047	Y
IT	EU15	2014IT16RFOP019	RF	€ 178,146,602	Y
IT	EU15	2014IT16RFOP020	RF	€ 32,175,475	Y
LT	EU13	2014LT16MAOP001	MA	€ 6,709,396,130	Y
LU	EU15	2014LU16RFOP001	RF	€ 19,502,403	Y
LV	EU13	2014LV16MAOP001	MA	€ 4,418,233,214	Y
MT	EU13	2014MT16M1OP001	M1	€ 587,096,106	Y
MT	EU13	2014MT16RFSM001	RF	€ 15,000,000	Y
NL	EU15	2014NL16RFOP001	RF	€ 103,541,823	Y
NL	EU15	2014NL16RFOP002	RF	€ 189,847,057	Y
NL	EU15	2014NL16RFOP003	RF	€ 113,627,056	Y
NL	EU15	2014NL16RFOP004	RF	€ 100,302,292	Y
PL	EU13	2014PL16CFTA001	CF	€ 700,123,363	Y
PL	EU13	2014PL16M1OP001	M1	€ 27,413,746,885	Y
PL	EU13	2014PL16M2OP001	M2	€ 2,252,546,589	Y
PL	EU13	2014PL16M2OP002	M2	€ 1,903,540,287	Y
PL	EU13	2014PL16M2OP003	M2	€ 2,230,958,174	Y
PL	EU13	2014PL16M2OP004	M2	€ 906,929,693	Y
PL	EU13	2014PL16M2OP005	M2	€ 2,256,049,115	Y
PL	EU13	2014PL16M2OP006	M2	€ 2,878,215,972	Y
PL	EU13	2014PL16M2OP007	M2	€ 2,089,840,138	Y
PL	EU13	2014PL16M2OP008	M2	€ 944,967,792	Y
PL	EU13	2014PL16M2OP009	M2	€ 2,114,243,760	Y
PL	EU13	2014PL16M2OP010	M2	€ 1,213,595,877	Y
PL	EU13	2014PL16M2OP011	M2	€ 1,864,811,698	Y
PL	EU13	2014PL16M2OP012	M2	€ 3,476,937,134	Y
PL	EU13	2014PL16M2OP013	M2	€ 1,364,543,593	Y
PL	EU13	2014PL16M2OP014	M2	€ 1,728,272,095	Y
PL	EU13	2014PL16M2OP015	M2	€ 2,450,206,417	Y
PL	EU13	2014PL16M2OP016	M2	€ 1,601,239,216	Y
PL	EU13	2014PL16RFOP001	RF	€ 8,613,929,014	Y
PL	EU13	2014PL16RFOP002	RF	€ 2,172,494,670	Y
PL	EU13	2014PL16RFOP003	RF	€ 2,000,000,000	Y
PT	EU15	2014PT16CFOP001	CF	€ 2,252,742,164	Y
PT	EU15	2014PT16M2OP001	M2	€ 3,378,770,731	Y
PT	EU15	2014PT16M2OP002	M2	€ 2,155,031,031	Y
PT	EU15	2014PT16M2OP003	M2	€ 1,082,944,371	Y
PT	EU15	2014PT16M2OP004	M2	€ 1,139,752,011	Y
PT	EU15	2014PT16M2OP005	M2	€ 833,334,547	Y
PT	EU15	2014PT16M2OP006	M2	€ 403,347,728	Y
PT	EU15	2014PT16M2OP007	M2	€ 318,676,488	Y
PT	EU15	2014PT16M3OP001	M3	€ 4,413,930,409	Y
PT	EU15	2014PT16RFTA001	RF	€ 138,000,000	Y
RO	EU13	2014RO16RFOP001	RF	€ 1,329,787,234	Y
RO	EU13	2014RO16RFTA001	RF	€ 212,765,958	Y
SE	EU13	2014SE16RFOP001	RF	€ 61,018,878	Y
SE	EU13	2014SE16RFOP002	RF	€ 66,020,424	Y
SE	EU15	2014SE16RFOP003	RF	€ 56,017,329	Y
SE	EU15	2014SE16RFOP004	RF	€ 70,021,662	Y
SE	EU15	2014SE16RFOP005	RF	€ 37,011,451	Y
SE	EU15	2014SE16RFOP006	RF	€ 147,045,490	Y

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

Member State	EU 12/15	CCI	Funds	Union support	Adopted
SE	EU15	2014SE16RFOP007	RF	€ 154,047,657	Y
SE	EU15	2014SE16RFOP008	RF	€ 212,065,605	Y
SE	EU15	2014SE16RFOP009	RF	€ 133,244,750	Y
SI	EU13	2014SI16MAOP001	MA	€ 3,011,899,768	Y
SK	EU13	2014SK05M0OP001	M0	€ 2,204,983,517	Y
SK	EU13	2014SK16M1OP001	M1	€ 3,966,645,373	Y
SK	EU13	2014SK16M1OP002	M1	€ 3,137,900,110	Y
SK	EU13	2014SK16RFOP001	RF	€ 2,266,776,537	Y
SK	EU13	2014SK16RFOP002	RF	€ 1,754,490,415	Y
SK	EU13	2014SK16RFTA001	RF	€ 159,071,912	Y
UK	EU15	2014UK16RFOP002	RF	€ 5,683,314	Y
UK	EU15	2014UK16RFOP003	RF	€ 308,029,636	Y
UK	EU15	2014UK16RFOP004	RF	€ 476,788,331	Y
UK	EU15	2014UK16RFOP005	RF	€ 1,203,510,449	Y
UK	EU15	2014UK16RFOP006	RF	€ 203,312,254	Y
BG	EU13	2014BG16M1OP002	M1	€ 1,504,824,141	Y
BG	EU13	2014BG16RFOP001	RF	€ 1,311,704,793	Y
IT	EU15	2014IT16RFOP003	RF	€ 1,776,000,000	Y
RO	EU13	2014RO16RFOP002	RF	€ 6,700,000,000	Y
UK	EU15	2014UK16RFOP001	RF	€ 3,628,260,303	Y
CZ	EU13	2014CZ16RFOP002	RF	€ 4,640,699,371	Y
CZ	EU13	2014CZ16M1OP001	M1	€ 4,695,769,435	Y
ES	EU13	2014ES16RFOP019	RF	€ 296,405,884	Y
CZ	EU13	2014CZ16M1OP002	M1	€ 2,636,592,864	Y
CZ	EU13	2014CZ16RFOP001	RF	€ 4,331,062,617	Y
CZ	EU13	2014CZ16M2OP001	M2	€ 201,590,104	Y
CZ	EU13	2014CZ16CFTA001	CF	€ 223,704,582	Y
CZ	EU13	2014CZ05M2OP001	M2	€ 2,768,062,110	Y
ES	EU15	2014ES16RFOP002	RF	€ 5,520,800,404	Y
ES	EU15	2014ES16RFOP004	RF	€ 119,947,338	Y
ES	EU15	2014ES16RFOP005	RF	€ 253,544,257	Y
ES	EU15	2014ES16RFOP009	RF	€ 314,403,219	Y
ES	EU15	2014ES16RFOP012	RF	€ 43,748,911	Y
ES	EU15	2014ES16RFOP013	RF	€ 568,024,839	Y
ES	EU15	2014ES16RFOP017	RF	€ 249,844,457	Y
ES	EU15	2014ES16RFOP018	RF	€ 48,914,685	Y
HU	EU13	2014HU05M3OP001	M3	€ 794,773,905	Y
IT	EU15	2014IT16M2OP001	M2	€ 76,803,727	Y
IT	EU15	2014IT16M2OP004	M2	€ 588,100,000	Y
IT	EU15	2014IT16M2OP005	M2	€ 926,250,000	Y
IT	EU15	2014IT16RFOP002	RF	€ 1,382,800,000	Y
IT	EU15	2014IT16RFOP009	RF	€ 115,389,592	Y
IT	EU15	2014IT16RFOP015	RF	€ 465,489,541	Y
RO	EU13	2014RO16M1OP001	M1	€ 9,418,524,484	Y
ES	EU15	2014ES16RFOP003	RF	€ 2,908,321,617	N
ES	EU15	2014ES16RFOP006	RF	€ 134,938,629	N
ES	EU15	2014ES16RFOP007	RF	€ 997,694,789	N
ES	EU15	2014ES16RFOP014	RF	€ 679,333,821	N
IT	EU15	2014IT16M2OP002	M2	€ 3,560,479,496	N
IT	EU15	2014IT16M2OP003	M2	€ 283,250,000	N
IT	EU15	2014IT16M2OP006	M2	€ 1,784,217,631	N
IT	EU15	2014IT16RFOP004	RF	€ 115,754,890	N
IT	EU15	2014IT16RFOP007	RF	€ 3,085,159,382	N
IT	EU15	2014IT16RFOP016	RF	€ 3,418,431,018	N

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

Member State	EU 12/15	CCI	Funds	Union support	Adopted
IT	EU15	2014IT16RFOP021	RF	€ 300,155,358	N
IT	EU15	2014IT16RFOP022	RF	€ 413,015,666	N
SE	EU15	2014SE16M2OP001	M2	€ 16,848,250	N

9.2 General ex-ante conditionalities

	General ex-ante conditionalities	Definition
1.	Anti-discrimination	The existence of administrative capacity for the implementation and application of Union anti-discrimination law and policy in the field of ESI Funds
2.	Gender	The existence of administrative capacity for the implementation and application of Union gender equality law and policy in the field of ESI Funds
3.	Disability	The existence of administrative capacity for the implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in the field of ESI Funds in accordance with Council Decision 2010/48/EC (9)
4.	Public procurement	The existence of arrangements for the effective application of Union public procurement law in the field of the ESI Funds.
5.	State aid	The existence of arrangements for the effective application of Union State aid rules in the field of the ESI Funds.
6.	Environmental legislation relating to Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA)	The existence of arrangements for the effective application of Union environmental legislation related to EIA and SEA.
7.	Statistical systems and result indicators	The existence of a statistical basis necessary to undertake evaluations to assess the effectiveness and impact of the programmes.
		The existence of a system of result indicators necessary to select actions, which most effectively contribute to desired results, to monitor progress towards results and to undertake impact evaluation.

Source: Regulation (EU) No 1303/2013, ANNEX XI, Part II

9.3 Thematic ex-ante conditionalities

1.1.	Research and innovation: The existence of a national or regional smart specialisation strategy in line with the National Reform Programme, to leverage private research and innovation expenditure, which complies with the features of well-performing national or regional R&I systems.	Research and innovation
1.2.	Research and Innovation infrastructure. The existence of a multi-annual plan for budgeting and prioritisation of investments.	Research and infrastructure
2.1.	Digital growth: A strategic policy framework for digital growth to stimulate affordable, good quality and interoperable ICT-enabled private and public services and increase uptake by citizens, including vulnerable groups, businesses and public administrations including cross border initiatives.	Digital growth

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

2.2.	Next Generation Network (NGN) Infrastructure: The existence of national or regional NGN Plans which take account of regional actions in order to reach the Union high-speed Internet access targets, focusing on areas where the market fails to provide an open infrastructure at an affordable cost and of a quality in line with the Union competition and State aid rules, and to provide accessible services to vulnerable groups.	Next Generation Network
3.1.	Specific actions have been carried out to underpin the promotion of entrepreneurship taking into account the Small Business Act (SBA).	Small Business Act
4.1.	Actions have been carried out to promote cost-effective improvements of energy end use efficiency and cost-effective investment in energy efficiency when constructing or renovating buildings.	Energy efficiency
4.2.	Actions have been carried out to promote high-efficiency co-generation of heat and power.	Co-generation
4.3.	Actions have been carried out to promote the production and distribution of renewable energy sources (4).	Renewables
5.1.	Risk prevention and risk management: the existence of national or regional risk assessments for disaster management taking into account climate change adaptation	Risk management
6.1.	Water sector: The existence of a) a water pricing policy, which provides adequate incentives for users to use water resources efficiently and b) an adequate contribution of the different water uses to the recovery of the costs of water services at a rate determined in the approved river basin management plan for investment supported by the programmes.	Water sector
6.2.	Waste sector: Promoting economically and environmentally sustainable investments in the waste sector particularly through the development of waste management plans consistent with Directive 2008/98/EC, and with the waste hierarchy.	Waste sector
7.1.	Transport: The existence of a comprehensive plan or plans or framework or frameworks for transport investment in accordance with the Member States' institutional set-up (including public transport at regional and local level) which supports infrastructure development and improves connectivity to the TEN-T comprehensive and core networks.	Transport 'master' plan
7.2.	Railway: The existence within the comprehensive transport plan or plans or framework or frameworks of a specific section on railway development in accordance with the Member States' institutional set-up (including concerning public transport at regional and local level) which supports infrastructure development and improves connectivity to the TEN-T comprehensive and core networks. The investments cover mobile assets, interoperability and capacity building.	Railway
7.3.	Other modes of transport, including inland-waterways and maritime transport, ports, multimodal links and airport infrastructure: the existence within the comprehensive transport plan or plans or framework or frameworks of a specific section on inland-waterways and maritime transport, ports, multimodal links and airport infrastructure, which contribute to improving connectivity to the TEN-T comprehensive and core networks and to promoting sustainable regional and local mobility.	Other modes of transport
7.4.	Development of smart energy distribution, storage and transmission systems. The existence of comprehensive plans for investments in smart energy infrastructure, and of regulatory measures, which contribute to improving energy efficiency and security of supply	Smart energy infrastructure
8.1.	Active labour market policies are designed and delivered in the light of the Employment guidelines.	Active labour market policies
8.2.	Self-employment, entrepreneurship and business creation: the existence of a strategic policy framework for inclusive start-up.	Self-employment
8.3.	Labour market institutions are modernised and strengthened in the light of the Employment Guidelines; Reforms of labour market institutions will be preceded by a clear strategic policy framework and ex-ante assessment including with regard to the gender dimension	Labour market institutions

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds.

8.4.	Active and healthy ageing: Active ageing policies are designed in the light of the Employment Guidelines	Active health ageing
8.5.	Adaptation of workers, enterprises and entrepreneurs to change: The existence of policies aimed at favouring anticipation and good management of change and restructuring.	Adaptation of workers, enterprises to change
8.6.	The existence of a strategic policy framework for promoting youth employment including through the implementation of the Youth Guarantee. This ex-ante conditionality applies only for implementation of the YEI	Strategy for youth employment
9.1.	The existence and the implementation of a national strategic policy framework for poverty reduction aiming at the active inclusion of people excluded from the labour market in the light of the Employment guidelines.	Strategy for poverty reduction
9.2.	A national Roma inclusion strategic policy framework is in place	Roma inclusion strategy
9.3.	Health: The existence of a national or regional strategic policy framework for health within the limits of Article 168 TFEU ensuring economic sustainability.	Health
10.1.	Early school leaving: The existence of a strategic policy framework to reduce early school leaving (ESL) within the limits of Article 165 TFEU.	Early school leaving
10.2.	Higher education: the existence of a national or regional strategic policy framework for increasing tertiary education attainment, quality and efficiency within the limits of Article 165 TFEU.	Higher education
10.3.	Lifelong learning (LL): The existence of a national and/or regional strategic policy framework for lifelong learning within the limits of Article 165 TFEU.	Lifelong learning
10.4.	The existence of a national or regional strategic policy framework for increasing the quality and efficiency of VET systems within the limits of Article 165 TFEU.	Strategy for vocational education and training
11.1.	The existence of a strategic policy framework for reinforcing the Member States' administrative efficiency including public administration reform	Institutional capacity

Source: Regulation (EU) No 1303/2013, ANNEX XI, Part I

9.4 Thematic objectives⁴¹

1.	Strengthening research, technological development and innovation
2.	Enhancing access to, and use and quality of, information and communication technologies (ICT) (Broadband target) (referred to in point (2) of the first paragraph of Article 9)
3.	Enhancing the competitiveness of small and medium-sized enterprises (SMEs) (referred to in point (3) of the first paragraph of Article 9)"
4.	Supporting the shift towards a low-carbon economy in all sectors (referred to in point (4) of the first paragraph of Article 9)
5.	Promoting climate change adaptation, risk prevention and management (Climate change target) (referred to in point (5) of the first paragraph of Article 9)
6.	Preserving and protecting the environment and promoting resource efficiency (referred to in point (6) of the first paragraph of Article 9)
7.	Promoting sustainable transport and removing bottlenecks in key network infrastructures (referred to in point (7) of the first paragraph of Article 9)
8.	Promoting sustainable and quality employment and supporting labour mobility (Employment target) (referred to in point (8) of the first paragraph of Article 9)
9.	Promoting social inclusion, combating poverty and any discrimination (poverty target) (referred to in point (9) of the first paragraph of Article 9)
10.	Investing in education, training and vocational training for skills and lifelong learning (Education target) (referred to in point (10) of the first paragraph of Article 9)
11.	Enhancing institutional capacity of public authorities and stakeholders and efficient public administration

⁴¹ Article 9 of Regulation (EU) No 1303/2013

9.5 Relationship between *ex-ante* conditionalities and investment priorities

TO	IP ERDF/CF	IP ESF	ExAC	ExAC criteria			
1	IP 1a	None	1.1	1.1.1, 1.1.2			
			1.2	1.2.1			
	IP 1b		1.1	1.1.1, 1.1.2			
2	IP 2a	None	2.2	2.2.1			
	IP 2b		2.1	2.1.1			
	IP 2c		2.1	2.1.1			
3	IP 3a	None	3.1	3.1.1			
	<i>IP 3b</i>		<i>None</i>	<i>None</i>			
	<i>IP 3c</i>		<i>None</i>	<i>None</i>			
	IP 3d		3.1	3.1.1			
4	IP 4a	None	4.3	4.3.1 4.3.2			
	<i>IP 4b</i>		<i>None</i>	<i>None</i>			
	IP 4c		4.1	4.1.1 4.1.2 4.1.3 4.1.4			
					<i>IP 4d</i>	<i>None</i>	<i>None</i>
					<i>IP 4e</i>	<i>None</i>	<i>None</i>
	<i>IP 4f</i>		<i>None</i>	<i>None</i>			
	IP 4g		4.2	4.2.1 4.2.2			
5	<i>IP 5a</i>	<i>None</i>	<i>None</i>	<i>None</i>			
	IP 5b	None	5.1	5.1.1			
6	IP 6a	None	6.2	6.2.1, 6.2.2, 6.2.3, 6.2.4			
					IP 6b	6.1	6.1.1, 6.1.2
	<i>IP 6c</i>	<i>None</i>	<i>None</i>	<i>None</i>			
	<i>IP 6d</i>	<i>None</i>	<i>None</i>	<i>None</i>			
	<i>IP 6e</i>	<i>None</i>	<i>None</i>	<i>None</i>			
	<i>IP 6f</i>	<i>None</i>	<i>None</i>	<i>None</i>			
	<i>IP 6g</i>	<i>None</i>	<i>None</i>	<i>None</i>			
7	IP 7a	None	7.1	7.1.1			
			7.2	7.2.1 7.2.2			
			7.3	7.3.1			
	IP 7b		7.1	7.1.1			
			7.2	7.2.1 7.2.2			
			7.3	7.3.1			
	IP 7c		7.1	7.1.1			
			7.2	7.2.1 7.2.2			
			7.3	7.3.1			
	IP 7d		7.1	7.1.1			
			7.2	7.2.1 7.2.2			
			7.3	7.3.1			
	IP 7e		7.4	7.4.1			

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

TO	IP ERDF/CF	IP ESF	ExAC	ExAC criteria
				7.4.2
8		IP a(i)	8.1	8.1.1 8.2.2
		IP a(ii)	8.6	8.6.1
	IP 8a	IP a(iii)	8.2	8.2.1
		IP a(iv)	None	None
		IP a(v)	8.5	8.5.1
		IP a(vi)	8.4	8.4.1, 8.4.2
	IP 8b	None	None	None
	IP 8c	None	None	None
IP 8d	IP a(vii)	8.3	8.3.1, 8.3.2	
9	IP 9a	IP b(i)	9.1	9.1.1, 9.1.2
	IP 9b			
	IP 10			
	IP 9a	IP b(ii)	9.2	9.2.1, 9.2.2
	IP 9b			
	IP 10			
		IP b(iii)	None	None
	IP 9a	IP b(iv)	9.3	9.3.1, 9.3.2
		IP b(v)	None	None
		IP b(vi)	None	None
	IP 9c	None	None	None
IP 9d	None	None	None	
10	IP 10	IP c(i)	10.1	10.1.1, 10.1.2
	IP 10	IP c(ii)	10.2	10.2.1 10.2.2
	IP 10	IP c(iii)	10.3	10.3.1 10.3.2 10.3.4 10.3.4
	IP 10	IP c(iv)	10.4	10.4.1
11	IP 11	IP d(i)	11.1	11.1.1
		IP d(ii)	None	None

Source: Regulation (EU) No 1303/2013, ANNEX XI, Part I

TO	Union Priorities EAFRD	EAFRD ExAC	ExAC criteria
1	UD 1	No Ex-ante conditionalities foreseen	
3	UD 2	No Ex-ante conditionalities foreseen	
5	UD 3	3.1	3.1.1
5, 6	UD 4	4.1.	4.1.1.
		4.2.	4.2.1.
		4.3.	4.3.1.
4, 6	UD 5	5.1	5.1.1
		5.2	5.2.1
		5.3	5.3.1
2	UD 6	6.1	6.1.1

Source: Regulation (EU) No 1303/2013, ANNEX XI, Part I

9.6 Overview of applicability of Thematic ex-ante conditionalities

Overview of OPs where TExAC are missing although the respective IP has been addressed in the OP

MS	CCI	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1
BG	2014BG16RFOP001													1	1													2	2	
BE	2014BE16RFOP001																							2						
BE	2014BE16RFOP002																							2						
BE	2014BE16RFOP003																						1	2		2	2		2	
CZ	2014CZ05M2OP001																						1		1			1	1	
CZ	2014CZ16M2OP001																							1	1		1	1	1	
CZ	2014CZ16RFOP001		3										1	1	1															
CZ	2014CZ16RFOP002				1									1	1											1				
CY	2014CY16M1OP001													1										2						
EE	2014EE16M3OP001																							2						
FR	2014FR05M2OP001									3				1	2							2		2	2					
FR	2014FR16M0OP001											2																		
FR	2014FR16M0OP002																										3			
FR	2014FR16M0OP004																							2						
FR	2014FR16M0OP007					3	2		2													3		2		2				
FR	2014FR16M0OP009												2	2									2	2		2	2			
FR	2014FR16M0OP011													2										2		2	2		2	
FR	2014FR16M0OP013																													
FR	2014FR16M2OP005																							2						
FR	2014FR16M2OP006																							2						
FR	2014FR16M2OP007																							2						
FR	2014FR16M2OP008																							2						
FR	2014FR16M2OP012												2	2										2						

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

MS	CCI	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1	
FR	2014FR16RFOP005												2	2																	
DE	2014DE16RFOP003																							2							
DE	2014DE16RFOP004								3															2							
DE	2014DE16RFOP005																							2							
DE	2014DE16RFOP007					3	3																								
DE	2014DE16RFOP008																							2							
DE	2014DE16RFOP009		3			3		3	3															2							
DE	2014DE16RFOP010		3			3																									
DE	2014DE16RFOP011																							2							
DE	2014DE16RFOP012																							2							
DE	2014DE16RFOP014		3																												
DE	2014DE16RFOP015																							2							
EL	2014GR16M2OP002																									3	3	3	3		
EL	2014GR16M2OP003																														
EL	2014GR16M2OP006													2	2																
EL	2014GR16M2OP008													2																	
EL	2014GR16M2OP009													2												3	3	2	2		
EL	2014GR16M2OP010													2																	
EL	2014GR16M2OP011													2	2																
EL	2014GR16M2OP012															2															
EL	2014GR16M2OP013													2																	
IE	2014IE16RFOP001		3																												
IE	2014IE16RFOP002		3																												
IT	2014IT05M2OP001																						2	2			2				
IT	2014IT05M2OP002			2																											
IT	2014IT16M2OP001																														

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

MS	CCI	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1
IT	2014IT16M2OP003																							2						
IT	2014IT16M2OP005																													
IT	2014IT16M2OP006															2									2					
IT	2014IT16RFOP007																							2	2					
IT	2014IT16RFOP010		2																											
IT	2014IT16RFOP012																							2						
IT	2014IT16RFOP015																							2						
IT	2014IT16RFOP017																							2	2					
IT	2014IT16RFOP022														2								2	2		3	2	2	2	
LT	2014LT16MAOP001									3																				
LV	2014LV16MAOP001																							2						
HU	2014HU05M2OP001																												2	
HU	2014HU16M0OP001																	2												
HU	2014HU16M2OP001																													
HU	2014HU16M2OP002					3																								
MT	2014MT16M1OP001													1										2						
NL	2014NL16RFOP002																							2						
PL	2014PL16M2OP001														2															
PL	2014PL16M2OP002														2															
PL	2014PL16M2OP003														2															
PL	2014PL16M2OP004														2															
PL	2014PL16M2OP006														2															
PL	2014PL16M2OP007														2															
PL	2014PL16M2OP008														2															
PL	2014PL16M2OP010														2															
PL	2014PL16M2OP011														2															

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

MS	CCI	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1	
PL	2014PL16M2OP012														2																
PL	2014PL16M2OP013														2																
PL	2014PL16M2OP014														2																
PL	2014PL16M2OP015														2																
PL	2014PL16M2OP016															2															
PL	2014PL16RFOP003														2																
PT	2014PT16M2OP001																							2						2	
PT	2014PT16M2OP002																							2						2	
PT	2014PT16M2OP003																							2	2					2	
PT	2014PT16M2OP004													1										2							
PT	2014PT16M2OP005																							2			2				
PT	2014PT16M2OP006													1										2			2			2	
PT	2014PT16M2OP007																							2							
HR	2014HR16M1OP001																							2		2			2		
RO	2014RO16M1OP001														2																
RO	2014RO16RFOP002							3			3	3	2	2	2																
RO	2014RO16RFTA001																														3
SL	2014SI16MAOP001																							2		2	2				
SK	2014SK16RFOP002													3	3									2			2				
ES	2014ES16RFOP002														2																
ES	2014ES16RFOP003														2										2			3			3
ES	2014ES16RFOP004		2			2																									
ES	2014ES16RFOP005																							2	2						
ES	2014ES16RFOP006					3																		2	2					2	
ES	2014ES16RFOP007												2	2										2	2			3	3		
ES	2014ES16RFOP008																							2	2		3	3	3		

The implementation of the provisions in relation to the *ex-ante* conditionalities during the programming phase of the European Structural and Investment (ESI) Funds

MS	CCI	1.1	1.2	2.1	2.2	3.1	4.1	4.2	4.3	5.1	6.1	6.2	7.1	7.2	7.3	7.4	8.1	8.2	8.3	8.4	8.5	8.6	9.1	9.2	9.3	10.1	10.2	10.3	10.4	11.1	
ES	2014ES16RFOP009						2																								
ES	2014ES16RFOP010																						2	2					3	3	
ES	2014ES16RFOP012												2	2										2			3	3	3		
ES	2014ES16RFOP013				2																										
ES	2014ES16RFOP014																						2	2							
ES	2014ES16RFOP015																								2		3	3		3	
ES	2014ES16RFOP017		2																					2							
ES	2014ES16RFOP018												2	2										2	2		3	3			
UK	2014UK16RFOP004		3																												
UK	2014UK16RFOP005													2																	

Key

TExAC assessed not applicable, explanation in the OP provided	1
TExAC not assessed but not relevance to any specific objective	2
TExAC not assessed but relevance to a specific objective	3

9.7 Interview partner

Figure 42: Competence centres

REGIO	
B2	Evaluation and European Semester
E1	Competence Centre Administrative Capacity Building; Solidarity Fund
(Former) F1	(Former) Competence Centre Operational Efficiency
G1	Competence Centre Smart and Sustainable Growth
H1	Competence Centre Inclusive Growth, Urban and Territorial Development

Figure 43: Geographical units

REGIO	
D3	Belgium, France and Luxembourg
E2	Romania
F2	Germany, Austria and the Netherlands
F3	Czech Republic
F4	Slovakia
F5	Hungary
G2	Spain
G3	Portugal
G4	Italy and Malta
H2	Poland
H3	Estonia, Finland and Latvia

Figure 44: Members of the Steering Committee:

DG - Unit
DG REGIO – former F1 Competence Centre Operational Efficiency
DG REGIO
DG EMPL – E1 Job Creation
DG AGRI
DG MARE

Figure 45: Member State representatives

Member State	Organisation
AT	Austrian Conference on Spatial Planning (ÖROK)
BE	Flanders Innovation & Entrepreneurship (Agentschap Innoveren & Ondernemen)
BE	Department of Agriculture and Fisheries, Government of Flanders
BG	Council of Ministers, Republic of Bulgaria
BG	Ministry of Education and Science (MES)
CY	General Directorate for European Programmes, Coordination and Development
CZ	Ministry of regional development
DE	Federal Ministry for Economic Affairs and Energy (BMWi), Referat E A 3 – Coordination of EU Structural Funds Policy
DE	Federal Ministry for Economic Affairs and Energy (BMWi)
DK	Danish Business Authority
EE	Ministry of Finance
EL	Directorate General for Development Planning, Regional Policy and Public Investment of the Ministry of Economy, Competitiveness and Shipping
EL	Ministry of Economy, Infrastructures, Shipping and Tourism Special Service for Strategy, Planning and Evaluation
ES	Ministry of Finance and Public Administration
FI	Ministry of Employment and the Economy, Finland
FR	Department of European Affairs, CGET
FR	Regional Council of Midi-Pyrénées
HR	Ministry of Regional Development and EU Funds
HU	Responsible central government unit
IE	Department for Public Expenditure and Reform
IT	Department of Development and Economic cohesion (DPS)
IT	Regione Toscana
LT	Ministry of Finance
LU	La Direction de la politique régionale, Ministry of Economy and Commerce
LV	Ministry of Finance
MT	Ministry of European Affairs
NL	Ministry of Economic Affairs
PL	Marshal's Office of the Podkarpackie Region
PL	Ministry of Infrastructure and Development
PT	Agency for Development and Cohesion (ADC)
PT	Managing Authority, COMPETE 2020
RO	Ministry of European Funds
SE	Ministry of Enterprise
SI	Government Office for Development and European Cohesion Policy
SK	Government Office of the Slovak Republic
UK	Department for Business, Innovation and Skills
UK	Department of Communities and Local Government

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