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DRAFT

# Guidance on *Ex Ante* Conditionalities

## PART II

(Based on the Council compromise text of 24 April 2012 and Commission reserves)

**Version 1**

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## A. THEMATIC *EX ANTE* CONDITIONALITIES

### A. 2-1 Digital growth<sup>1</sup>

Thematic objectives	Investment priorities	<i>Ex ante</i> conditionality	Criteria for fulfilment
Enhancing access to and use and quality of information and communication technologies ( <b>Broadband target</b> )  (referred to in Article 9(2))	ERDF:  - developing ICT products and services, e-commerce and enhancing demand for ICT  - strengthening ICT applications for e-government, e-learning, e-inclusion, e-culture and e-health	2.1 <i>Digital growth</i> : A strategic policy framework for digital growth to stimulate demand for 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.	A strategic policy framework for digital growth, for instance, within the national or regional innovation strategic policy framework for smart specialisation is in place that contains:  – budgeting and prioritisation of actions through a SWOT or similar analysis consistent with the Scoreboard of the Digital Agenda for Europe;  – an analysis of balancing support for demand and supply of information and communication technologies (ICT) should have been conducted;  – indicators to measure progress of interventions in areas such as digital literacy, e-inclusion, e-accessibility, and of e-health within the limits of Article 168 TFEU which are aligned with existing relevant sectoral national or regional strategies;  – assessment of needs to reinforce ICT capacity-building.

#### 1. When to assess applicability?

The conditionality is applicable, if a Member State is planning to allocate funding to the investment priorities 2(a) and 2(b) of the ERDF Regulation under the thematic objective n°2 (developing ICT products and services, e-commerce and enhancing demand for ICT and strengthening ICT applications for e-government, e-learning, e-inclusion, e-culture and e-health).

<sup>1</sup> The table below is based on the Council compromise text.

## 2. Definitions

The European Commission has adopted the Digital Agenda for Europe as part of the overall Europe 2020 strategy for smart, sustainable and inclusive growth. The Digital Agenda proposes 101 specific policy actions across 7 domains: digital single market; interoperability and standards; trust and security; fast and ultra-fast internet access; research and innovation; digital literacy, skills and inclusion; and ICT-enabled benefits for EU society. This combined set of actions is designed to stimulate a virtuous circle of investment in and usage of digital technologies.

A Strategic Policy Framework for Digital Growth charts the obstacles and actions needed to overcome them in order to maximise the social and economic potential of ICT, most notably the internet. The Strategy is based on evidence and sets objectives that make possible to chart them against the Digital Agenda for Europe. It contains measures ensuring that attractive content and services are made available in an interoperable internet environment to stimulate demand for higher speeds and capacity as well as measures supporting the deployment and take-up of faster networks that can deliver this content and services.

These objectives are agreed and implemented in cooperation with all relevant stakeholders. It can be established in a single policy document (e.g. national or regional "digital agenda", for instance, within the national or regional innovation strategic policy framework for smart specialisation) or in a set of inter-linked policy documents. However, a strategy is more than a collection of measures. In case measures are contained in different policy documents, they need to be embedded in a strategic approach towards the strategy's objective. A strategy sets out the scope, timeframe, concrete and comprehensive objectives, allocation of resources, measures to achieve these and monitoring and evaluation instruments to assess progress of implementation.

## 3. Source of information for assessment

- Digital Agenda Scoreboard 2012

[https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/scoreboard\\_life\\_online.pdf](https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/scoreboard_life_online.pdf)

- by country:

<https://ec.europa.eu/digital-agenda/en/scoreboard-country>

- List of Digital Agenda Scoreboard Indicators:

<http://scoreboard.lod2.eu/index.php?page=indicators>

## 4. Rationale for the *ex ante* conditionality

ICT is the major enabling technology for spurring innovation, economic growth and improvements in daily life for both citizens and businesses. The Digital Agenda for Europe requires a sustained level of commitment at both EU and Member State levels (including at regional level). The *ex ante* conditionality aims therefore to foster the development and implementation of national and regional digital growth measures, to assess their consistency with the Digital Agenda for Europe's goals and exploit national/regional assets in the spirit of smart specialisation.

## 5. Fulfilment and non-fulfilment of criteria

Criteria for fulfilment	Criteria fulfilled?	
	YES / NO	Elements of non-fulfilment
<p><i>A strategic policy framework for digital growth, for instance, within the national or regional innovation strategic policy framework for smart specialisation is in place...</i></p> <ul style="list-style-type: none"> <li>▪ The relevant operational programme contains a reference to the name of the framework and indicates where it is or its different elements are published (in form of a link).</li> </ul>		
<p><i>...that contains:</i></p>		
<p>– <i>budgeting and prioritisation of actions through a SWOT or similar analysis consistent with the Scoreboard of the Digital Agenda for Europe:</i></p> <ul style="list-style-type: none"> <li>▪ There is evidence that a SWOT or a similar analysis has been conducted in order to establish priorities for investment. <ul style="list-style-type: none"> <li>○ There is a description of the methodology and data sources used for the analysis.</li> <li>○ There is a description of the prioritisation / elimination process that was used to identify investment priorities, including the involvement of stakeholders.</li> </ul> </li> <li>▪ The framework outlines available budgetary resources for ICT interventions and indicates various sources of finance [and indicative amounts] (EU, national and other sources as appropriate).</li> </ul>		
<p>– <i>an analysis of balancing support for demand and supply of information and communication technologies (ICT) should have been conducted:</i></p> <ul style="list-style-type: none"> <li>▪ There is evidence that an analysis of balancing support for demand and supply of information and communication technologies has been conducted. <ul style="list-style-type: none"> <li>○ There is a description of the methodology used for identifying demand and supply of ICT and for balancing the support for them.</li> <li>○ The analysis covers all the relevant socio-economic issues related to demand for ICT (such as age structure, education, income, level of ICT training/skills, employment status, affordability of service, productivity, Internet penetration and the use of and demand for ICT services and applications in households, businesses and public administrations, increase eskills, etc.) and supply measures (availability of equipment and infrastructures, services and applications, and of ICT professionals/practicioners).</li> <li>○ Where appropriate, the analysis also covers ICT as a sector (e.g. a concentration of manufacturing of</li> </ul> </li> </ul>		

<p>ICT hardware and equipment, IT service and application providers, R&amp;D in ICT, living labs, etc.).</p> <ul style="list-style-type: none"> <li>○ There is a summary of the results of this analysis.</li> </ul>		
<p>– <i>indicators to measure progress of interventions in areas such as digital literacy, e-inclusion, e-accessibility, and of e-health within the limits of Article 168 TFEU which are aligned with existing relevant sectoral national or regional strategies:</i></p> <ul style="list-style-type: none"> <li>▪ A monitoring mechanism has been set up to measure the progress of ICT use and its impact (e.g. productivity gains) at national or regional level: <ul style="list-style-type: none"> <li>○ There is evidence that the monitoring mechanism covers all the areas of ICT interventions arising from existing relevant sectoral EU, national or regional strategies. When the strategic policy framework for digital growth is part of a national or regional innovation strategic policy framework for smart specialisation, its monitoring will be carried out as part of the monitoring of this framework.</li> <li>○ The monitoring mechanism uses the same indicators as those used by the Digital Agenda Scoreboard but can contain additional indicators to track the progress of the implementation measures.</li> </ul> </li> </ul>		
<p>– <i>assessment of needs to reinforce ICT capacity-building:</i></p> <ul style="list-style-type: none"> <li>○ The strategic policy framework for digital growth contains an analysis of the weaknesses to identify and deliver ICT interventions.</li> <li>○ It identifies, where appropriate, an adequate description of measures to be taken or already in place to ensure the capacity of intermediate bodies and beneficiaries to identify and deliver those interventions.</li> </ul>		



## Annex: BACKGROUND INFORMATION

### 1. EU basis for including the *ex ante* conditionality in the CPR proposal

- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Digital Agenda for Europe (COM(2010) 245 final/2 of 26.8.2010)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0245:FIN:EN:PDF>

- Council Conclusions on the Digital Agenda for Europe (doc. 10130/10 of 31 May 2010)

The Council of the European Union endorsed the establishment of an ambitious action agenda and invited the Commission and Member States to seek ways to enhance horizontal coordination between concerned institutions both at the EU and national level in order to improve the implementation of the Digital Agenda for Europe.

[http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/trans/114710.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/trans/114710.pdf)

- Communication from the Commission (COM(2012) 784 final) of 18 December 2012 on "The Digital Agenda for Europe - Driving European growth digitally"

This Communication refocuses the Digital Agenda to better stimulate the digital economy through measures in several key areas.

[http://ec.europa.eu/information\\_society/newsroom/cf/dae/document.cfm?doc\\_id=1381](http://ec.europa.eu/information_society/newsroom/cf/dae/document.cfm?doc_id=1381)

### 2. Extract of relevant documents

### 3. Further reading

- Digital Agenda Europe

<http://ec.europa.eu/digital-agenda/digital-agenda-europe>



## A.7-1 Road <sup>2</sup>

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
7. Promoting sustainable transport and removing bottlenecks in key network infrastructures (referred to in Article 9(7))	<p>ERDF + CF:</p> <ul style="list-style-type: none"> <li>– supporting a multimodal Single European Transport Area by investing in the Trans-European Transport Network (TEN-T) network</li> </ul> <p>ERDF:</p> <ul style="list-style-type: none"> <li>– enhancing regional mobility through connecting secondary and tertiary nodes to TEN-T infrastructure</li> </ul>	<p>7.1. Road: The existence of a comprehensive plan(s) or framework(s) 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.</p>	<ul style="list-style-type: none"> <li>– The existence of a comprehensive transport plan(s) or framework(s) for transport investment which fulfills legal requirements for strategic environmental assessment and sets out: <ul style="list-style-type: none"> <li>– the contribution to the single European Transport Area consistent with Article 10 of Regulation No. [TEN-T], including priorities for investments in: <ul style="list-style-type: none"> <li>– the core TEN-T network and the comprehensive network where investment from the ERDF and CF is envisaged; and</li> <li>– secondary connectivity.</li> </ul> </li> <li>– a realistic and mature pipeline for projects envisaged for support from the ERDF and CF.</li> </ul> </li> <li>– Measures to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline.</li> </ul>

### 1. When to assess applicability?

The conditionality is applicable, if a MS is planning to allocate funding:

- within ERDF/CF to support for multimodal Single European Transport Area by investing in the TEN-T network (Art. 5 (7) (a) of the ERDF Regulation and Art.3 (d) (i) of the CF Regulation), and/or
- within ERDF for enhancing regional mobility through connecting secondary and tertiary nodes to TEN-T infrastructure (Art. 5 (7) (b) of the ERDF Regulation).

<sup>2</sup> The table below is based on the Council compromise text.

## 2. Definitions

Transport mode means railway, inland waterways, road, maritime or/and air transport.

Multimodal transport means the carriage of freight and /or passengers using two or more modes of transports

The comprehensive network constitutes the basic layer of the TENT-T. It consists of all existing and planned infrastructure meeting the requirements of the Guidelines. The comprehensive network is to be in place by 31 December 2050 at the latest.

The core network consists of those parts of the comprehensive TEN-T network which are of the highest strategic importance for the achievement of the objectives concerning the development of the trans-European network. It constitutes the backbone of the multi-modal mobility network. It concentrates on those components of TEN-T with the highest European added value: cross-border missing links, key bottlenecks and multi-modal nodes. It is the outcome of a two-step methodology identifying first main nodes within the EU and then connecting these nodes by multimodal links (road, rail, inland waterway) according to availability or feasibility, taking into account effectiveness and efficiency and preferably using existing infrastructure. The core network is to be in place by 31 December 2030 at the latest.

The core nodes consist of 82 urban main nodes (comprising all Member States' capitals, all "MEGA" cities according to ESPON and all other large urban areas or conurbations, including their entire relevant multimodal infrastructure as far as part of the comprehensive network), ports which exceed a certain volume threshold (at least 1 % of the total transshipment volume of all EU seaports) or provide the only access to a coastline of a NUTS 1 inland region and the 46 most relevant border crossing points. You will find in the annex below the list of nodes concerning each Member State.

The Intelligent Transport Systems (ITS) mean systems using information, communication, navigation and positioning/localization technologies in order to manage mobility and traffic on the trans-European transport network and to provide value added services to citizens and operators, including for safe, secure, environmentally sound and capacity efficient use of the network. They may also include on-board devices, provided they form an indivisible system with corresponding infrastructure components.

The concept of "realistic and mature project pipeline" has to be understood in the context of the whole project cycle starting from planning until the implementation. It means a list of projects for which:

- A feasibility study (including options analysis and preliminary design) has been concluded;
- There is a positive socio-economic Cost Benefit Analysis (including detailed estimated costs ) demonstrating financial feasibility and the need for public financial contributions;
- EIA (environmental impact assessment) and other assessments (e.g. under Habitats and Water Framework Directives) ARE ideally finished or AT least sufficiently

advanced (i.e. consultations with the public and other authorities finished) and a development consent is expected without outstanding environmental issues

- State aid issues are cleared;
- There is a detailed implementation timetable, detailing procurement procedures - call for tenders can be expected to be completed in accordance to the timetable – and permission procedures (these should be ready to start : for instance land expropriations are well advanced and can be completed in sufficient time for the start of the works, as programmed).

### **3. Source of information for assessment**

- Detailed maps of the comprehensive and the core network, including requirements for technical and traffic management standards, as defined in the TEN-T Guidelines:

[http://ec.europa.eu/transport/themes/infrastructure/revision-t\\_en.htm](http://ec.europa.eu/transport/themes/infrastructure/revision-t_en.htm)

### **4. Rationale for the *ex ante* conditionality**

The network effects of major transport investments in TENs networks is often missed due to missing links, often in border areas.

Investments in secondary transport infrastructure are often fragmented and fail to connect local business to EU markets, thereby undermining their integration in single market.

## 5. The fulfilment and non-fulfilment of criteria:

Criteria for fulfilment	Criteria fulfilled?	
	YES / NO	Elements of non-fulfilment
<p><i>The existence of a comprehensive transport plan(s) or framework(s) for transport investment which:</i></p> <ul style="list-style-type: none"> <li>▪ The relevant operational programme contains a reference to the name of the framework and indicates where it or its different elements are published (in a form of a link)</li> </ul>		
<p>– <i>fulfills legal requirements for strategic environmental assessment :</i></p> <ul style="list-style-type: none"> <li>▪ An environmental report has been carried out identify, describe and evaluate the likely significant effects on the environment of the implementation of the plan or framework for transport investments and reasonable alternatives taking into account the objectives and the geographical scope of the plan or framework for transport investments.</li> <li>▪ The draft plan or framework for transport investments and the environmental report has been made available to the public and the authorities designated by the Member States who are likely to be concerned by the environmental effects of the implementing plans.</li> <li>▪ Where the implementation of the plan or framework for transport investments is likely to have significant effects on the environment in another Member State (transboundary effects), a copy of the draft plan or framework and the relevant environmental report has been forwarded to the other Member States.</li> <li>▪ The environmental report and the opinions expressed in the relevant consultations have been taken into account before the adoption of the plan or framework for transport investments</li> </ul>		
<p>– <i>sets out the contribution to the single European Transport Area consistent with Article 10 of Regulation No. [TEN-T], including priorities for investments in the core TEN-T network and the comprehensive network where investment from the ERDF and CF is envisaged; and secondary connectivity.</i></p> <ul style="list-style-type: none"> <li>▪ The investment priorities included in the plan or framework for transport investments connects the identified main nodes (see the list in annex) and provides for connections with neighbouring</li> </ul>		

countries' transport infrastructure networks.

- The plan or framework for transport investments includes measures that are necessary for:
  - ensuring enhanced accessibility for all regions of the Union;
  - ensuring optimal integration of the transport modes ; the plan includes namely detailed reference to integration of the road infrastructure with the other transport network;
  - bridging missing links and removing bottlenecks, inter alia in cross-border sections;
  - promoting the efficient use of the [current and new] infrastructure and, where necessary, increase the capacity;
  - removing administrative and technical barriers, in particular to the interoperability of the network and to competition;
  - improving or maintaining the quality of infrastructure in terms of safety, security, efficiency, climate and where appropriate disaster resilience, environmental performances, social conditions, accessibility for all users, quality of services and continuity of traffic flows;
  - promoting innovative technological development;
  - implementing and deploying TA;
  - ensuring fuel security by promoting the use of alternative and in particular low or zero carbon energy sources and propulsion systems; the plan includes an assessment of the overall impact on energy sector induced by the transport sector;
  - mitigating exposure of urban areas to negative effects of transiting rail and road transport.

<ul style="list-style-type: none"> <li>– sets out a realistic and mature pipeline for projects envisaged for support from the ERDF and CF</li> <li>▪ The plan or framework for transport investments includes a table containing : <ul style="list-style-type: none"> <li>○ a list of prioritised projects (studies, upgrading or works) that the Member State envisages launching over the period and asking for support from the ERDF and CF.</li> <li>○ the name of the authorities and stakeholders involved in the lead of these projects, the foreseen expenditures and a financing plan,</li> <li>○ a realistic timetable for delivery (including design phase, development consent, procurement and permission procedures, and potential state aide notification) and for implementation (per phase for bigger projects).</li> </ul> </li> </ul>		
<p><i>Measures to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline.</i></p> <ul style="list-style-type: none"> <li>▪ The Member State has provided an adequate description of the measures already in place to ensure the capacity of intermediary bodies and beneficiaries to deliver the project pipeline: <ul style="list-style-type: none"> <li>○ These measures are based on the analysis of both the bottlenecks and of the weaknesses of intermediary bodies and beneficiaries to deliver timely the project pipeline (e.g. tendering difficulties, including tenders without competitors and irregularities; irregularities, shortcomings, delays in implementing environment requirements; lack of clear prioritisation or moving priorities; lack of mature project pipeline under development; financial unbalance along the project cycle, lack of funding or funding provisions for maintenance and operations; long time to market of projects; excessive red tape administrative burden, paperwork; failure in managing complex systems (such as ETCS-ERTMS);</li> <li>○ They include training and appropriate internal procedures to monitor and identify potential delays and to ensure a smooth and effective procurement;</li> <li>○ A early warning system is in place to identify and solve any difficulties rising from intermediary bodies and beneficiairies when delivering the project pipeline;</li> <li>○ Adequate assistance schemes are in place to help beneficiaries during procedure and implementation to be able to replace projects quickly when implementation is blocked.</li> </ul> </li> </ul>		



## Annex: BACKGROUND INFORMATION

### 1. EU basis for including the *ex ante* conditionality in the CPR proposal

- **TEN-T Regulation: Proposal from the Commission for a Regulation on Union guidelines for the development of the trans-European transport network (COM/2011/0650 final/2 - 2011/0294 (COD))**

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0650:REV1:EN:HTML>

*Annex I: Maps of the comprehensive and the core network – Vol. 2/33: Inland waterways and ports, Railways (freight), ports and rail-road terminals*

[http://ec.europa.eu/transport/themes/infrastructure/doc/com\(2011\)\\_650\\_final\\_2\\_annex\\_i\\_part02.pdf](http://ec.europa.eu/transport/themes/infrastructure/doc/com(2011)_650_final_2_annex_i_part02.pdf)

*Annex I: Maps of the comprehensive and the core network – Vol. 3/33: Railways (passengers) and airports, roads, ports, rail-road terminals and airports*

[http://ec.europa.eu/transport/themes/infrastructure/doc/com\(2011\)\\_650\\_final\\_2\\_annex\\_i\\_part03.pdf](http://ec.europa.eu/transport/themes/infrastructure/doc/com(2011)_650_final_2_annex_i_part03.pdf)

*Annex II: List of nodes of the core network*

[http://ec.europa.eu/transport/themes/infrastructure/doc/final\\_annexii.pdf](http://ec.europa.eu/transport/themes/infrastructure/doc/final_annexii.pdf)

- **Strategic Environmental Assessment (SEA) Directive:**

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:197:0030:0037:EN:PDF>

An environmental assessment shall be carried out for all plans and programmes which are prepared for transport and which set the framework for future development consent of projects<sup>3</sup>.

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<sup>3</sup> Annex I of the Environmental Impact Assessment Directive 85/337/ECC provides the list of the concerned projects: 7. (a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2 100 m or more; 7. (b) Construction of motorways and express roads; 7. (c) Construction of a new road of four or more lanes, or realignment and /or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road or realigned and/or widened section of road would be 10km or more in a continuous length; 8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes; 8 (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1 350 tonnes. Annex II completes it with a list of infrastructure projects: 10 (c) Construction of railways or intermodal transshipment facilities and of intermodals terminals; 10. (d) Construction of airfields; 10 (e) Construction of roads, harbours and port installations, including fishing harbours; 10 (f) inland-waterway construction, canalisation and flood-relief works.

## 2. Extract of relevant documents

- Council compromise text on the Union guidelines for the development of the trans-European transport network

CHAPTER II	
THE COMPREHENSIVE NETWORK	
<i>Article 10</i>	
<b>General priorities</b>	
When developing the comprehensive network, general priority shall be given to measures that are necessary for:	
(a)	ensuring enhanced accessibility for all regions of the Union;
(b)	ensuring optimal integration of the transport modes;
(c)	bridging missing links and removing bottlenecks, inter alia in cross-border sections;
(cc)	promoting the efficient use of the infrastructure and, where necessary, increase the capacity;
(d)	removing administrative and technical barriers, in particular to the interoperability of the network and to competition;
(e)	improving or maintaining the quality of infrastructure in terms of safety, security, efficiency, climate and where appropriate disaster resilience, environmental performances, social conditions, accessibility for all users, quality of services and continuity of traffic flows;
(f)	promoting innovative technological development;
(g)	implementing and deploying TA;
(h)	ensuring fuel security by promoting the use of alternative and in particular low or zero carbon energy sources and propulsion systems;
(i)	mitigating exposure of urban areas to negative effects of transiting rail and road transport.

- Proposal from the Commission for a Regulation on Union guidelines for the development of the trans-European transport network (COM/2011/0650 final/2 - 2011/0294 (COD))

ANNEX II	
LIST OF NODES OF THE CORE NETWORK	

**1a. Urban nodes:**

**AUSTRIA**

Wien

**BELGIUM**

Bruxelles/ Brussel

Antwerpen

**BULGARIA**

Sofia

**CYPRUS**

Lefkosia

**CZECH REPUBLIC**

Praha

Ostrava

**DENMARK**

København

Aarhus

**ESTONIA**

Tallinn

**FINLAND**

Helsinki

Turku

**FRANCE**

Paris

Bordeaux

Lille

Lyon

Marseille

Nice

Toulouse

**GERMANY**

Berlin

Bielefeld

Bremen

Düsseldorf

Frankfurt a. M.

Hamburg

Hannover

Köln

Leipzig

Mannheim

München

Nürnberg

Stuttgart

**GREECE**

Athina

Thessaloniki

**HUNGARY**

Budapest

**IRELAND**

Dublin

Cork

**ITALY**

Roma

Bologna

Genova

Milano

Napoli

Torino

Venezia

Palermo

**LATVIA**

Rīga

**LITHUANIA**

Vilnius

**LUXEMBOURG**

Luxembourg

**MALTA**

Valletta

**THE NETHERLANDS**

Amsterdam

Rotterdam

**POLAND**

Warszawa

Gdańsk

Katowice

Kraków

Łódź

Poznań

Szczecin

Wrocław

**PORTUGAL**

Lisboa

Porto

**ROMANIA**

București

Timisoara

**SLOVAKIA**

Bratislava

**SLOVENIA**

Ljubljana

**SPAIN**

Madrid

Barcelona

Bilbao

Palma de Mallorca

Sevilla

Valencia

**SWEDEN**

Stockholm

Göteborg

Malmö

**UNITED KINGDOM**

London

Birmingham

Bristol

Edinburgh

Glasgow

Leeds

Manchester

Portsmouth

Sheffield

**1b. Airports:****AUSTRIA**

Wien/Schwechat

**BELGIUM**

Bruxelles/National Brussel/Nationaal

**CZECH REPUBLIC**

Praha/Ruzyně

**DENMARK**

Copenhagen Kastrup

**FINLAND**

Helsinki-Vantaa

**FRANCE**

Lyon – St-Exupéry

Nice – Côte d'Azur

Paris – Charles-de-Gaulle

Paris– Orly

**GERMANY**

Berlin Brandenburg International

Düsseldorf

Frankfurt/Main

Hamburg

Köln/Bonn

München

Stuttgart

**GREECE**

Athens

**HUNGARY**

Budapest-Ferihegy

**IRELAND**

Dublin

**ITALY**

Milano-Linate

Milano-Malpensa

Roma-Fiumicino

**THE NETHERLANDS**

Amsterdam/Schiphol

**POLAND**

Warszawa – Okęcie

**PORTUGAL**

Lisboa

**SPAIN**

Barcelona

Madrid/Barajas

Palma de Mallorca

**SWEDEN**

Stockholm/Arlanda

**UNITED KINGDOM**

Birmingham

Edinburgh

Gatwick

Glasgow

Heathrow

Luton

Manchester

Stansted

**2. Maritime ports:****BELGIUM**

Antwerpen

Gent

Oostende, Zeebrugge

**BULGARIA**

Burgas

**CYPRUS**

Lemesos

**DENMARK**

Århus

Københavns Havn

**ESTONIA**

Tallinn

**FINLAND**

Helsinki

Kotka, Hamina

Turku

**FRANCE**

Bordeaux

Calais, Dunkerque

Le Havre

Marseille

Nantes Saint-Nazaire

Rouen

**GERMANY**

Bremerhaven, Bremen

Hamburg

Lübeck

Rostock

Wilhelmshaven

**GREECE**

Igoumenitsa

Patras

Pireus

Thessaloniki

**IRELAND**

Cork

Dublin

Limerick

**ITALY**

Ancona

Bari

Genova

Gioia Tauro

La Spezia

Livorno

Napoli

Palermo

Ravenna

Taranto

Trieste

Venezia

**LATVIA**

Rīga

Ventspils

**LITHUANIA**

Klaipėda

**MALTA**

Valletta, Marsaxlokk

**THE NETHERLANDS**

Amsterdam

Rotterdam

Terneuzen, Vlissingen

**POLAND**

Gdańsk, Gdynia

Świnoujście, Szczecin

**PORTUGAL**

Leixões (Porto)

Lisboa

Sines

**ROMANIA**

Constanța

**SLOVENIA**

Koper

**SPAIN**

Algeciras

Barcelona

Bilbao

Cartagena

Gijón

A Coruña

Las Palmas

Palma de Mallorca

Sevilla

Tarragona

Valencia

**SWEDEN**

Göteborg

Luleå

Malmö

Stockholm

Trelleborg

**UNITED KINGDOM**

Belfast

Bristol

Cardiff, Newport

Dover

Felixstowe

Forth (Edinburgh)

Glasgow

Grimsby, Immingham

Liverpool

London

Southampton, Portsmouth

Tees and Hartlepool



### 3. Border crossing points to neighbouring countries:

<b>EU Member State</b>	<b>Neighbouring Country</b>	<b>Border Crossing (Road)</b>	<b>Border Crossing (Rail)</b>
<b>BULGARIA</b>	SERBIA	Kalotina	Kalotina
	FYROM	Gueshevo	Gueshevo
	TURKEY	Svilengrad	Svilengrad
<b>ESTONIA</b>	RUSSIA	Luhamaa	Koidula
<b>FINLAND</b>	RUSSIA	Vaalimaa	Vainikkala
<b>GREECE</b>	ALBANIA	Kakavia	Krystallopigi
	FYROM	Evzoni	Idomeni
	TURKEY	Kipi	Pythion
<b>HUNGARY</b>	UKRAINE	Beregsurany	Zahony
	CROATIA	Letenye	Gyekenyes
	SERBIA	Szeged	Kelebia
<b>LATVIA</b>	RUSSIA	Terehova	Zilupe
	BELARUS	Krāslava-Paternieki	Krāslava-Indra
<b>LITHUANIA</b>	RUSSIA	Kybartai	Kybartai
	BELARUS	Medininkai	Kena
<b>POLAND</b>	RUSSIA	Grzechotki	Braniewo
	BELARUS	Kukuryki	Terespol
	UKRAINE	Korczowa	Przemysl
<b>ROMANIA</b>	UKRAINE	Siret	Vicsany
	MOLDOVA	Ungheni	Ungheni
	SERBIA	Moravitsa	Moravitsa
<b>SLOVENIA</b>	CROATIA	Obrezje	Dobova
<b>SLOVAKIA</b>	UKRAINE	Cierna nad Tisou	Cierna nad Tisou

### 3. Further reading

- Road Tolling: Directive 2004/52/EC and Decision 2009/750/EC  
[http://ec.europa.eu/transport/themes/its/road/application\\_areas/electronic\\_pricing\\_and\\_payment\\_en.htm](http://ec.europa.eu/transport/themes/its/road/application_areas/electronic_pricing_and_payment_en.htm)
- Evaluations of the 2007-2013 programming period:  
[http://ec.europa.eu/regional\\_policy/information/evaluations/index\\_en.cfm#12](http://ec.europa.eu/regional_policy/information/evaluations/index_en.cfm#12)
- Transport Investment under Structural and Cohesion Funds in 2007-2013 programmes  
[http://ec.europa.eu/regional\\_policy/information/evaluations/index\\_en.cfm](http://ec.europa.eu/regional_policy/information/evaluations/index_en.cfm)
- EU2020 Country Fiches prepared by DG MOVE  
[http://intratren/MOVE-EUROPE-2020/country\\_profiles.htm](http://intratren/MOVE-EUROPE-2020/country_profiles.htm)

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## A. 8-4. Active and healthy ageing<sup>4</sup>

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
8.Promoting employment and supporting labour mobility  (Employment target)  (referred to in Article 9(8))	ESF:  - Active and healthy ageing	8.4. <i>Active and healthy ageing</i> : Active ageing policies are designed in the light of the Employment Guidelines.	- Actions to deliver on active and healthy ageing challenges:  - Relevant stakeholders are involved in the design and follow-up of active ageing policies with a view to retaining elderly workers on the labour market and promote their employment.  - A Member State has measures in place to promote active ageing and to reduce early retirement.

### 1. When to assess applicability?

The applicability of this ex-ante conditionality has to be assessed if a Member State selects the following investment priority:

- **ESF**: Active and healthy ageing (Art. 3(1)(a)(iv) ESF Reg.)

### 2. Definitions

Active ageing policies in this context are limited to the labour market and refer to a broad range of measures that both stimulate and enable workers to stay in the workforce, and employers to hire and retain older workers.

Relevant stakeholders are typically competent ministries and government agencies at national and sub-national level, social partners, pension institutions, training institutions and non-governmental organisations representing older workers.

### 3. Source of information for assessment

- Member State's National Reform Programme (NRP) including National Job Plan;

[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)

- Council Recommendations (CSRs) on Member State's National Reform Programme

<sup>4</sup> The table below is partly based on the Council compromise text and partly on the Commission's initial proposal (yellow parts).

[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)

- Commission Staff Working Document (SWD) on the assessment of the National Reform Programmes and the Stability/Convergence Programme;

[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)

#### **4. Rationale for the ex-ante conditionality**

To measure progress in meeting the Europe 2020 goals of smart, sustainable and inclusive growth, headline targets have been agreed for the whole EU. The Europe 2020 strategy sets a headline target of 75% of the population aged 20 to 64 years to be in employment (employment rate).

Reaching this employment target heavily relies on older workers to remain on the labour market.

Poor performance in the area of active ageing can have many causes, i.e. low retirement age, low exit age, obsolete skills, insufficient contract flexibility, age discrimination, poor health, etc. Actions to support active ageing will generally aim at maintaining the employability of older workers (ex. access to continuous vocational training, adaptation of working conditions or working environments, etc.) and at eliminating obstacles to working longer and/or to create incentives to working longer (ex. flexible working-retirement arrangements, fiscal incentives to working longer, phased out early retirement schemes, measures addressing leaving the labour market early due to poor health, measures addressing health of the older worker, etc.).

Cohesion policy investment in active and healthy ageing must be supported by measures supporting the reduction of early retirement and ensuring that the returns on investments in active ageing are not undermined by counter-productive policies.

Involving relevant stakeholders in the design and implementation of these policies will increase and/or condition their success and thus the effectiveness of cohesion policy instruments.

## 5. The fulfilment and non-fulfilment of criteria:

Criteria for fulfilment	Criteria fulfilled?	
	YES / NO	Elements of non-fulfilment
– <i>Actions to deliver on active and healthy ageing challenges</i>		
– <i>Relevant stakeholders are involved in the design and follow-up of active ageing policies with a view to retaining elderly workers on the labour market and promote their employment</i> <ul style="list-style-type: none"> <li>▪ There is a clear identification of all actors involved.</li> <li>▪ Relevant stakeholders are involved in the design and follow-up of active ageing policies.</li> </ul>		
– <i>The Member State has measures in place to promote active ageing and to reduce early retirement</i> <ul style="list-style-type: none"> <li>▪ There is an analysis of the labour market situation of older workers and an identification of the main reasons for poor performance in the area of active ageing<sup>5</sup></li> <li>▪ There is a clear identification of, and link with, the measures proposed.</li> <li>▪ There are measures in place to maintain the employability of older workers<sup>6</sup>.</li> <li>▪ There are measures in place to eliminate obstacles to working longer and/or there are incentives in place to working longer<sup>7</sup>.</li> </ul>		

<sup>5</sup> See section 4 for examples of reasons for poor performance.

<sup>6</sup> See section 4 for examples.

<sup>7</sup> See section 4 for examples

## Annex: BACKGROUND INFORMATION

### 1. EU basis for including the ex-ante conditionality in the CPR proposal

- Employment Guidelines adopted by Council Decision 2010/707/EU of 21 October 2010:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010D0707:EN:NOT>

- Council Decision 2012/238/EU of 26 April 2012 prolonging the Employment Guidelines for 2012:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:119:0047:0048:EN:PDF>

### 2. Extract of relevant documents

- Employment Guidelines adopted by Council Decision 2010/707/EU of 21 October 2010

#### **Guideline 7: Increasing labour market participation of women and men, reducing structural unemployment and promoting job quality.**

Activation is key to increasing labour market participation. Member States should integrate the flexicurity principles endorsed by the European Council into their labour market policies and apply them, making appropriate use of European Social Fund and other EU funds support, with a view to increasing labour market participation and combating segmentation, inactivity and gender inequality, whilst reducing structural unemployment. Measures to enhance flexibility and security should be both balanced and mutually reinforcing. Member States should therefore introduce a combination of flexible and reliable contractual arrangements, active labour market policies, effective lifelong learning, policies to promote labour mobility, and adequate social security systems to secure labour market transitions accompanied by clear rights and responsibilities for the unemployed to actively seek work. Together with the social partners, adequate attention should also be paid to internal flexicurity at the work place.

Member States should step up social dialogue and tackle labour market segmentation with measures addressing precarious employment, underemployment and undeclared work. Professional mobility should be rewarded. The quality of jobs and employment conditions should be addressed. Member States should combat in-work poverty and promote occupational health and safety. Adequate social security should also be ensured for those on fixed-term contracts and the self-employed. Employment services play an important role in activation and matching and they should therefore be strengthened with personalised services and active and preventive labour market measures at an early stage. Such services and measures should be open to all, including young people, those threatened by unemployment, and those furthest away from the labour market.

Policies to make work pay remain important. In order to increase competitiveness and raise participation levels, particularly for the low-skilled, and in line with economic policy guideline 2, Member States should encourage the right framework conditions for wage bargaining and labour cost development consistent with price stability and productivity trends. Member States should review tax and benefit systems, and

public services capacity to provide the support needed, in order to increase labour force participation and stimulate labour demand. They should **promote active ageing**, gender equality including equal pay, and the integration in the labour market of young people, people with disabilities, legal migrants and other vulnerable groups. Work-life balance policies with the provision of affordable care and innovation in the manner in which work is organised should be geared to raising employment rates, particularly among young people, older workers and women. Member States should also remove barriers to labour market entry for newcomers, promote self-employment, entrepreneurship and job creation in all areas including green employment and care and promote social innovation.

The EU headline target, on the basis of which Member States will set their national targets, taking into account their relative starting positions and national circumstances, is to aim to raise the employment rate for women and men aged 20-64 to 75 % by 2020, including through the greater participation of young people, older workers and low-skilled workers and the better integration of legal migrants.

**Guideline 8: Developing a skilled workforce responding to labour market needs and promoting lifelong learning.**

Member States should promote productivity and employability through an adequate supply of knowledge and skills to match current and future demand in the labour market. Quality initial education and attractive vocational training must be complemented with effective incentives for lifelong learning for those who are in and those who are not in employment, thus ensuring every adult the chance to retrain or to move one step up in their qualification and overcome gender stereotypes, as well as by opportunities for second-chance learning and by targeted migration and integration policies. Member States should develop systems for recognising acquired competencies, and should remove barriers to occupational and geographical mobility of workers, promote the acquisition of transversal competences to support creativity, innovation and entrepreneurship. In particular, efforts should focus on supporting those with low and obsolete skills, **increasing the employability of older workers**, enhancing training, skills and experience of highly skilled workers, including researchers and women in scientific, mathematical and technological fields.

In cooperation with social partners and firms, Member States should improve access to training, strengthen education and career guidance. These improvements should be combined with the provision of systematic information on new job openings and opportunities, the promotion of entrepreneurship and enhanced anticipation of skill needs. Investment in human resource development, up-skilling and participation in lifelong learning schemes should be promoted through joint financial contributions from governments, individuals and employers. To support young people and in particular those not in employment, education or training, Member States, in cooperation with the social partners, should enact schemes to help those people find initial employment, job experience, or further education and training opportunities, including apprenticeships, and should intervene rapidly when young people become unemployed.

Regular monitoring of the performance of up-skilling and anticipation policies should help identify areas for improvement and increase the responsiveness of education and training systems to current and emerging labour market needs, such as the low-carbon and resource-efficient economy. The ESF and other EU funds should be mobilised, where appropriate, by Member States to support these objectives. Policies stimulating labour demand could complement investments in human capital.

- Council Decision 2012/238/EU of 26 April 2012 prolonging the Employment Guidelines for 2012

The guidelines for the employment policies of the Member States, as set out in the Annex to Decision 2010/707/EU, are hereby maintained for 2012 and shall be taken into account by the Member States in their employment policies.

### 3. Further reading

- The Annual Growth Survey – Priorities at EU level  
[http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/annual-growth-surveys/index_en.htm)
- The Joint Employment Report  
[http://ec.europa.eu/europe2020/pdf/ags2013\\_emplr\\_en.pdf](http://ec.europa.eu/europe2020/pdf/ags2013_emplr_en.pdf)
- Council Conclusion on Healthy and Dignified ageing (December 2009)
- Council conclusions on Active Ageing (7 June 2010)  
[http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/lsa/114968.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/lsa/114968.pdf)
- Council conclusions on Healthy Ageing across the Lifecycle (7 December 2012)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:396:0008:0011:EN:PDF>
- Council Declaration on the European Year for Active Ageing and Solidarity between Generations (2012): The Way Forward (6 December 2012)  
<http://europa.eu/ey2012/BlobServlet?docId=9611&langId=en>
- European Year for Active Ageing and Solidarity between Generations  
<http://europa.eu/ey2012/>



## A. 9-1. Early school leaving<sup>8</sup>

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
<p>9. Investing in skills, education and lifelong learning (<i>Education target</i>)</p> <p>(referred to in Article 9(10))</p>	<p>ESF:</p> <ul style="list-style-type: none"> <li>- preventing and reducing early school-leaving</li> </ul> <p>ERDF:</p> <ul style="list-style-type: none"> <li>- investing in education, skills and lifelong learning by developing education and training infrastructure.</li> </ul>	<p>9.1. <i>Early school leaving</i>: The existence of a comprehensive strategy to reduce early school leaving (ESL) in accordance with the Council recommendation of 28 June 2011 on policies to reduce ESL within the limits of Article 165 TFEU</p>	<ul style="list-style-type: none"> <li>- A system for collecting and analysing data and information on ESL at relevant levels is in place that: <ul style="list-style-type: none"> <li>- provides a sufficient evidence-base to develop targeted policies and monitors developments.</li> </ul> </li> <li>- A strategy on ESL is in place that: <ul style="list-style-type: none"> <li>- is based on evidence;</li> <li>- covers relevant educational sectors, including early childhood development, and addresses prevention, intervention and compensation measures;</li> <li>- involves all policy sectors and stakeholders that are relevant to address ESL.</li> </ul> </li> </ul>

### 1. When to assess applicability?

The applicability of this ex-ante conditionality has to be assessed if a Member State invests in preventing and reducing early school leaving (as set out in column 2 of Annex V) under the following investment priorities:

- **ESF**: Reducing early school-leaving and promoting equal access to good-quality early-childhood, primary and secondary education (Art. 3(1)(b)(i) ESF Reg.)
- **ERDF**: investing in education, skills and lifelong learning by developing education and training infrastructure (Art. 5(10) ERDF Reg.).

It is therefore not necessary to assess the applicability of this ex-ante conditionality in case Member States invest only in improving the quality of education (e.g. teacher training).

<sup>8</sup> The table below is partly based on the Council compromise text and partly on the Commission's initial proposal (yellow parts). Moreover, the Commission suggests that this *ex ante* conditionality should also be applicable for ERDF investments.

## 2. Definitions

A comprehensive strategy is based on evidence and on longer-term objectives which are agreed and implemented in cooperation with relevant stakeholders (government, education providers, labour market stakeholders, social partners, etc.). It can be established in a single policy document or in a set of inter-linked policy documents. However, a strategy is more than a collection of measures. In case measures are contained in different policy documents, they need to be embedded in a strategic approach towards the strategy's objective. A strategy sets out the scope, timeframe, concrete and comprehensive objectives ,including mapping of the necessary infrastructure with a view to assuring its long-term optimisation and sustainability, allocation of resources, measures to achieve these and monitoring and evaluation instruments to assess progress of implementation.

In the case of early school leaving (ESL), the term ‘comprehensive strategy’ refers to the Council Recommendation on policies to reduce early school leaving<sup>9</sup> and its understanding of comprehensive and evidence-based policies to reduce ESL. In this context a strategy could also be an action plan, guidelines for the different policy levels implementing measures against ESL, or even parts of the national legislation on school education. Also a national programme which supports an evidence-based and comprehensive approach to tackle ESL can indicate a clearly defined policy to reduce ESL.

Depending on the institutional context of the Member State, the strategy on ESL can be national or regional. In case of a regional OP and regional competence on ESL, only the ESL strategy of the region will need to be assessed.

Based on evidence: This means that main characteristics of ESL processes in the country (at national, regional and local/school level) are identified and proven by current data and information, taking into account demographic factors. The information is used as a basis for targeted policy development and the measures taken or described within the strategy are consistent with the specific situation within the country.

Covers relevant educational sectors: This means that, in general, measures address education levels ISCED0 to ISCED3<sup>10</sup>, both general education and vocational education and training and include also special needs education or (if systems are inclusive) the needs of students with specific educational needs. However, in case evidence shows that there is no ESL problem in one or more of these sectors, they will not be considered as relevant sectors.

Early childhood education and care is conceived as an important measure to provide all children with a good start into education and is accessible especially for groups at increased risk of ESL (such as socio-economically disadvantaged groups, migrants, Roma). Measures should be in place to ensure high quality standards.

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<sup>9</sup> OJ C 191, 2011

<sup>10</sup> ISCED 0: Early childhood education; ISCED 1: Primary education; ISCED 2: Lower secondary education; ISCED 3: Upper secondary education; ISCED 4: Post-secondary non-tertiary education; ISCED 5: Short-cycle tertiary education; ISCED 6: Bachelor's or equivalent level; ISCED 7: Master's or equivalent level; ISCED 8: Doctoral or equivalent level (see <http://www.uis.unesco.org/Education/Documents/isced-2011-en.pdf>)

## Prevention, intervention and compensation measures:

Preventative measures seek to tackle the problem even before the first symptoms of it are visible. They look at pre-conditions for successful schooling and the design of education and training systems. Potential obstacles to school success at system level are e.g. high retention rates, school segregation, limited access to high quality education for disadvantaged groups or in disadvantaged areas, inflexibility of educational pathways.

Intervention aims to avoid ESL by improving the quality of education and training and providing targeted support to pupils or groups of pupils at risk. Measures shall support pupils at risk of ESL and are mainly implemented at school-level and especially in schools most affected by ESL. They should be accessible to all pupils concerned.

Compensation measures create opportunities for those who left education and training prematurely, but want to gain the qualifications they missed at a later stage in their life. The aim is also to reintegrate young adults in danger of social exclusion by offering a range of tailor-made education and training opportunities (such as second chance schools).

Involves all policy sectors and stakeholders: This means that the strategy is coordinated across different policy sectors (e.g. social policy, employment, youth, and health) and involves different stakeholder such as parents, local communities, municipalities, employers, youth organisations. Measures supporting the reduction of early school leaving should be integrated into all relevant policies aimed at children and young people.

A system to collect sufficient evidence: This is a system that provides sufficient information to understand ESL processes in the country (at national, regional and local level) and to develop targeted policies against ESL. Relevant information is for example

- Number, age, sex of school drop-outs and early school leavers
- Socio-economic status and ethnicity of early school leavers (either of students or neighbourhood)
- Information on pupils or groups of pupils most at risk of early school leaving
- Reasons for early school leaving

Data and information should be collected systematically, at the same moments in the year and with a clear method in place, not e.g. on an ad hoc basis or limited to the data collection of the Labour Force Survey. Data should be collected at different geographical levels and in all types of education and training and should be available at municipal/local, regional and national levels (in aggregated format). Data collection should cover all types of education and training (e.g. general education, Vocational Education and Training, special needs education, private and public).

Currently most policies and measures against ESL lack evaluation and monitoring. Insufficient data collection is one of the reasons for that. Systems should allow for monitoring developments; aggregated data and information should preferably be publically available, easy to access and are used for monitoring measures against ESL.

### 3. Source of information for assessment

- National Reform Programmes  
[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)
- Country-specific Council recommendations  
[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)
- Commission Staff Working Documents on the assessment of the National Reform Programmes and the Stability/Convergence Programmes  
[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)
- National Education and Training 2020 reports from 2011  
[http://ec.europa.eu/education/lifelong-learning-policy/progress-reports\\_en.htm](http://ec.europa.eu/education/lifelong-learning-policy/progress-reports_en.htm)
- Eurydice – country reports  
[https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/Ongoing\\_Reforms\\_and\\_Policy\\_Developments](https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/Ongoing_Reforms_and_Policy_Developments)
- Mapping of country practices in collecting data on early school leaving (will be published on website in Feb. 2013)
- Results of the Peer Review on ESL in March 2013 (covering 8 countries)
- Member States' legislation and policy documents

### 4. Rationale for the ex-ante conditionality

The success rates of Member States in reducing ESL are different also due to the way policies against ESL are conceptualized. Only few Member States follow a consistent and comprehensive strategy to reduce ESL. Many initiatives against ESL are not sufficiently linked to other policies addressing young people. There is also often a lack of sound analysis of the specific problems within a region or target group.

With regard to ESF co-financed measures in six Member States, the Special Report of the Court of Auditors from 2006 concluded that "ESF co-financed activities for ESL were initiated without adequate analysis of the existing situation and the expected or targeted result." The report also states that "activities did not form part of a strategic plan (...)." (OJ 2006/C99/3 and 7). The ex-ante conditionality should ensure that initiatives are based on a sound analysis of the situation within the country or region and are part of a more strategic approach to fight ESL.

## 5. The fulfilment and non-fulfilment of criteria:

Criteria for fulfilment	Criteria fulfilled?	
	YES / NO	Elements of non-fulfilment
<p><i>A system for collecting and analysing data and information on ESL at relevant levels is in place</i></p> <ul style="list-style-type: none"> <li>▪ There is a clear systematic approach to collect and analyse data on ESL at the relevant territorial level.</li> </ul>		
<p>– <i>It provides a sufficient evidence-base to develop targeted policies and monitors developments</i></p> <ul style="list-style-type: none"> <li>▪ The system allows for an identification of the main causes triggering ESL, for an identification of the groups most affected by ESL, and for monitoring developments</li> <li>▪ It is possible to have aggregated data at the school and relevant territorial levels; data are available at least on an annual basis.</li> <li>▪ Data cover number, age, sex of school drop-outs and early school leavers. Information on reasons for early school leaving is available.</li> </ul>		
<p><i>A strategy on ESL is in place that</i></p> <ul style="list-style-type: none"> <li>▪ The self-assessment contains a reference to the strategy or indicates where it or its different elements are published (in the form of a link)</li> <li>▪ In case there is no strategy against ESL adopted or published, the self-assessment demonstrates the link between the elements at forming an equivalent to a strategy</li> </ul>		
<p>– <i>It is based on evidence</i></p> <ul style="list-style-type: none"> <li>▪ The main factors triggering ESL in the country (at the relevant territorial levels) are identified and proven by current data and information.</li> <li>▪ The measures taken or described within the strategy are consistent with the specific situation within the country (at the relevant territorial levels) and target the groups at risk of early school leaving.</li> <li>▪ Infrastructure needs –taking into account demographic trends - to address ESL have been appraised and translated into a long-term strategy of the infrastructure network, where relevant, with a view to ensuring effectiveness and sustainability.</li> </ul>		
<p>– <i>It covers relevant educational sectors, including early childhood development, and addresses prevention, intervention and compensation measures:</i></p>		

<ul style="list-style-type: none"> <li>▪ Depending on the identified ESL problems, measures address: <ul style="list-style-type: none"> <li>○ All relevant education levels up to ISCED3.</li> <li>○ Both general education and vocational education and training.</li> <li>○ Special needs education or (if systems are inclusive) the needs of students with specific educational needs.</li> <li>○ Prevention: Early childhood education and care (ECEC) is accessible and there are measures to ensure good quality. Especially groups at increased risk of ESL have access to good quality ECEC.</li> <li>○ Prevention: Potential obstacles to school success at system level (e.g. inflexible learning pathways, deficiencies in teacher education, segregation, lack of accessible good quality infrastructure, etc.) are identified; mid-term or long-term solutions are under development or at implementation stage. The measures have the potential to remove the described obstacles</li> <li>○ Intervention: Measures to support pupils at risk of ESL are implemented at school-level and especially in schools most affected by it</li> <li>○ Intervention: Measures to support individual pupils at risk of ESL are accessible to all pupils concerned and especially to groups most affected by it</li> <li>○ Intervention: In case of need, measures involve also actors outside school such as social and youth services, local community or other education and training provider</li> <li>○ Compensation: Young people who dropped out of education and training are offered possibilities to return to mainstream education or to acquire relevant qualifications within alternative settings</li> <li>○ Compensation: Young people receive additional targeted support if needed, including financial support, but also guidance and counselling</li> </ul> </li> </ul>		
<ul style="list-style-type: none"> <li>– <i>It involves all policy sectors and stakeholders that are relevant to address ESL</i> <ul style="list-style-type: none"> <li>▪ The strategy is coordinated across different policy sectors</li> <li>▪ Measures supporting the reduction of early school leaving are integrated into all relevant policies aimed at children and young people (such as social policy and support services, employment, youth, family, and integration policies.)</li> <li>▪ There is both a horizontal coordination between different actors at relevant territorial levels and vertical coordination through different levels of government.</li> </ul> </li> </ul>		

## Annex: BACKGROUND INFORMATION

### 1. EU basis for including the ex-ante conditionality in the CPR proposal

- Council Recommendation of 28 June 2011 on policies to reduce early school leaving (OJ C 191 of 1.7.2011, p. 1)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:191:0001:0006:EN:PDF>

### 2. Extract of relevant documents

- Council Recommendation of 28 June 2011 on policies to reduce early school leaving

“HEREBY RECOMMENDS THAT MEMBER STATES:

Make use of the framework set out in the Annex to this Recommendation, according to national circumstances, in order to:

1. Identify the main factors leading to early school leaving and monitor the characteristics of the phenomenon at national, regional and local level as the foundation for targeted and effective evidence-based policies.
2. Ensure that comprehensive strategies on early school leaving are in place by the end of 2012, and that they are implemented in line with national priorities and the Europe 2020 objectives. Comprehensive strategies are taken to include prevention measures, intervention measures and compensation measures, the latter being aimed at re-engaging people who have dropped out of education.
3. Ensure that those strategies include appropriate measures for groups at increased risk of early school leaving in the Member State, such as children with a socio-economically disadvantaged, migrant or Roma background, or with special educational needs.
4. Ensure that those strategies address in a coherent manner both general education and vocational education and training, and the challenges specific to each.
5. Integrate measures which support the reduction of early school leaving rates in relevant policies targeted at children and young people, and coordinate activities among different policy sectors

- Council Recommendation of 28 June 2011 on policies to reduce early school leaving, Annex

“Strategies on early school leaving should be based on an analysis at national, regional and local level of the conditions leading to the phenomenon, as average rates often mask large differences between different regions or countries. Early school leavers are a heterogeneous group and individual motivations to leave

education prematurely differ widely. Family background and wider socio-economic conditions such as pull from the labour market are important factors. Their impact is conditioned by the structure of the education and training system, by available learning opportunities, and by the learning environment. The coordination of policies addressing the well-being of children and young people, social security, youth employment and future career perspectives has an important role to play in reducing early school leaving.

(...)

Comprehensive strategies on early school leaving comprise a mix of policies, coordination across different policy sectors and the integration of measures supporting the reduction of early school leaving into all relevant policies aimed at children and young people. In addition to education policies that promote high-quality school systems, these are principally social policy and support services, employment, youth, family, and integration policies. Horizontal coordination between different actors and vertical coordination through different levels of government are equally important. Strategies on early school leaving should comprise prevention, intervention and compensation elements. Member States should select the detailed components of their strategies according to their own circumstances and contexts.”

### **3. Further reading**

- SWD "Reducing early school leaving " [SEC(2011)96], 26 January 2011

[http://ec.europa.eu/education/school-education/doc/earlywp\\_en.pdf](http://ec.europa.eu/education/school-education/doc/earlywp_en.pdf)

[http://ec.europa.eu/education/school-education/leaving\\_en.htm](http://ec.europa.eu/education/school-education/leaving_en.htm)



## A. 10-1. Active inclusion<sup>11</sup>

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
<p>10. Promoting social inclusion and combating poverty (<i>poverty target</i>)</p> <p>(referred to in Article 9(9))</p>	<p>ESF:</p> <ul style="list-style-type: none"> <li>- Active inclusion with a view to improving employment opportunities</li> </ul> <p>ERDF:</p> <ul style="list-style-type: none"> <li>- investing in health and social infrastructure which contribute to national, regional and local development, reducing inequalities in terms of health status, and transition from institutional to community-based services</li> <li>- support for physical and economic regeneration of deprived urban and rural communities</li> </ul>	<p>10.1. 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.</p>	<ul style="list-style-type: none"> <li>- A national strategic policy framework for poverty reduction, aiming at active inclusion, is in place that: <ul style="list-style-type: none"> <li>- provides a sufficient evidence base to develop policies for poverty reduction and monitor developments;</li> <li>- is in accordance with the national poverty and social exclusion target (as defined in the National Reform Programme), which includes the extension of employment opportunities for disadvantaged groups;</li> <li>- includes measures for the shift from institutional to community based care;</li> <li>- involves relevant stakeholders in combating poverty; <ul style="list-style-type: none"> <li>- Upon request and where necessary relevant stakeholders can be provided with support for submitting project applications and for implementing and managing the selected projects.</li> </ul> </li> </ul> </li> </ul>

### 1. When to assess applicability?

The applicability of this ex-ante conditionality has to be assessed if a Member State selects the following investment priorities:

- **ESF:** Active inclusion (Art. 3(1)(c)(i) ESF Reg.)
- **ERDF:**
  - investing in health and social infrastructure which contribute to national, regional and local development, reducing inequalities in terms of health

<sup>11</sup> The table below is partly based on the Council compromise text and partly on the Commission's initial proposal (yellow parts). Moreover, the Commission suggests that this *ex ante* conditionality should be also applicable for ERDF investments.

status, and transition from institutional to community-based services (Art. 5(9)(a) ERDF Reg.)

- support for physical and economic regeneration of deprived urban and rural communities (Art. 5(9)(b) ERDF Reg.)

## 2. Definitions

A strategic policy framework is based on evidence and on longer-term objectives which are agreed and implemented in cooperation with relevant stakeholders (government, education providers, labour market stakeholders, social partners, etc.). It can be established in a single policy document or in a set of inter-linked policy documents. It sets out the scope, timeframe, concrete and comprehensive objectives, allocation of resources, measures to achieve these, including any necessary infrastructure investments, and monitoring and evaluation instruments to assess progress of implementation.

In the case of poverty reduction a national strategic policy framework for poverty reduction has the main characteristics of the comprehensive and integrated active inclusion strategy described in the 2008 Recommendation on active inclusion. A fully comprehensive policy design defines the right mix of the three strands (*adequate income support, labour market activation, and access to enabling services*) of the active inclusion strategy, taking account their joint impact on the social and economic integration of disadvantaged people and their possible interrelationships, including synergies and trade-offs. An integrated approach refers to the joint implementation (and delivery) of the three strands preferably in the form of single-access points. A national strategic policy framework should also address the vertical coordination of policies among local, regional, and national governments.

Sufficient evidence base means the state of active inclusion strategy in the respective Member State based on indicators on active inclusion<sup>12</sup>. The indicators have to look at areas such as adequacy and coverage of adequate income support, jobless households, in-work poverty, financial disincentives, as well as, access to education (for the low skilled adults), healthcare, and housing. There has to be evidence of integrated service delivery ("one-stop-shops"), or credible plans on the implementation of integrated approach.

An institution is a residential care where:

- residents are isolated from the broader community and/or compelled to live together;
- residents do not have sufficient control over their lives and over decisions which affect them;
- the requirements of the organisation itself tend to take precedence over the residents' individualised needs.

Community based services: This term refers to the spectrum of services that enable individuals to live in the community and, in the case of children, to grow up in a family environment as opposed to institutions. It encompasses mainstream services such as housing, healthcare, education, employment, culture and leisure, which should be accessible to everyone regardless of the nature of their impairment or the required level

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<sup>12</sup> See the *Foundations and structures for a Joint Assessment Framework (JAF), including an Employment Performance Monitor (EPM) to monitor the Employment Guidelines under Europe 2020*.

of support. It also refers to specialised services, such as personal assistance for persons with disabilities.

In addition, the term includes family-based and family-like care for children, including substitute family care and preventive measures for early intervention and family support.

Deinstitutionalisation: It refers to the process of developing a range of services in the community, including prevention, in order to eliminate the need of institutional care.

Measures for the transition from institutional to community based care:

These measures include the development of services based in the community enabling people to live independently and preventing the need of institutionalisation. In the case of children in alternative care, the provision of family-based or family-like care which include family support should be in place.

Relevant stakeholders: It refers to active participation of all relevant actors, including those affected by poverty and social exclusion, the social partners, non-governmental organisations and service providers, in the development, implementation and evaluation of strategies.

### 3. Source of information for assessment

- European Commission Staff Working Document: Follow-up on the implementation by the Member States of the 2008 European Commission recommendation on active inclusion of people excluded from the labour market – Towards a social investment approach (SWD(2013)39 of 20.02.2013).
- National Reform Programmes  
[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)
- Country-specific Council recommendations  
[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)
- Commission Staff Working Documents on the assessment of the National Reform Programmes and the Stability/Convergence Programmes  
[http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index\\_en.htm](http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm)
- EU Network of Independent Experts on Social Inclusion (Frazer, H. and Marlier, E. 2012.) Assessment of the implementation of the European Commission recommendation on active inclusion  
<http://ec.europa.eu/social/main.jsp?catId=1025&langId=en>

- National Social Reports

<http://ec.europa.eu/social/keyDocuments.jsp?policyArea=750&subCategory=758&type=0&country=0&year=0&advSearchKey=SPCNationalSocialReport&mode=advancedSubmit&langId=en>

#### **4. Rationale for the ex-ante conditionality**

The various challenges on the welfare systems (changing demographics, as well as, budget constraints due to the economic and financial crisis) have led to growing risks of poverty and social and labour market exclusion in many countries. They not only threaten the prospect of reaching the Europe 2020 targets, but also risk durably excluding a fringe of Europe's population from the labour market and more generally from society.

An approach based on active inclusion is particularly well positioned by focusing on both effectiveness (adequate income support combined with activation and access to enabling services) and efficiency (such as one-stop-shops that reduce administrative burden and fraud).

The strategy/strategic policy framework should explain how any infrastructure needs have been appraised and how resulting investments will be optimised and sustainable, taking into account relevant considerations such as demographic and territorial factors.

Monitoring and evaluation of active inclusion strategies may identify practices that yield more efficient and effective reduction in poverty (thus cohesion policy investments should be targeted to the identified practices).

Monitoring of the poverty target in light of the implementation of Guideline 10 of the Employment Guidelines may help to identify national challenges, set out key measures, develop and spread more effective and innovative methods and instruments. This would lead to making better use of cohesion policy investments – and thus increase the effectiveness of cohesion policy - to promote social inclusion and combat discrimination.

## 5. The fulfilment and non-fulfilment of criteria:

Criteria for fulfilment	Criteria fulfilled?	
	YES / NO	Elements of non-fulfilment
<p><i>A national strategic policy framework for poverty reduction aiming at active inclusion is in place....</i></p> <ul style="list-style-type: none"> <li>▪ The self-assessment contains a reference to the name of the framework and indicates where it or its different elements are published (in the form of a link).</li> </ul>		
<p><i>... that:</i></p>		
<p>– <i>provides a sufficient evidence base to develop policies for poverty reduction and monitor developments</i></p> <ul style="list-style-type: none"> <li>▪ The national strategic policy framework is based on an analysis of the Member State's poverty reduction potential and is based on indicators relevant to active inclusion,</li> <li>▪ The analysis covers all three pillars<sup>13</sup> of active inclusion separately) and addresses the comprehensive and integrated nature of the strategy.).</li> <li>▪ The national strategic policy framework highlights areas in need of improvement, as well as the proposed/implemented measures.</li> </ul>		
<p>– <i>is in accordance with the national poverty and social exclusion target (as defined in the National Reform Programme), which includes the extension of employment opportunities for disadvantaged groups;</i></p> <ul style="list-style-type: none"> <li>▪ There is a national poverty and social inclusion target.</li> <li>▪ The strategic policy framework is geared towards progress in achieving the target and there is a tangible link between the overall policy framework and the poverty target. When addressing the challenges of implementing an active inclusion strategic policy framework, there is a concrete reference on how tackling challenges (such as low coverage, inadequate income support, in-work poverty, lack of access to services, or lack of integrated approach) contributes to the overall poverty reduction target.</li> </ul>		
<p>– <i>involves relevant stakeholders in combating poverty;</i></p> <ul style="list-style-type: none"> <li>▪ There is evidence that relevant stakeholders are involved in the design and implementation of the national strategic policy framework.</li> </ul>		

<sup>13</sup> i.e. adequate income support, labour market activation, and access to enabling services.

<p>– <i>includes measures for the shift from institutional to community based care;</i></p> <ul style="list-style-type: none"> <li>▪ Measures for the transition from institutional to community based care are in place<sup>14</sup>.</li> <li>▪ Measures for enabling access to mainstream services in their community (education and training, employment, housing, health, transport, leisure activities) to everyone, regardless the nature of their impairment, are in place.</li> </ul>		
<p><i>Upon request and where necessary relevant stakeholders can be provided with support for submitting project applications and for implementing and managing the selected projects.</i></p> <ul style="list-style-type: none"> <li>▪ Measures are in place to support applicants upon their request in preparing and submitting applications for projects, inter alia by providing information and advice on the design of operations and on the procedure for the submission of applications</li> <li>▪ Measures are in place to support beneficiaries upon their request to implement and manage the selected projects, inter alia by providing information and advice</li> </ul>		

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<sup>14</sup> See section 2.

## Annex: BACKGROUND INFORMATION

### 1. EU basis for including the ex-ante conditionality in the CPR proposal

- European Commission Recommendation of 3 October 2008 on the active inclusion of the people excluded from the labour market (OJ L 307, 18.11.2008, p. 11)  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:307:0011:0014:EN:PDF>
- Conclusions of the European Council, June 2010 (EUCO 13/10)  
[http://ec.europa.eu/eu2020/pdf/council\\_conclusion\\_17\\_june\\_en.pdf](http://ec.europa.eu/eu2020/pdf/council_conclusion_17_june_en.pdf)
- Council Decision 2010/707/EU of 21 October 2010 on guidelines for the employment policies of the Member States  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:308:0046:0051:EN:PDF>
- European Council Conclusions of 17 December 2008 on "Common active inclusion principles to combat poverty more effectively"  
[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/lsa/104818.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/lsa/104818.pdf)
- Council decision of 26 November 2009 concerning the conclusion of the United Nations Convention on the rights of persons with disabilities.  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:023:0035:0061:EN:PDF>
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions  
European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free European Commission  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:EN:PDF>
- Council Conclusion 6 June 2011 on "The European pact of mental health and well-being : results and future action"  
[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lsa/122389.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/122389.pdf)
- United Nations Convention on the rights of the child adopted in 1989  
<http://www2.ohchr.org/english/law/crc.htm>

## 2. Extract of relevant documents

- European Commission Recommendation of 3 October 2008 on the active inclusion of the people excluded from the labour market (OJ L 307, 18.11.2008, p. 11).

The Commission of the European Communities

HEREBY RECOMMENDS THAT THE MEMBER STATES SHOULD:

Design and implement an integrated comprehensive strategy for the active inclusion of people excluded from the labour market combining adequate income support, inclusive labour markets and access to quality services. Active inclusion policies should facilitate the integration into sustainable, quality employment of those who can work and provide resources which are sufficient to live in dignity, together with support for social participation, for those who cannot.

2. Ensure the effectiveness of integrated active inclusion policies through:

(a) comprehensive policy design defining the right mix of the three strands of the active inclusion strategy, taking account of their joint impact on the social and economic integration of disadvantaged people and their possible interrelationships, including synergies and trade-offs;

(b) integrated implementation across the three strands of the active inclusion strategy to effectively address the multifaceted causes of poverty and social exclusion and enhance coordination between public agencies and services which deliver active inclusion policies;

(c) policy coordination among local, regional, national and EU authorities in the light of their particular roles, competences and priorities;

(d) active participation of all other relevant actors, including those affected by poverty and social exclusion, the social partners, non-governmental organisations and service providers, in the development, implementation and evaluation of strategies.

- United Nation Convention on the rights of persons with disabilities

### *Article 19 - Living independently and being included in the community*

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.



- United Nations Convention on the Rights of the Child

*Article 3*

Preamble

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

- United Nations guidelines on the alternative care for children, adopted in 2009

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20. Use of residential care should be limited to cases where such a setting is specifically appropriate , necessary and constructive for the individual child concerned and in his/her best interest.

22. While recognising that residential care and family based care complement each other in meeting the needs of the children, where large residential care facilities remain , alternatives should be developed in the context of an overall deinstitutionalisation strategy with precise goals and objectives which will allow for their progressive elimination. To this end states should establish care standards to ensure the quality and conditions that are conducive to the child's development, such as individualised and small-group care and should evaluate existing facilities against these standards.

- European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe

Chapter 2

*The Commission will work to promote the transition from institutional to community-based care by: using Structural Funds and the Rural Development Fund to support the development of community-based services and raising awareness of the situation of people with disabilities living in residential institutions, in particular children and elderly people;*

- Council Conclusion 6 June 2011 on "The European pact of mental health and well-being : results and future action"

*The Council of the European Union*

21. INVITES Member States to:

*Promote, where possible and relevant, community-based, socially inclusive treatment and care models;*

22. INVITES Member States and the Commission to:

*Managing the evolution of community-based and socially-inclusive approaches to mental health;*

- Social Protection Committee's key messages, annexed to the Council conclusions of 4 October 2012 on preventing and tackling child poverty and social exclusion and promoting children's well-being

*Support children and their families through high quality child protection and social services and preventive measures based on the child's best interest. Where alternative care is necessary, ensure quality care, access to mainstream services and support transition to adulthood through specific services.*

### 3. Further reading

- Commission Communication of 3.10.2008 on a Commission Recommendation on the active inclusion of people excluded from the labour market (COM(2008) 639 final).  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0639:EN:NOT>
- European Parliament Resolution of 6.5.2009 on the active inclusion of people excluded from the labour market (2008/2335(INI))  
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0371+0+DOC+XML+V0//EN>
- Mental health declaration of the European ministerial conference of the World Health Organisation of 15 January 2005.  
[http://www.euro.who.int/\\_data/assets/pdf\\_file/0008/96452/E87301.pdf](http://www.euro.who.int/_data/assets/pdf_file/0008/96452/E87301.pdf)
- United Nations guidelines on the alternative care for children, adopted in 2009  
<http://www.iss-ssi.org/2009/index.php?id=25>
- Social Protection Committee report on tackling and preventing child poverty and child well-being  
<http://ec.europa.eu/social/main.jsp?langId=en&catId=758>

- Council Conclusions on preventing and tackling child poverty and social exclusion and promoting children's well-being, 14437/12 October 2012; including key messages from the Social Protection Committee

<http://register.consilium.europa.eu/pdf/en/12/st14/st14437.en12.pdf>

- Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care

<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=614&furtherNews=yes>



## B. GENERAL EX ANTE CONDITIONALITIES

### B. 5. State aid<sup>15</sup>

AREA	Ex ante conditionality	Criteria for fulfilment
5. State aid	The existence of arrangements for the effective application of EU state aid law in the field of the CSF Funds.	<ul style="list-style-type: none"><li>– Arrangements for the effective application of EU State aid rules;</li><li>– Arrangements for training and dissemination of information for staff involved in the implementation of the funds;</li><li>– Arrangements to ensure administrative capacity for implementation and application of EU State aid rules.</li></ul>

#### 1. When to assess applicability?

This conditionality is linked to ensuring effective implementation and application of EU State aid law.

This conditionality is relevant and applicable where the support granted under a priority may constitute State aid (incl. *de minimis* aid). In principle, the State aid conditionality applies to all specific objectives determined and for all types of support (including grants and financial instruments) but it will need to be determined case by case.

#### 2. Definitions (currently applicable – some of the regulations and guidelines mentioned below are under revision and might be subject to changes as of 2014)

State aid is defined by Article 107(1) TFEU as "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States.*"

Notification and ex ante authorisation: Member States are obliged to notify the Commission of any plan to grant or alter State aid, in accordance with Article 108(3) TFEU. Member States must not put the aid measure into effect until the Commission has reached a decision.

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<sup>15</sup> The text of the table below is based on the Council Compromise text of 24 April 2012.

There are however some exceptions. The following types of aid are exempted from prior notification:

- *de minimis* aid,
- aid granted under the General Block Exemption Regulation (GBER),
- aid granted under an existing scheme<sup>16</sup>,
- aid for projects entrusted as SGEI in accordance to Commission's SGEI decision<sup>17</sup>, and
- aid to which Regulation 1370/2007<sup>18</sup> applies.

Unlawful (or illegal) aid: New aid put into effect in contravention of Article 108(3) TFEU, which means granted by a Member State without required prior notification to the Commission and/or without having obtained the authorisation by the Commission. Unlawful aid, after examination by the Commission, can be found to be compatible or incompatible with the internal market. Aid which is both unlawful and incompatible aid is subject to a Commission's recovery decision.

Incompatible aid: State aid which the Commission finds to be incompatible with the internal market because it does not fall under one of the exceptions foreseen in the Treaty, in particular Article 107(2) or (3). Incompatible aid may not be granted and, in case it has already been unlawfully granted, it can be subject to a recovery decision.

The de minimis Regulation<sup>19</sup> was introduced in order to exempt small aid amounts. It sets a ceiling below which aid is deemed not to fall within the scope of Article 107(1) TFEU and is therefore exempt from the notification requirement laid down in Article 108(3) TFEU.

- Aid of no more than EUR 200 000 granted over a period of three years to one undertaking (including all undertakings of the same group) is not regarded as state aid within the meaning of Article 107(1) TFEU. It is another requirement that the recipient is duly informed that the support is granted as de-minimis aid.
- A specific ceiling of EUR 100 000 applies to road transport.

General Block Exemption Regulation (GBER)<sup>20</sup>: The obligation for Member States for compulsory prior notification is removed for certain types of aid as identified in the GBER. As a result, Member States are able to grant aid that meets the conditions laid down in that Regulation without the formal notification procedure and only have to submit information sheets on the implemented aid.

The GBER simplifies the treatment of State aid measures favouring job creation and boosting competitiveness, i.e. measures in favour of SMEs. It foresees 26 categories of state aid measures, which are considered to be compatible with State aid rules without requiring prior notification to the Commission, as would otherwise be foreseen under TFEU. The GBER also contains a series of conditions which aim to ensure that the aid measures will indeed lead the beneficiary to undertake a project or activity which he would not have engaged in without the aid (incentive effect).

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<sup>16</sup> For which the aid amount is below the notification threshold

<sup>17</sup> [http://ec.europa.eu/competition/state\\_aid/legislation/sgei.html](http://ec.europa.eu/competition/state_aid/legislation/sgei.html)

<sup>18</sup> Regulation (EC) No 1370/2007 of 23 October 2007 on public passenger transport services by rail and by road

<sup>19</sup> This Regulation is subject to changes under the State aid modernisation initiative.

<sup>20</sup> This Regulation is subject to changes under the State aid modernisation initiative.

Aid schemes: By complying with all terms of a State aid scheme, the State aid grantor can provide State aid without having it individually notified to the Commission. However, before any aid grantor can apply a scheme, it has to notify the Commission the scheme and the Commission has to approve it (with the exception of block exempted schemes).

Individual aid: notifiable awards of aid on the basis of an aid scheme (for instance because the aid amount is above a notification threshold).

Ad hoc aid: State aid not awarded on the basis of an aid scheme.

"Degendorf" Case (*Case C-188/92, TWD Textilwerke Deggendorf GmbH v Germany, ("Deggendorf") ECR [1994], I-00833*): when assessing a new aid measure, the Commission shall take into account the fact that the beneficiary of this new aid has not fully repaid earlier aid that is subject to a recovery decision. As a result, the Commission may decide not to authorise the Member State to grant otherwise compatible aid until the previous aid has been fully reimbursed.

SME stands for small and medium-sized enterprises – as defined in EU law (Commission Recommendation of 6 May 2003). The main factors determining whether a company is an SME are (1) number of employees and (2) either turnover or balance sheet total.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

### **3. Source of information for assessment**

DG Competition website, State aid legislation:

[http://ec.europa.eu/competition/state\\_aid/legislation/legislation.html](http://ec.europa.eu/competition/state_aid/legislation/legislation.html)

State aid register:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

### **4. Rationale for the *ex ante* conditionality**

Under Article 107 TFEU, State aid is incompatible with the internal market unless its positive effects (in terms of contribution to common interest objectives) outweigh its negative effects aid (in terms of effect on trading conditions and competition in the Union). Member States must ensure that mechanisms are in place to prevent incompatible aid from being granted.

EU State aid rules provide a framework for ensuring that aid is well-designed, targeted at identified market failures and objectives of common interest, and least distortive. In particular, State aid should induce the aid beneficiary to undertake activities it would not have done without the aid (incentive

effect) and complement, without replacing, private spending, while keeping the internal market competitive and open.

Given the role of Member States in the proper enforcement of State aid rules in approved or block-exempted measures, it is essential that appropriate training and capacity are conducted at all administrative levels.



## 5. Fulfilment and non-fulfilment of criteria

Criteria for fulfilment	Criteria fulfilled?	
	YES/NO	Elements of non-fulfilment
<p>– <i>Arrangements for the effective application of EU State aid rules</i> in the field of ESI Funds:</p> <ul style="list-style-type: none"> <li>▪ Measures are in place to prevent the granting of illegal aid, e.g. <ul style="list-style-type: none"> <li>▪ respect of cumulation rules,</li> <li>▪ respect of the "Deggendorf" obligation,</li> <li>▪ amendments into an existing scheme are systematically subject to a verification to ensure that the scheme is still covered by the Commission approval decision or the General block exemption Regulation;</li> <li>▪ In case of repayable assistance provided through financial instruments, measures are in place to ensure that the managing authority, the fund of funds and the bodies implementing the financial instruments comply with State aid rules. The compliance is required at the level of the fund manager, co-investor(s) and final recipients.</li> </ul> </li> <li>▪ Capacity to enforce recovery orders with respect to both illegal and incompatible aid, which covers: <ul style="list-style-type: none"> <li>○ the possibility to refer, if necessary, to national courts in case of illegal aid and recovery orders</li> <li>○ effectiveness of timely recovery</li> </ul> </li> <li>▪ Capacity to ensure proper controls of compliance the GBER and approved schemes:</li> </ul> <p>There are procedures and guidelines to ensure that granting authorities properly check eligibility and compatibility conditions (incentive effect, limitation of the aid to maximum aid intensities, eligibility conditions of schemes, SME-status of beneficiaries, etc.)</p> <ul style="list-style-type: none"> <li>▪ Appropriate knowledge about any aid granted, including <i>de minimis</i></li> </ul> <p>There is a system that makes sure that the reporting obligations are fully complied with and in particular the information of aid granted is complete,</p>		

<p>accurate and timely (e.g. central registry for aid granted, <i>de minimis</i> registry, transparency mechanisms).</p>		
<p>– <i>Arrangements for training and dissemination of information for staff involved in the implementation of the funds:</i></p> <ul style="list-style-type: none"> <li>▪ Appropriate training for staff applying EU State aid rules at all relevant levels (e.g. for dedicated desks) has been provided or is planned;</li> <li>▪ Existence of a system of dissemination of relevant State aid guidance to managing authorities, intermediate bodies, certifying authorities, audit authorities and beneficiaries, and in case of financial instruments also the fund of funds, and the bodies implementing the financial instruments (via websites, direct mail, etc.)</li> <li>▪ Existence of a system of exchange of information for all staff applying State aid rules linked to the implementation of ESI Funds.</li> </ul>		
<p>– <i>Arrangements to ensure administrative capacity for implementation and application of EU State aid rules:</i></p> <ul style="list-style-type: none"> <li>▪ Existence of a central body (or a coordinated network of bodies) having the administrative capacity (sufficient number and qualified staff) to give substantive practical and legal advice on application of EU State aid rules and regularly exercising this capacity in practice;</li> <li>▪ Possibility for technical assistance (e.g. technical guidance documents) ensured for all bodies involved in applying State aid rules.</li> </ul>		

## Annex: BACKGROUND INFORMATION

### 1. EU basis for including the *ex ante* conditionality in the CPR proposal

- Member States need to comply with State aid rules. A compilation of State aid legislation in force can be found on the following webpage:

[http://ec.europa.eu/competition/state\\_aid/legislation/legislation.html](http://ec.europa.eu/competition/state_aid/legislation/legislation.html)

including:

- (1) Core provisions of the Treaty on the Functioning of the European Union (TFEU);
- (2) General Block Exemption Regulation;
- (3) *de minimis* Regulation;
- (4) horizontal rules applying across all industries, setting out the Commission position on compatibility of aid (e.g. regional aid guidelines (RAG), risk capital guidelines, environmental aid guidelines and R&D&I Framework).
- (5) Sector-specific compatibility rules (e.g. on broadband or transport)

### 2. Extract of relevant documents

- Core provisions of the Treaty on the Functioning of the European Union

**Article 107 TFEU**  
(ex Article 87 TEC)

1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

2. The following shall be compatible with the internal market:

- (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- (b) aid to make good the damage caused by natural disasters or exceptional occurrences;
- (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.

3. The following may be considered to be compatible with the internal market:

- (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation;
- (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest;  
(e) such other categories of aid as may be specified by decision of the Council on a proposal from the Commission.

**Article 108**  
(ex Article 88 TEC)

1. The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market.

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the internal market having regard to Article 107, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 258 and 259, refer the matter to the Court of Justice of the European Union direct.

On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered to be compatible with the internal market, in derogation from the provisions of Article 107 or from the regulations provided for in Article 109, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall give its decision on the case.

3. The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the internal market having regard to Article 107, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

4. The Commission may adopt regulations relating to the categories of State aid that the Council has, pursuant to Article 109, determined may be exempted from the procedure provided for by paragraph 3 of this Article.

**Article 109**  
(ex Article 89 TEC)

The Council, on a proposal from the Commission and after consulting the European Parliament, may make any appropriate regulations for the application of Articles 107 and 108 and may in particular determine the conditions in which Article 108(3) shall apply and the categories of aid exempted from this procedure.

### 3. Further reading

- State Aid Modernisation

Most State aid rules are subject to review in 2013 in the framework of the State Aid Modernisation initiative (SAM), and new rules will enter into force in 2013/2014. Regularly updated information is available on the following webpage:

[http://ec.europa.eu/competition/state\\_aid/modernisation/index\\_en.html](http://ec.europa.eu/competition/state_aid/modernisation/index_en.html)

- Regional aid

[http://ec.europa.eu/competition/state\\_aid/regional\\_aid/regional\\_aid.html](http://ec.europa.eu/competition/state_aid/regional_aid/regional_aid.html)