

**FAQ ON *EX ANTE* CONDITIONALITIES**  
**RELATING TO RESEARCH AND INNOVATION (R&I)**

**EAC 1.1 ON R&I AND EAC 1.2 ON R&I INFRASTRUCTURE**

This list of frequently asked questions is based on comments received from Member States (MS) on Part II of the Guidance on *ex ante* conditionalities as regards R&I (EAC 1.1, 1.2) up to January 2014. It is also based on questions raised by REGIO's geographical units and on the FAQ on RIS3.

**General comments on the Guidance Fiches 1.1 & 1.2**

- Opposition to any sublevel more detailed criteria for fulfilment than prescribed by the draft regulation

Commission's reply: This guidance on *ex ante* conditionalities is addressed to REGIO desk officers. Its purpose is to provide a common framework for the assessment by the Commission of the consistency and adequacy of the information provided by Member States on the applicability and fulfilment of ex-ante conditionalities upon the formal submission of Partnership Agreements and programmes, as well as during the informal dialogue that takes place before the formal submission of programmes and partnership agreements. Sub-criteria identified in the assessment grids aim at describing the Commission's expectations for each criterion and should ensure consistency between Member States.

The Guidance was made available for Member States to let them know how the Commission will assess the requirements set out in Annex XI of the Common Provisions Regulation. However, there is no regulatory obligation to make use of it.

**EAC 1.1: R&I**

- Opposition to the systematic reference to the RIS 3 Guide in the guidance fiche (used as a template for elaborating the sub-criteria for fulfilment of this EAC).

"We agree the RIS3 Guide a helpful, accessible and comprehensive document and it has pointed Local Enterprise Partnerships towards it. However, it should be noted explicitly in the guidance that while being a useful document, the RIS3 Guide provides best practice and extends beyond what it required for strict fulfilment of the conditionality. The definition of "entrepreneurial discovery process" is not relevant and should be removed. "Entrepreneurial discovery process" is not mentioned in either Annex V or the definition of smart specialisation in Article 2."

"We considers that the title of 'Definitions' should not contain the RIS3 guide as reference for 'Entrepreneurial discovery'. Further on, the RIS3 guide cannot be referred as standards to the

smart specialization strategy development (chapter 3). These are going well beyond the Regulations, as the RIS3 or its guide are not mentioned in the CPR or the Fund-specific rules. Once again, in our view there cannot be any reference to the RIS3 guide as its use is purely voluntary for the Member States. This does not mean, however, that we would undermine the usefulness of the RIS3 guide. To conclude, we would like to remind that the only reference for the ‘smart specialization strategy’ is the definition for it in article 2 in the CPR. This means that the assessment for its fulfilment have to fully based on that."

Commission's reply: The RIS3 Guide is an informal guidance document of the European Commission services. Member States are not required to follow it. However, it is highly recommended to use it in the preparation of the RIS3s since it provides concrete advice on how to establish the Smart specialisation strategies, including explanations on:

- the entrepreneurial discovery process (mentioned in Annex I of the CPR as the process to develop RIS3s), and its indispensable nature for the analysis, the identification of priorities for smart specialisation, the shaping of implementation measures and the monitoring process.
- the development of the roadmap and a coherent and comprehensive policy mix of a RIS3 beyond the limitations of ERDF funding possibilities, that should include among its delivery instruments “*measures to stimulate private RTD investment*” and outline „*available budgetary resources for research and innovation*”
- the concept of critical mass, fragmentation and insufficiency of one-size-fits-all horizontal support policies that do not focus public policies on fields where there is a potential for competitive advantages that is summed up in the criterion „*concentrate resources on a limited set ....*”
- The concept of „*research and innovation priorities*” that should not be confused with individual sectors or technologies, but are conceived as catalysts for structural change bringing together business innovation and research (and possibly pre-existing separate strategies for research or innovation) for place-based economic transformation
- The *monitoring mechanism* that is founded on the development of indicators to accompany the RIS3 implementation and review process

- "Grateful if the Commission can explain how the documents listed in the source of information help carry out the assessment of applicability or fulfilment of the conditionality, rather than an assessment of the content of the strategies. In our view, the list is unnecessary."

Commission's reply: As mentioned in the last version of the Guidance (December 2013), the document listed in the source of information should indeed be considered as guidance documents on how to develop smart specialisation strategy standards.

- "2<sup>nd</sup> criterion ("*is based on a SWOT or similar analysis to concentrate resources on a limited set of research and innovation priorities*") : We considers that the 3<sup>rd</sup> bullet ("*there is a description of the prioritisation/elimination process, including the involvement of stakeholders, and of its results*") should be deleted since it focuses on the content of the strategies (the results) and also adds in requirements such as the involvement of stakeholders not mentioned in the criteria for fulfilment and which therefore cannot be part of the assessment of fulfilment of the conditionality.

Partnership and the involvement of stakeholders in programming should be a separate part of the informal negotiations, not the conditionalities."

Commission's reply: The Commission does not intend to discuss the content of the strategies while assessing ex ante conditionalities. However, in order to avoid that information provided in this context might be window dressing, it will check whether the prioritisation process was properly conducted and verify that its results are available.

- "The 3<sup>rd</sup> criterion requests "*measures to stimulate private RTD investment*". The assessment grid also adds in requirements not in the criteria for fulfilment. In our country, these measures are likely to be undertaken outside ERDF programmes (one of our most effective measures is for example R and D tax credits). The Commission cannot impose requirements for this to be done through "entrepreneurial discovery process". The criteria for fulfilment require measures to be outlined and not the process by which they have been developed."

Commission's reply: The Commission does not impose any method to Member States on how to develop measures that could best fit to the needs of their enterprises to stimulate private RTD investments; it however suggests to take into consideration the results of the entrepreneurial discovery process to best tailor make them to the needs expressed by the main stakeholders. The brief description of the process used to identify those measures is the only way to objective the Commission's assessment of this criterion for fulfilment without entering into the content of the chosen measures.

The Commission agrees that the policy mix and roadmaps for the RIS3 implementation should include measures undertaken outside the ERDF.

- "The 4<sup>th</sup> criterion requests the existence of "*a monitoring mechanism*". We consider that the Commission should not check the existence of "*chosen indicators*" as part of the ex-ante conditionality. (By contrast, the criteria for fulfilment for the ICT strategic policy framework explicitly mention indicators – see page 21 – and therefore it is appropriate there for the Commission to check they exist. The Commission should take note of the fact that the co-legislators chose not to take the same approach for thematic objective 1)."

Commission's reply: Concrete information on indicators is necessary to appreciate the existence of a monitoring mechanism.

However, in assessing the existence of a monitoring mechanism of smart specialisation strategies, the Commission will not question the substance of the chosen indicators at national or regional level but check their existence.

- "Is the criteria requiring the definition of the budget for R&D required as part of strategic document?"

Commission's reply: A framework outlining available budgetary resources for R&I needs to be adopted, indicating various sources of finance and indicative amounts, if possible for the whole period covered by the strategy (until 2020): EU, national and other sources.

It can be part of the national or regional smart specialisation strategy. However, this is not mandatory (hence the current wording of footnote 8).

### **EAC 2.1: R&I infrastructure**

- "Why did the Council split the EAC referring to R&I (in the Commission's proposal) into two EAC (R&I and R&I infrastructure, both with budgetary requirements) in April 2012? What are the concrete implications of this split in terms of requirements for the Member States and assessment by the Commission?"

Commission's reply: The original EAC was split into two separate EACs (R&I smart specialization strategy; and R&I infrastructure), in order to ensure the adequate definition of specific objectives for each of the investment priorities.

- "Would our national roadmap for research infrastructure (which included a special view on ESFRI) be sufficient to fulfil the requirement for a plan of prioritisation of investments linked to EU priorities?"

Commission's reply: If this roadmap fully fulfils the criterion mentioned in the Regulation, it could be considered as a basis to fulfil the requirement for a multiannual plan for budgeting and prioritisation of investments, as foreseen in EAC 1.2.

However, this needs to be checked in concrete terms; the Commission will have to assess it.

- "We suggest adapting the reference to the ERDF investment priority ("Research and /or Innovation infrastructure and /or capacities to develop R&I excellence...")."

Commission's reply: The guidance sticks to the adopted Regulation:

Article 5.1(a) of the ERDF Regulation: *Enhancing research and innovation infrastructure (R&I) and capacities to develop R&I excellence and promoting centres of competence, in particular those of European interest.*

- "We suggest adapting the text of the EAC (as mentioned in the column 3 of the table); it should be changed into „Research and/or innovation infrastructure” since according to the definition of „Innovation infrastructure” in addition to innovation infrastructure, in case of competence centres, science and technology parks a multi-annual plan has to be elaborated."

Commission's reply: The guidance needs to stick to the adopted Regulation: „Research and/or innovation infrastructure.

- "We request a definition for "R&I capacities"."

Commission's reply: R&I capacities used to develop R&I excellence namely cover skills development, purchase of equipment and facilitating the access to existing infrastructure, etc.

- "We are planning to enhance research and innovation infrastructure as well as to develop R&I excellence and promoting centres of competence. What scale of infrastructure is taken into consideration, is it only large scale infrastructure? Is it infrastructure related with ESFRI and smart specialization? Whether smaller competence centres of excellence must be listed as well? Will it be a possibility to finance those centers if they will not be listed?"

Commission's reply: The rationale of this ex ante conditionality is to enhance synergies, complementarity and cooperation at EU level, in particular between large scale and cost-intensive R&I infrastructures. Investment decisions for new such infrastructures should be based on a sound analysis taking into account the needs for such infrastructures in the context of smart specialization strategies and of the European Research Area. The prioritization process should in particular analyse cost-benefit, timing and critical mass issues and consider investments outside the territory in existing or emerging similar infrastructures in other regions and member states.

It is therefore relevant to relate the multi-annual plan for budgeting and prioritization of investments to the ESFRI, to projects led under Horizon 2020, and other EU priorities.

The list of investments is indicative and might be supplemented and up-dated during the financial period until 2020.

- "We would be grateful for clarification as to what is meant by “EU priorities”. Our interpretation is that, given there is a separate mention of ESFRI, this can refer to thematic areas (for example, key enabling technologies) and this is what the prioritisation should be linked to. It is not realistic to expect regions in particular to be aware of all existing R and I infrastructures and capacities in the EU. What they should be aware of are their own strengths and weaknesses (i.e. a smart specialisation approach) and the EU priority thematic areas for investment. "

Commission's reply: As regards the definition of EU priorities, besides the ESFRI research infrastructures, they include in the context of research and innovation capacity building, in particular the European Innovation Partnerships, the public-public and public-public partnerships under Articles 185 and 187 of the Treaty on the Functioning of the EU, Joint Programming Initiatives, sector or technology specific initiatives (e.g. the SET plan), the existing and future Knowledge and Innovation Communities under the EIT<sup>1</sup>, the six priority action lines for EU industrial policy<sup>2</sup>, the European Eco-innovation Action Plan, European Technology Platforms, and the Digital Agenda for Europe. However, regions/MS should make sure that the prioritized investments find evidence in the RIS3 and follow the identified strategic areas in the given territory.

### **Assessment of RIS3**

- "How will the Commission assess whether a RIS3 complies with the ex-ante conditions? "

<sup>1</sup> See <http://eit.europa.eu/kics/>

<sup>2</sup> advanced manufacturing technologies, key enabling technologies, bio-based products, sustainable industrial and construction policy and raw materials, clean vehicles, smart grids – see COM(2012) 582 final

Commission's reply: The Commission will assess the consistency and the adequacy of the information provided by the Member State on the applicability of ex-ante conditionalities and on the fulfilment of applicable ex-ante conditionalities in the framework of assessment of their Partnership agreement and programmes. Self-assessment by Member States will therefore be used as a starting point for the assessment by the Commission.

However, the assessment of this ex-ante conditionality relating to RIS3 will not include an assessment of the content of the strategy beyond the criteria set out in the Regulation (i.e. existence of a strategic framework based on a SWOT or similar analysis, an outline of the available budgetary resources for R&I, concentration of the resources on a limited set of research and innovation priorities, outlining measures to stimulate private RTD investments and containing a monitoring mechanism).

- "By when should all RIS3 be ready?"

Commission's reply: Smart specialisation strategies should be ready by the time of the submission of the partnership agreement or relevant operational programmes to the Commission,.

If at the latest by the time of the approval of the PA or OP by the Commission, not all criteria for the ex ante fulfilment are met by then, an action plan describing the roadmap describing the actions that will be taken for the fulfilment, the timeline and responsible body for the entrepreneurial discovery process that is necessary to develop a RIS3 is required. The fulfilment should be achieved as soon as possible, but the latest by December 2016 (article 19.2 CPR).

The use of the strategy, as a strategic document should, however, be continued and be used for the dialogue between the Commission and the Member States during the entire programming period, even after the Commission has accepted the document at the light of the ex-ante conditionality assessment. A strategy should be monitored, through the implementation of projects and revisited and improved recurrently.

- "In case the proposed 1.1. ex ante conditionality is not fulfilled and action plan is described in OP or PA, will MS be able to provide investments in order to implement 1 thematic objective by its own risk before fulfillment of ex-ante conditionality?"

Commission's reply: When an ex-ante conditionality is not fulfilled at the programme adoption, MS can finance investments linked to this investment priority at their own risk, being aware of the fact that until there is a failure to complete the action plan, there is a risk for the MS not to be reimbursed by the Commission for the related expenditures.

- "Which geographical coverage should a RIS3 have?"

Commission's reply: The existence of a national or regional smart specialisation strategy, in line with the National Reform Programme, is a pre-requisite for supporting research and innovation in the framework of ERDF Operational Programmes.

According to Annex XI of the Common Provisions Regulation, Member State has to assess the existence of a national or regional smart specialisation strategy. Such a strategy should

therefore have national or regional coverage, taking into account subsidiarity in respect of distribution of policy competences within MS.

In cases of federal Member States, OPs relating to R&I are likely to be all adopted at sub-national/regional level. Regional strategies are therefore required, providing that the regional strategies are in line with the National Reform Programme.

The Commission nevertheless recommends that:

- If a RIS3 has a national coverage - the participation of the regions and the consistency with the regional OPs will be better ensured by the existence of several regional RIS3, or by a national RIS3 that includes different regional chapters.
- In case the Members States wish to deliver independent regional RIS3, the consistency and complementarity – and ideally synergies - among them needs to be ensured.

- "Which will be the format/template that for the RIS3 that the EC will ask? "

Commission's reply: The framework required for complying with the ex-ante conditionality can simply compile different strategies (instead of blending them into a single strategy) and, ideally, explain how coherence is ensured and how synergies / scale efficiencies can be obtained.

From a topic coverage perspective, they can be e.g. a strategy for R&D and innovation, and a strategy for cluster development and another for the digital economy or regional development or growth and another for competitiveness.

- " While describing investment priorities under the thematic objective n°1 is there a need to indicate in OP concrete directions of smart specialization that we are targeting at? Or it is enough to mention that some actions will be implemented in line of smart specialization strategy/framework?"

Commission's reply: The assessment of ex ante conditionalities has to be distinguished from the description of investment priorities as requested by Art. 27.2 of the CPR, which will be a matter for discussions between Member States and the Commission during the negotiations of the Partnership Agreement and the programmes.

The Commission will assess how the priorities identified within the smart specialisation strategies have been translated into specific objectives in the OPs including investment priorities within thematic objective 1. Therefore, the Commission will welcome any reference to those strategies in Member States's justification for the selection of thematic objectives and corresponding investment priorities at the beginning of the OP (see section 1 of the OP template).

- "RIS3 is clearly linked to the TO1 and to some extent to TO2, but what about links to other TOs and investment priorities of the ESI Funds, e.g. to the SME competitiveness investment priority?"

Commission's reply: In terms of programming, research and innovation operations are clearly linked to Thematic Objective 1 referring to R&I (TO1). However, innovation is also possible and can contribute to the other ERDF investment priorities, e.g. investment priorities covered

by TO2 (ICT: e-commerce, e-government, etc.), TO3 (competitiveness of SMEs: SME competitiveness hinges often on innovation), TO4 (shift toward low-carbon economy: eco-innovation), TO5 (climate adaptation: innovative technologies for adaptation and risk prevention), TO6 (innovative technologies to improve protection of the environment), TO7 (promoting sustainable transport and removing bottlenecks: innovative solutions for environmentally friendly and low-carbon transport systems), TO8 (entrepreneurship skills should include innovation management) and TO11 (administrative capacities can be enhanced through innovation). From policy development perspective it would be an omission if the R&D unique competitive advantages, limitations and selected actions for the investment priorities under TO 2 to 8 and TO11 are not included in the national or regional smart specialisation strategies. Such omission may also hinder implementation as the targeted businesses, academia and research institution, and civil society organisations may not have been fully engaged in the conceptualisation and priority setting.

As regards ex-ante conditionalities, not all investment priorities identified in the Fund-specific Regulations are covered by ex-ante conditionalities. Indeed, thematic ex-ante conditionalities apply to the specific Investment priorities defined in annex XI of the CPR (column 2) and therefore R&I ex-ante conditionality does not apply to the Investment Priorities outside TO1.

In addition, the ex-ante conditionality linked to the Small Business Act applies when the ERDF intends to support "promoting of entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new firms, including through business incubators" or " supporting the capacity of SMEs to engage in growth in regional, national international market, and in innovation processes" under TO3.

The same goes for "developing ICT products and services" under TO2 that has to be covered by the digital growth strategy which as specified in annex XI of the CPR can be '*for instance, within the national or regional smart specialisation strategy*'.

- "What is the minimum validity of an innovation strategy to conform with the *ex ante* conditionality requirement for the future EDRF programmes?"

Commission's reply: The purpose of the *ex ante* conditionalities is to ensure an efficient and effective implementation of the future ERDF programmes. Therefore the time horizon for a smart specialisation strategy (RIS3) should coincide with the duration of the OPs (until 2020). However, the OPs will undergo a mid-term review and also the RIS3 concept of the Commission foresees a review of the strategy (though the Council deleted the reference to this in the *ex ante* conditionality text of the CPR).

Strategies that end before the mid-term review are not accepted as fulfilling the *ex ante* conditionality as they offer no assurance in terms of effectiveness and efficiency of the OP implementation.

### **Technical assistance and S3**

- "Is it possible to use Technical Assistance of the Member States from the 2007-13 programming period to develop an RIS3, given that the existence of an RIS3 is an ex-ante conditionality for those 2014-20 OPs covering thematic objective 1?"



Commission's reply: In principle, technical assistance of the Member States from the 2007-2013 programming period can be used to develop national or regional smart specialisation strategies.

However, this will need to be checked on a case by case basis against the content of the 2007-2013 operational programmes and the availability of budget.

- "According to the ex-ante conditionality guidance, a RIS3 has to contain a monitoring mechanism, i.e. there has to be a description of the methodology, including the chosen indicators, and governance structure of the monitoring mechanism, and there has to be a description of how the follow-up to the findings of the monitoring will be ensured. A RIS3 is supposed to be a process, it should be reviewed and there should be a dialogue between the region/MS, the various stakeholders/socio-economic partners and the European Commission on the RIS3 during the entire programming period 2014-20. Is it therefore possible to use Technical Assistance of the Member States from the 2007-13 programming period (before adoption of the 2014-20 OP) and later on (after adoption of the 2014-20 OP) from the 2014-20 programming period to review the RIS3, develop it further and follow up findings of the monitoring? According to the draft guidance fiche on technical assistance of the Member States of 22/3/2013, the "scope of the technical assistance is limited to actions which are linked to the functions necessary for the implementation of the ESI Funds", and the RIS3 includes measures and support schemes going beyond the ESI Funds."

Commission's reply: It is up to Member States to prioritise how to use their technical assistance (TA) funding in the next programming period under the scope of Article 59 of the CPR. Given the fact that smart specialisation strategies might - and should - indeed go beyond the scope of the ESI Funds, MS may therefore consider using national funding instead of their often limited TA resources for reviewing the content of these strategies – especially in Member States where the ESI Funds will not bring a substantial contribution to R&I investments.

However, though going beyond the scope of the ESI Funds, smart specialisation strategies do constitute the basis for setting out R&I investment priorities and specific objectives pursued by Operational Programmes in the next programming period. As such, these strategies will need to be revisited and improved during the entire programming period (i.e. even after their assessment by the Commission in the light of the *ex ante* conditionality exercise, which is a one-off exercise) on the basis of findings of the monitoring mechanism (required as part of the criteria for fulfilment of this conditionality).

Thus, taking into account the regulatory and budgetary constraints mentioned before, technical assistance from the 2007-2013 and the 2014-2020 programming periods might be used to finance the review of smart specialisation strategies.