

# Eligibility rules of the funds 2021-2027

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# Typical errors in ESI projects: ineligible expenditure

## Description

Costs declared outside eligible area without prior approval of the Dutch monitoring committee

SCO reimburse by MA to Irish beneficiary on basis of real costs while MA claims IC on basis of flat-rate breaking art 131.2 CPR

Italian pulled in retroactive projects outside of eligibility period from a national funding who never applied to ERDF funding

# Typical errors in ESI projects: breach of internal market

## Description

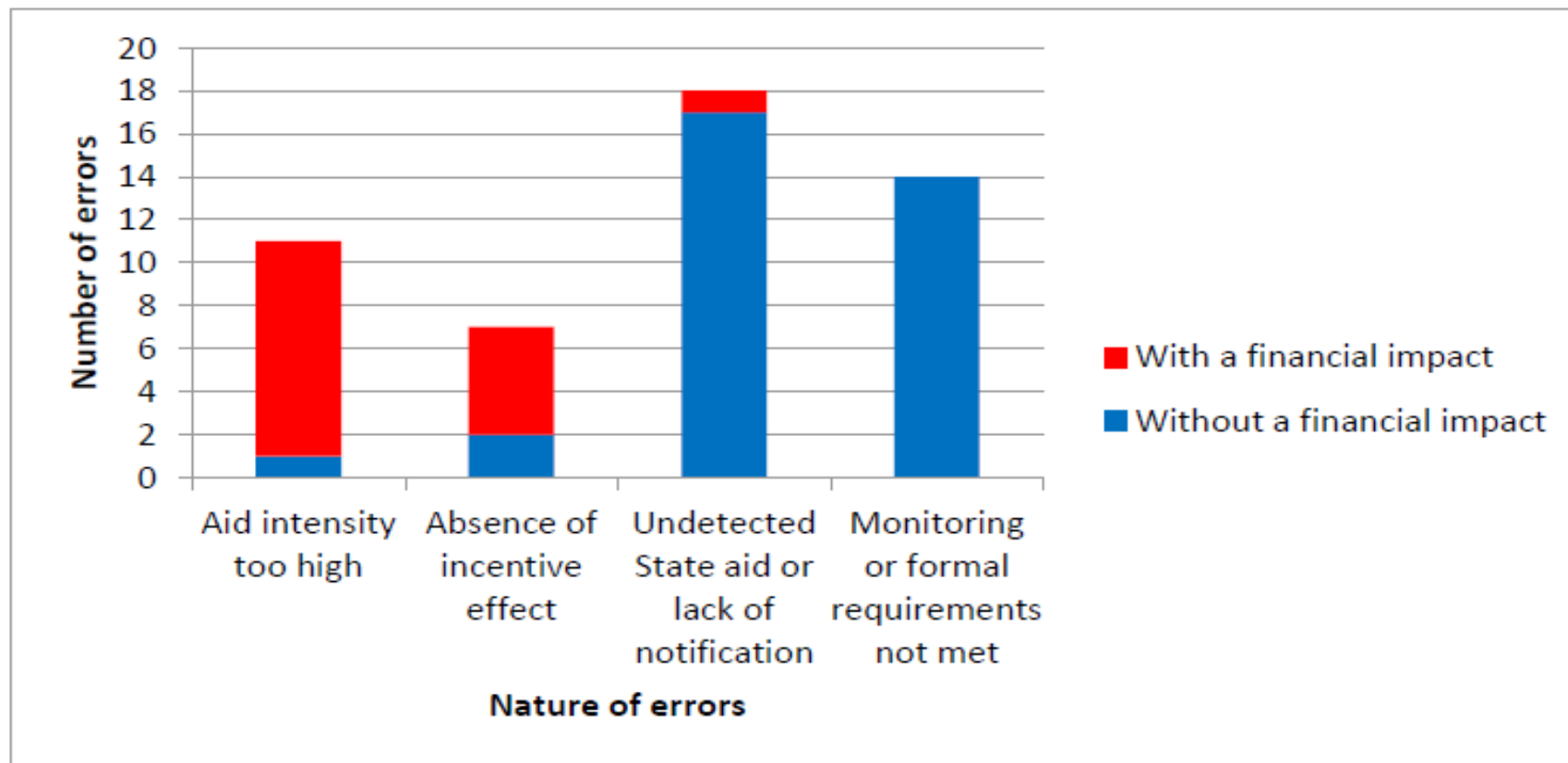
Hungarian MA granted loan/FI to a company in primary agricultural sector, therefore in a excluded sector according to GBER

SCO reimburse by MA to Irish beneficiary on basis of real costs while MA claims IC on basis of flat-rate breaking art 131.2 CPR

Italian pulled in retroactive projects outside of eligibility period from a national funding who never applied to ERDF funding

# State Aid Errors

Nature and number of State aid errors, 2010-2014



Source: European Court of Auditors.

# Typical errors in ESF projects: ineligible expenditure

## Description

Spanish action to offer social security rebates when hiring young people for certain min duration. EC advised min 6 months to be checked before certification to EC but project accepted contracts of 28 days.

Social security rebates for NEET temporarily replacing other workers were also extended to the people they replaced (even if they were already in employment)

NEET status of French YEI participants checked against self-declaration but some where actually employed

YEI legislation required NEET to be registered with Youth Guarantee system but participants in projects, concerning social security rebates, were registered retroactively

## 6 dimensions of eligibility

### 1. WHAT FINANCED ?

– scope of intervention and types of activities

### 2. WHICH COSTS?

– expenditure categories and types of costs, national rules, general principles

### 3. WHEN ?

- Time Period, durability

### 4. WHERE ?

– Geographic location

### 5. HOW JUSTIFIED ?

- audit trail, horizontal principles, visibility/communication

### 6. HOW TO CALCULATE ?

– calculation of eligible expenditure: see SCO



# 1. Scope of ERDF: art 5

- Investing in Infrastructures; R&I
- Access to services
- Productive investments in SME and investments to keep jobs and create new ones;
- Equipment, software, intangibles assets; innovation clusters
- Information, communication
- Technical assistance
- **Productive investments in other than SME if cooperation with SME in R&I, EE/RE, small-mid cap under FI**
- **Contribution to PO 1 with support to training, LLL and education**
- **Purchase of supplies for health**

# Recommendation for SME Definition 2003

## What is an SME?

### THE NEW THRESHOLDS (Art. 2)

Enterprise category	Headcount: Annual Work Unit (AWU)	Annual turnover	or	Annual balance sheet total
Medium-sized	< 250	≤ €50 million (in 1996 € 40 million)	or	≤ €43 million (in 1996 € 27 million)
Small	< 50	≤ €10 million (in 1996 € 7 million)	or	≤ €10 million (in 1996 € 5 million)
Micro	< 10	≤ €2 million (previously not defined)	or	≤ €2 million (previously not defined)





# Selection of operations - Seal of Excellence



**2021-2027 (art 73.4)**

**ERDF and ESF+ can support Seal of excellence** certification or selection through Horizon Europe Supported if sit with S-3 and ENC

✓

MA may apply the categories, max amounts and methods of calculation of eligible costs of EU programme✓

# Negative list

## ERDF/CF: art 7

- Decommissioning nuclear power stations
- Inv. for GHG emissions reduction from ETS activities
- Tobacco (products)
- undertakings in difficulties exc. DM/TFSA
- airport infrastructure exc. for outermost regions; env. Mitigation; security, safety and air traffic
- Disposing waste in landfill (exc. to make it safer);
- Treating residual waste (exc. Techn for circular economy)
- fossil fuels exc. Gas/Hydrogen/clean cars (with caps and no-phasing);
- CF no support for housing exc. EE/RE



# Eligibility Technical Assistance

## Flat-rate financing for TA (art 36.4)

Reimbursed as a % of the eligible expenditure in payment claims; different for each fund:

- ERDF in IJG: 3,5% while CF: 2,5%
- ESF+: 4% but material deprivation 5%
- JTF: 4%
- For MS with lower 1 Bn EUR: 6%
- EMFAF: 6%
- Outermost regions get 1 pp more

***What is the administrative burden/costs of managing your programmes?***



## 2. Ineligible costs (art 64)

- Interest on debt with exceptions
- Purchase of land (**Not built on and built on DROPPED**) >10% of TEE.  
For derelict sites and former industrial use the purchase of land can be raised to 15% (not applied to environmental conservation)
- **VAT** except :
  - for operations with total costs below EUR 5 000 000 (**incl VAT**)
  - for operations with total costs at least EUR 5 000 000 (**incl VAT**) if non recoverable
  - investments done under FI
  - for small project fund under Interreg
- *More ineligible expenditure at MS level (lost opportunity costs, notional rents, discounts, etc)*

# Staff costs in ESF+

## 2021-2027 (Art. 16 ESF+)

- Purchase of land, real estate, infrastructure
- Purchase of furniture, equipment, vehicles (under conditions) ✓
- IK (allowances, salaries) (under conditions) ✓
- DSC (if in line with usual remuneration or in line national law, collective agreements, statistics) ✓

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Explanatory texts (metadata) Information Download Preview Bookmark Demo Help Login

Mean hourly earnings by sex, economic activity and occupation  
Last update: 19-05-2018 [earn\_ses14\_47]

Table Customization show

SEX: Hourly earnings  
GEO: Size classes in number of employees  
Currency: Euro  
Classification of economic activities - NACE Rev.2: 10 employees or more  
Period of time (a:annual, q:quarterly, m:monthly, d:daily, c:accumulated from January): 2014  
International Standard Classification of Occupations 2008 (ISCO-08): Manual workers

GEO	SEX	Total	Males	Females
European Union (current composition)		9.35	9.98	9.02
European Union (before the accession of Bulgaria and Romania)		9.41	10.02	9.08
Euro area (19 countries)		10.04	10.52	9.79
Euro area (18 countries)		10.16	10.68	9.89
Euro area (17 countries)		10.28	10.82	10.01
Belgium		13.49	13.23	13.65
Bulgaria		1.41	1.53	1.29
Czechia		2.97	3.71	2.58
Denmark		19.67	20.77	19.17
Germany (until 1990 former territory of the Democratic Republic)		10.65	11.14	10.43
Estonia		2.64	3.2	2.45
Ireland		18.88	22.27	16.55
Greece		7.26	8.09	6.04
Spain		8.17	9.23	7.16
France		10.65	11.01	10.47
Croatia		3.74	5	3.27
Italy		9.81	10.03	9.68
Cyprus		7.33	8.82	6.5
Latvia		2.24	2.58	2.05
Lithuania		1.98	2.11	1.88

# Continuity with 2014-2020

- Forms of support: grants, FI, prizes and combinations (art 52)
  - “grants under conditions” Art 57
- Art 63.9: Project with different sources of funding
  - *But art 25 Flexibility facility/Cross-financing ERDF/ESF+*
- Art 63.6: no physically completed or fully implemented operations before application (*but art 20 exceptional circumstances*)
- Art 63.1: Most eligibility rules based at MS level/goldplating
  - Second-hand equipments, cash payments, asset register/disposal
- Art 67: Contribution in kind & depreciation costs
  - Volunteer time
  - Depreciation of buildings and equipments

### 3. Timing of expenditure (art 63 CPR)

- **1.1.2021 to 31.12.2029**
- Incurred and paid by beneficiary **(or private partner of a PPP operation) or SCO case**
- If amending OP, expenditures eligible from date of submission of request (and from date of natural disaster)
- **MA pays beneficiary within 80 days (art 74 CPR)**
- **Risk retrospective projects**

# Timing of expenditure (art 118 CPR)



**Smooth transition** between periods:

- allowed if 2 phases
- If **total cost > EUR 5 million**
- If second phase complies with 2021 rules
- If completed/operational in 2021-2027
- ***Your rules for costs of project closure?***



# Durability for infrastructures and productive investments (art 65 CPR)

- The MS ~~(an operation)~~ shall repay.....if within 5 years of final payment to beneficiary (3 years for SME) there is a cessation or **relocation or transfer outside NUTS 2 region**, change ownership giving undue advantage, or substantial change

- **Proportional repayment**

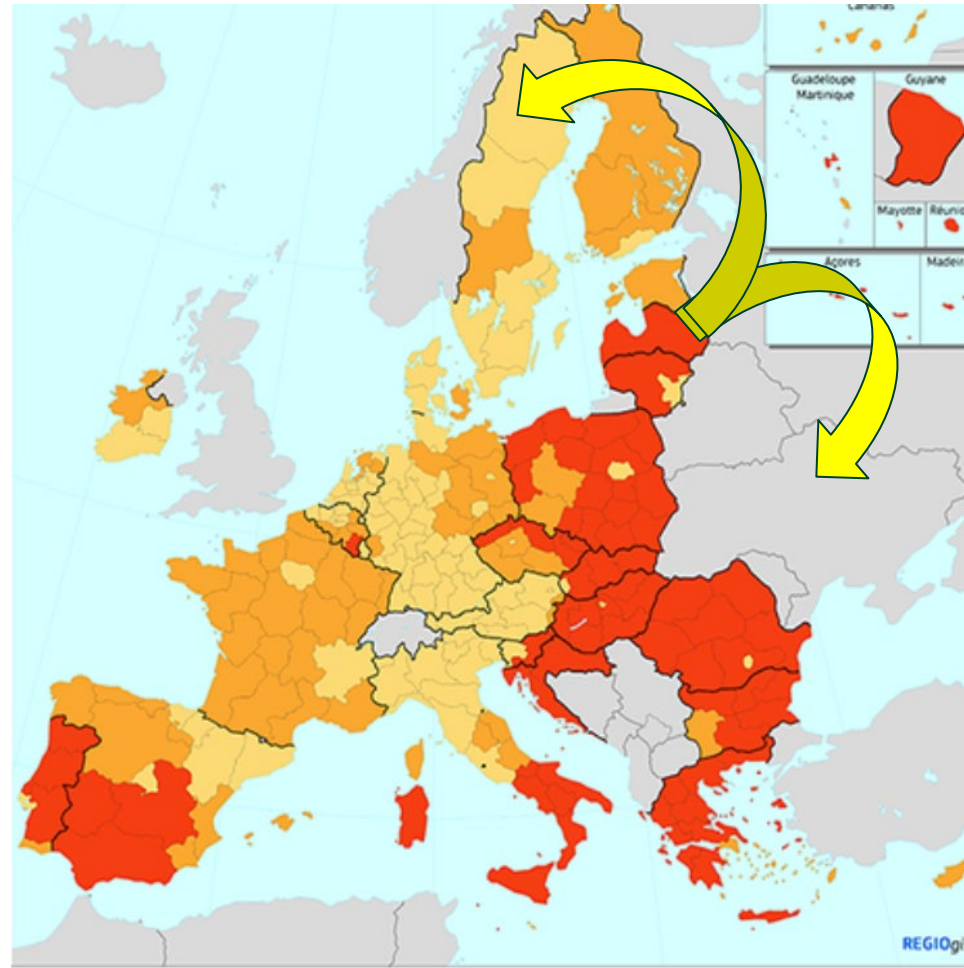
- ESF+ and JTF repay only if breach of SA rules; Exemptions: non-fraudulent bankruptcy; financial instruments

- *Art 66: Relocation*

- *QUESTION: any own rules on disposal of assets?*



## 4. Where ? Location




Investment for jobs and growth goal (ERDF and ESF+) eligibility, 2021-2027

Categories of regions

- Less developed regions (GDP/head (PPS) less than 75% of the EU-27 average)
- Transition regions (GDP/head (PPS) between 75% and 100% of the EU-27 average)
- More developed regions (GDP/head (PPS) above 100% of the EU-27 average)

# Location of expenditure

2014-2020 (Art. 70 and Art. 119.3)	2021-2027 (Art. 63.4)
<ul style="list-style-type: none"> <li>• <b>Out of OP area but within EU</b> if benefit for OP area, approval PMC, mgt &amp; control; &lt; 15% of EU support to Priority Axis, TA can be out of OP area but within EU if benefit to OP</li> <li>• <b>Outside EU:</b> only TA and promotional activities if benefit and if mgt &amp; control</li> </ul> <p><b>ESF Art 13.3:</b></p> <ul style="list-style-type: none"> <li>• <b>Outside OP area but within EU</b> if benefit to OP area, mgt &amp; control</li> <li>• <b>Outside OP area and outside EU</b> if &lt; 3% of OP ; only for TO labour mobility + education/LLL with PMC approval</li> </ul>	<p>All or part of the operation can be implemented outside the MS or outside EU, provided <u>operation contributes to the OP objectives</u></p> <p><b>No restrictions</b></p> 

## 5. Audit Trail and availability of documents

2014-2020 (Art. 140)	2021-2027 (Art. 82)
<p><u>3 Y from 31.12</u> following the submission of accounts in which expenditure is included</p>	<p><b>5 Y from 31.12 of the year in which the last payment by MA to beneficiary</b></p>
<p><u>2 Y from 31.12</u> following the submission of accounts in which the final expenditure of the completed operation is included</p> <p><b><i>MA may opt for 2 Y also when TEE less than EUR 1 000 000</i></b></p> <p>Electronic format + without prejudice to state aid rules</p>	<p>Without prejudice to state aid rules</p> <p><u>Kept at the appropriate level</u></p>



**QUESTION: who keeps the originals?**

# Art. 9 CPR Horizontal Principles

2014-2020 (art 7 and 8)	2021-2027 (art 9)
Equality/non-discrimination  Sustainable development	<ul style="list-style-type: none"><li>• <b>EU Charter of Fundamental Rights</b></li><li>• <b>Gender, equality</b></li><li>• <b>Non-discrimination</b></li><li>• <b>Sustainable development/DNSH/ EU environment acquis</b></li></ul> <b>Art 6 ESF+ on GE, EO and non-discrimination</b>

# Examples DNSH assessment for renovations by replacing cooling /heating systems

3 of 6 DNSH principles	Justifications/Checks
climate change mitigation (GHG emissions)	Replacement of coal/oil-based heating systems with gas condensing boilers: These boilers correspond to class A, which is below the highest two significantly populated classes of EE in this MS. Lower-carbon and more efficient alternatives (notably, heat pumps of A++ and A+ classes) were considered but due to the architecture of the buildings covered by the programme, common heat pumps cannot be installed, and <b>gas condensing boilers of class A are the best-performing technologically feasible alternative.</b>
circular economy	Ensure that <b>at least 70% (by weight) of the non-hazardous construction and demolition waste</b> (excluding naturally occurring material referred to in category 17 05 04 in the European List of Waste established by Decision 2000/532/EC) generated on the construction site <b>will be prepared for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials</b> , in accordance with the waste hierarchy and the EU Construction and Demolition Waste Management Protocol.
pollution prevention	Ensure that <b>building components and materials</b> used in the building renovation <b>do not contain asbestos nor substances of very high concern</b> as identified on the basis of the list of substances subject to authorisation set out in Annex XIV to Regulation (EC) No 1907/2006

# Art 50: Visibility rules (responsibility of beneficiaries )

- Description on official website/social media; use of emblem
- Durable plaques/billboards as soon as investments starts or equipment installed for ERDF/ CF operations TC > EUR 500 000 and for ESF+ with TC > EUR 100 000
- Otherwise Posters A3 display
- OSI projects TC > 10 000 000 EUR = event/activity with EC/MA (exemption for ESF deprivation)
- **3% correction for non-compliance**



# Common errors in apportioning: go for SCO!

**Example 11**

**Falsified hotel invoice**

*Facts:* A beneficiary submitted a hotel invoice to justify attendance at a meeting.


*Red flag:* The hotel belongs to a large group where all operations are computerised: clients' registration, invoicing, etc. The invoice was hand-written, had no number, did not indicate the currency and did not show any information related to the payment.


*Reaction:* The invoice was cross-checked with the hotel, which confirmed that it did not issue such invoices and that it did not know this client.

*Outcome:* The reimbursement was refused to the beneficiary. Taking into account the low amount at stake, no further action was carried out.

HOTEL  
PLACE 13

For official use

Description	Montant
Room Rent	
3 x 85	255
	
Petit dj. :	
Extra :	
Total :	255

Ch. No. 404 Nom.   
Date : 14/1/2009 No. Prs. 1

## Lump sums



## Unit costs

## Flat-rates





# Annex XII : Reporting Irregularities (previous art 122 CPR 2014-2020)

- Section 1: When to report irregularities:
  - First written assessment PACA
  - Presence of fraud
  - Irregularities preceding a bankruptcy,
  - Request of EC
- Exemption
  - < 10 000 EUR (lower than) (but not for interlinked)
  - Non-fraudulent bankruptcy
  - Voluntary disclosure before detection (except fraud)
  - Detected before payment application to EC (except fraud)
- Section 2: template IMS

# Eligibility rules: which ones are problematic?

- Direct link/needed for activities of project
- Reasonable & SFM principles
- Equality/non-discrimination
- DNSH/polluter pay principle
- State Aid
- Conflict of interest art 61 FR Reg 2018
- Respect FR/UN Convention
- Identifiable and documented (separate account for projects costs)
- Accounting system/absence of DF
- Keeping audit trail for 5 y
- Using EU visibility rules
- Beneficiary list art 49.3 CPR
- UBO AMLD 2015/849
- Unconditional right to control
- Respect of subsidy conditions
- Respect timing conditions
- Durability rule 5 y
- Respecting PP rules



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# Exercise: Durability 2021-2027

- A productive investment of large company worth € 100 Million receives ERDF financing covering 80% of the investment. Apply article 65 of CPR . Then repeat the same exercise in the case of an SME when the Member State reduces the time limit.

Investment kept operations for X years	Level of financial correction	Level of ERDF contribution (€)
5		
4		
3		
2		
1		

# Exercise: VAT 2021-2027

Your VAT is 20%, the EU co-financing rate is 70% and the beneficiary can recover VAT under national legislation. Consider your claim to ERDF in the 2 cases below following art 64.1.c of CPR:

- Project A costs 8 Million EUR VAT included. How much ERDF can you draw?
- Project A is split in 2 separate projects worth 4 Million EUR each VAT included. How much ERDF can you draw?