



Sustainability of European Structural and Investment Funds (ESIF): Implementation principles and case studies on projects selection criteria for energy, environment and resource use.

Brussels, June 2015

European Structural and Investment Funds (ESIF) represent significant investments¹ in Europe's physical infrastructure and the development of Europe's human potentials, helping to increase Europe's economic, social and territorial cohesion, including the environmental integrity of its natural environment.

The finalization of ESIF spending plans and programmes is well underway (the last Operational Programmes are set to be adopted in July 2015), and member states started to develop their implementation rules on national level.

In this context it is of particular importance to operationalize the integration of environmental protection requirements throughout all spending plans and programmes via implementation frameworks and rules, especially project selection criteria.

This briefing gives an overview of the legal background and the guiding principles for applying project selection criteria during the implementation phase of EU funds, illustrated by a number of case studies and examples from different countries.

Legal Basis:

The integration of environmental protection requirements throughout all spending plans and programmes is enshrined in the Cohesion Policy legislation, in particular:

- Art. 96, and 125, 3.iii of 1303/2013 (CPR) the common provisions regulation [...]

"7. Each operational programme, except those where technical assistance is undertaken under a specific operational programme, shall, subject to the Member State's duly justified assessment of their relevance to the content and objectives of the operational programmes, include a description of:

¹ 450 billion Euros including national co-financing in the 2014 -2020 period

(a) the specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management, in the selection of operations;”

- [...] in combination with Art. 8 (Sustainable Development) and Art. 10/Annex I (Common Strategic Framework), 1303/2013 (CPR)

Article 8 of the CPR (1303/2013) clearly obliges managing authorities to “undertake actions throughout the programme lifecycle, to avoid or reduce environmentally harmful effects of interventions and ensure results in net social, environmental and climate benefits” doing so through:

- “(a) directing investments towards the most resource-efficient and sustainable options;
- (b) avoiding investments that may have a significant negative environmental or climate impact, and supporting actions to mitigate any remaining impacts;
- (c) taking a long-term perspective when 'life-cycle' costs of alternative options for investment are compared;
- (d) increasing the use of green public procurement.”

Common Strategic Framework:

“4. Member States shall focus on sustainable forms of transport and sustainable urban mobility and on investing in areas that offer the greatest European added value, taking into account the need to improve the quality, accessibility and reliability of transport services to promote public transport. Once identified, investments shall be prioritised according to their contribution to mobility, sustainability, to reducing greenhouse gas emissions, and to the Single European Transport Area, in accordance with the vision set out in the White Paper entitled "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system”

5.2 Sustainable development

Member States and managing authorities shall, in all phases of implementation, ensure the full mainstreaming of sustainable development into the ESI Funds, respecting the principle of sustainable development as laid down in Article 3(3) TEU, as well as complying with the obligation to integrate environmental protection requirements pursuant to Article 11 TFEU and the polluter pays principle as set out in Article 191(2) TFEU.

Managing authorities shall undertake actions throughout the programme lifecycle, to avoid or reduce environmentally harmful effects of interventions and ensure results in net social, environmental and climate benefits. Actions to be undertaken may include the following:

These legal requirements are building the basis for further detailed description and elaboration of project selection criteria, which have to be applied according to national/regional specific priorities and circumstances.

It is therefore important to prioritize sustainable solutions within project evaluation and selection.

In general terms project selection criteria can be divided into project eligibility criteria and project appraisal criteria.²

- **Project eligibility criteria** are those criteria which need to be complied with in order to be eligible for funding and in order to be evaluated. Most often they check compliance with existing legislation relevant to energy, climate change and the environment. However, Managing Authorities can include other criteria as eligibility criteria.
- **Project appraisal criteria** – they are not yes/no criteria but rather serve to steer the application process and prioritise projects that incorporate to a sufficient extent environmental protection consideration and avoid or minimize impact on the environment. Appraisal criteria should be clear, specific and tailored to the type of project being evaluated.
- **Scoring** – this is the weight assigned to environmental protection criteria. The challenge is to assign higher weight within the evaluation matrices so that these criteria have a sufficient impact on the decision for selection of a project for funding.
- The **calls for proposals** can be formulated in a way to steer a positive approach to taking environmental consideration into account, highlighting the environmental requirements of the programme, providing additional information to project proponents on how to comply with environmental requirement of the programme.

Project eligibility criteria must be designed in a way that enables practical compliance with EU legislation, taking into account the horizontal principles.

Example:

The compliance with Water framework directive in Slovakia is subject to legal dispute because Slovakia failed to introduce mechanisms that would enable objective evaluation of environmental impacts of hydro energy projects. Current assessment system does not create obligation to evaluate compliance with WFD.

Where there is no possibility to change the legal setup or enforce compliance with EU legislation on national level MAs should focus on strengthening the eligibility criteria for projects to compensate this gap and prevent risks for OP implementation.

Project appraisal criteria are an important tool to promote sustainable solutions and to prefer lowest possible negative environmental impacts through setting priorities. Environmental considerations need to have a sufficient weight in the evaluation process. This has two effects:

1. Motivating applicants to design projects with best possible environmental performance
2. Preventing harmful practices to get to funding

² Regional Environmental Center 2015

Calls for proposals are key condition frameworks that ensure OP implementation. In cases where national level strategic documents to which Operational Programmes refer to are not specific enough Managing Authorities have to compensate this with more specific call conditions. This is key to ensure that the Managing Authority will be able to prove to the European Commission that allocated funds have been used effectively.

Horizontal sustainability

Basic eligibility criteria for all infrastructure projects should be their compliance with the principle of sustainable development as laid down in Regulation 1303/2013, in particular the criteria set out in Annex I.

The following examples shall illustrate different approaches towards project selection criteria as developed by environmental NGOs during the Programming of ESIF in CEE countries for the period 2014 - 2020:

Biomass:

<http://bankwatch.org/documents/briefing-biomass-criteria-SK.pdf>

<http://bankwatch.org/documents/briefing-biomass-criteria-HU.pdf>

Renewable energy sources, Energy efficiency in buildings, Air quality:

<http://bankwatch.org/documents/briefing-project-selection-PL.pdf>

Waste:

<http://bankwatch.org/documents/briefing-waste-criteria-SK.pdf> (in Slovak only)

Biodiversity:

<http://bankwatch.org/documents/briefing-biodiversity-proofing-CEEWEB2014.pdf>

Sustainability criteria for combustion energy sources in the Czech Republic

1. Under OP Environment, axis 2 – Air pollution - exchanges of polluting coal boilers both in households and small to middle size sources will be financed. Programming document of the OP Environment requires the selection criteria to include following areas: Projects must be socially and economically sustainable and take into account energy poverty.

Renewable energy sources will be prioritised.

Contribution of the projects to energy efficiency and use of renewables will be reflected in the project selection criteria.

Support for exchanges of sources will only be provided in case the projects achieves at least 30% CO₂ emissions reduction.

The ministry should include these provisions into the Guidelines and rules for beneficiaries

2. List of supported activities should include not only solar thermal heating, but also solar-photovoltaic electric heating. Solar heaters are projected to yield enough capacity in spring and autumn months. Unlike hot water from solar, electricity surplus can be used easily, contributing to maximum effectivity of the public investment towards both air pollution and carbon emissions.

3. Projects falling under the IPPC procedure under the IED must not use the EU financing to achieve compliance in the lower part of the emission ceilings range according to the Best Available Technologies. Newly formulated BREFs, to be approved in 2015, must be taken as benchmark.

4. All supported projects based on energy use of waste must be submitted to assessment of potential conflict with trajectories leading to compliance with waste recycling targets, in order to secure fulfilment of the ex-ante conditionalities related to the Waste Framework Directive.

This includes not only waste incinerators, but also waste co-firing, improvements and reconstructions of waste burning facilities and additions of waste incinerating boilers into existing district heating facilities.

Based on literature review and the collection of best examples from previous periods, the below non-exhaustive list of sustainability criteria should guide authorities and monitoring committees in project selection:

Sustainability criteria in Production and Consumption

Research and development, Innovation

- eco-innovations that do lead to improvement of quality of environment/reduction of the pressures on the environment
- research and development which leads to the introduction of environmentally friendly products with limited CO₂ emissions and energy efficient, especially strengthening of products and processes that promote recycling economy and lower significantly the non-recyclable waste;
- reduction of environmental pollution, e.g. air emissions, GHG emissions, discharges into water, waste management;
- Preference for projects with high potential to solve societal problems (e.g. energy saving, networks of systems, cradle-to-cradle, particular long-lasting materials, energy saving processes (grey energy));

Green Public Procurement

Where projects led by public or semi-public organizations involve the construction of infrastructure or buildings, or the purchase of products or services, they should be required to apply Green Public Procurement.

Energy transition in production

- Evidence of significant energy productivity improvements in production processes; resource efficiency: significant reduction in grey energy and raw material consumption per product; significantly improved recyclability (cradle-to-cradle); Circular economy principle; Durability of the products; high market potential;
- Preferential support for enterprises, which develop new/significantly improved environmentally friendly products;
- Preference for supporting start-ups in at least one of the following Green Economy areas: emissions reduction and climate change, reducing the use of non-renewable resources, sustainable use of renewable resources, renewable energy, energy efficiency, resource efficiency, recycling, eco-design and Cradle to Cradle, material flow and waste management;

Sustainability criteria for Energy Infrastructure

- Preference shall be given to those projects which are a part of low-carbon strategies for all types of territories, in particular for urban areas;
- Projects should fit with regional decarbonisation roadmaps;
- Support will be contingent upon an energy audit (if applicable), based on which the following will be verified in the process of evaluation:

- calculations of planned volume of produced energy;
 - calculations of reduction of greenhouse gas emissions expressed in equivalent CO₂;
 - technical feasibility of the proposed energy measures.
- Small-scale plants for use of RES in apartment houses will be provided support based on a submitted energy audit, which will propose measures taking into account potential energy savings and subsequent construction of a plant for use of renewable energy;
 - Priority will be given to projects with the highest energy efficiency and potential for energy transformation;
 - When siting the RES facilities in the physical space, the priority will be given to those facilities that can be sited on the degraded areas or on buildings.
 - Priority will be given to projects aimed at cooperation among several subjects in the public or private sector to create possibilities for sustainable energy economy in the given area (e.g. use of waste and biomass from agricultural cooperatives, private farms, forest waste, and their preparation and use in the field of energy supply);
 - In planning and operation of geothermal power plants and geothermal heating systems, those projects will be selected which guarantee that the use of geothermal energy source has no significant impact on eco-systems, groundwater and surface water.
 - A prerequisite for the implementation of a small hydro project are measures to mitigate negative impacts on the environment, including measures to limit interference with the flow continuity of the water stream and creating barriers, arising from the process of environmental impact assessment with an emphasis on the assessment of cumulative impact of the constructions on the given water body and compliance with the requirements of Article 4, Paragraph 7, 8 and 9 of the WFD;
 - Special care will be taken to ensure complementarity of district heating investments with the investments under energy efficiency in buildings objectives because the main user of the DH system is the building sector (households and public). The goal is achieve an integral approach.
 - In the case of heat generation in family houses, priority will be given to those projects where implementation of the measure aimed at energy consumption decrease has been proved (documented through e.g. energy certificate, report from a regular heating system inspection, etc.)
 - Priority will be given to comprehensive projects with the highest primary energy sources savings pre m² of the total floor area;

Sustainability criteria in Nature Protection

Minimisation of land take

- the sealing of new lands shall be kept to a minimum and precautionary measures should be mentioned by the applicant;
- scoring on the basis of area of brownfield land refurbished/reclaimed;

Air quality

- Priority will be given to projects with the highest contribution towards reduction of PM emissions into the air;

Key conditions for applicable criteria

To ensure that above mentioned principles are transposed do applicable selection criteria several conditions have to be fulfilled:

- bound to already existing legislation or technical norms;
- based on accessible data (generally accepted as representative, valid and correct) collected by statistical office or thematic organizations;
- state is able to enforce them with current given competences and existing capacities.

Technical assistance programme or priority axes within OPs can be used to finance any additional steps such as methodology and processes needed for monitoring of compliance, data collection methodology, education and training on criteria for beneficiaries as well as for delegated implementation bodies.

For more information

Markus Trilling

EU Funds Campaigner

CEE Bankwatch Network / Friends of the Earth Europe

Rue d'Edimbourg 26

1050 Brussels – Belgium

Tel +32 2 893 10 31

markus.trilling@bankwatch.org



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