

GUIDE FOR APPLICANTS

INTERREG V-A ROMANIA-HUNGARY PROGRAMME



The 3rd OPEN CALL FOR PROPOSALS

"Partnership for a better future"

www.interreg-rohu.eu

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Dear Applicant!

As indicated in the title, this document provides information and guidance regarding the rules and procedures to be observed by applicants when planning their projects and stresses out the main elements the applicants shall be aware of when dealing with a cross-border project. However, it does not replace other documents. Applicants are invited to carefully read the documents listed in the application package, in order to be able to prepare their applications in compliance with the rules governing this Programme, including relevant community and national legislation.

Please note that clarifications, errata, amendments/corrigenda may be published on the Programme's website: www.interreg-rohu.eu.

CONTENTS

CHAPTER 1. GENERAL INFORMATION.....	4
1.1 OVERVIEW OF THE PROGRAMME	4
1.2 PROGRAMME STRATEGY	4
1.2.1 PRIORITY AXES, INVESTMENT PRIORITIES, AND THEIR SPECIFIC OBJECTIVES	5
1.2.2 PROGRAMME INDICATORS	6
1.2.3 HORIZONTAL PRINCIPLES	9
1.3 PROGRAMME IMPLEMENTATION STRUCTURE.....	11
1.4 FINANCIAL ALLOCATION FOR THE CALL FOR PROPOSALS.....	12
1.5 REVENUE GENERATING PROJECTS	14
CHAPTER 2. RULES OF THE CALL FOR PROPOSALS.....	33
2.1 DESCRIPTION OF THE CALL.....	33
2.2 CONDITIONS AND CRITERIA FOR SELECTION OF PROJECTS	36
2.2.1 GENERAL ELIGIBILITY CRITERIA	36
2.2.1.1 Eligibility of applicants.....	36
2.2.1.2 Eligibility of actions (projects).....	41
2.2.1.3 Eligibility of costs/expenditure	46
2.2.2 SPECIFIC ELIGIBILITY CRITERIA FOR ELIGIBLE COSTS/EXPENDITURE	49
CHAPTER 3. HOW TO APPLY	52
3.1 PROCESS OVERVIEW	52
3.2 LIST OF MANDATORY ANNEXES TO THE APPLICATION FORM.....	55
CHAPTER 4. ASSESSMENT AND SELECTION OF APPLICATIONS.....	61
4.1 ASSESSMENT OF THE PROJECT PROPOSALS	61
4.2 SELECTION OF APPLICATIONS	66
4.3 COMPLAINTS	68
CHAPTER 5. CONTRACTING	71
5.1 PRE-CONTRACTUAL CONDITIONS	71
5.2 CONTRACTING	72
5.3 OVER-CONTRACTING	72
6. ANNEXES	74

CHAPTER 1. GENERAL INFORMATION

The current guide applies to the preparation of projects to be submitted under this Open Call for proposals, within the Interreg V-A Romania–Hungary Programme. It is intended to help the applicant to prepare the content of the project proposal.

This guide provides information on how to fill in the application, budget and related forms, the application procedure, the project selection criteria, the decision procedure and other practical advices. It is the most practical level of documentation needed for the successful submission of a project under this programme.

This Open Call for proposals concerns only the following Priority Axes: PA2 (Investment priority 7/c), PA3 (Investment priority 8/b) and PA4 (Investment priority 9/a).

1.1 Overview of the programme

The programme is financed by the European Union through the European Regional Development Fund and co-financed by Romania and Hungary through contributions from state budget and own contribution from project beneficiaries.

The programming document (hereinafter referred to as Cooperation Programme) drafted jointly by the two countries through a wide partnership with national, regional and local stakeholders, was approved by the European Commission on 9th of December 2015. It sets out the general framework of intervention of ERDF in the Romania – Hungary cross-border area.

The programme's eligible area includes 4 counties from Romania (Satu Mare, Bihor, Arad and Timiș) and 4 counties from Hungary (Szabolcs-Szatmár-Bereg, Hajdú-Bihar, Békés and Csongrád).

The Cooperation Programme document and its Annexes are available on:

- www.interreg-rohu.eu
- www.mdrap.ro

1.2 Programme strategy

In compliance with the EU regulatory requirements, a set of **6 Thematic Objectives** (TO) were selected by the planning and programming bodies:

1. TO6 – Preserving and protecting the environment and promoting resource efficiency
2. TO7 – Promoting sustainable transport and removing bottlenecks in key network infrastructures

3. TO8 – Promoting sustainable and quality employment and supporting labour mobility
4. TO9 – Promoting social inclusion, combating poverty and any discrimination
5. TO5 - Promoting climate change adaptation, risk prevention and management
6. TO11 - Enhancing institutional capacity of public authorities and stakeholders and efficient public administration

The **focus of the Programme** has also been identified: TO6, TO7, TO8 and TO9.

For further details on the Programme' strategy, please refer to the Cooperation Programme document (including Annexes).

1.2.1 Priority Axes, Investment Priorities, and their Specific Objectives

Priority Axes (PA) are afferent to each Thematic Objective selected for financing during the programming phase.

Relevant for the present Call are PA2 (Ip7/c), PA3 (Ip 8/b) and PA4 (Ip9/a).

For each PA, Investment priorities (Ip) were selected, each having its Specific Objective (SO) to attain, as reflected by the table below, highlighting the ones relevant for the present Call:

Priority axis	Investment priority	Specific Objective
PA1 - Joint protection and efficient use of common values and resources (Cooperating on common values and resources)	6/b Investing in the water sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements.	Improved quality management of cross-border rivers and ground water bodies
	6/c Conserving, protecting, promoting and developing natural and cultural heritage	Sustainable use of natural, historic, and cultural heritage within the eligible area
PA2 - Improve sustainable cross-border mobility and remove bottlenecks (Cooperating on accessibility)	7/b Enhancing regional mobility through connecting secondary and tertiary nodes to TEN-T infrastructure, including multimodal nodes	Improved cross-border accessibility through connecting secondary and tertiary nodes to TEN-T infrastructure
	7/c Developing and improving environmentally-friendly (including low-noise), and low-carbon transport systems including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility	Increased proportion of passengers using sustainable – low carbon, low noise – forms of cross-border transport
PA3 - Improve employment and promote cross-border labour mobility (Cooperating on	8/b Supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of	Increased employment within the eligible area

Priority axis	Investment priority	Specific Objective
employment)	accessibility to, and development of, specific natural and cultural resources	
PA4 - Improving health-care services (Cooperating on health-care and prevention)	9/a Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and transition from institutional to community-based services	Improved preventive and curative health-care services across the eligible area
PA5 - Improve risk-prevention and disaster management (Cooperating on risk prevention and disaster management)	5/b Promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems	Improved cross-border disasters and risk management
PA6 - Promoting cross-border cooperation between institutions and citizens (Cooperation of institutions and communities)	11/b Enhancing institutional capacity of public authorities and stakeholders and efficient public administration by promoting legal and administrative cooperation and cooperation between citizens and institutions	Intensify sustainable cross-border cooperation of institutions and communities

For further details please refer to the Cooperation Programme document (including Annexes).

1.2.2 Programme indicators

Programme level indicators are set per *specific objective*, thus, are directly linked to the Investment priority. For each SO, a *result indicator* has been set, and then, one or two *output indicators*, which lead to achieving the expected result.

The indicator matrix at programme level, highlighting the ones relevant for this Call, reads as follows:

Investment priority	Result indicator	Output indicator
Ip 6/b	Water quality (ecological condition) of cross-border rivers at the measurement points in the eligible area	Number of measurement points positively affected by the interventions (after the completion of the project)
Ip 6/c	Tourist overnight stays in the eligible	Increase in expected number of visits

	programme area	to supported sites of cultural and natural heritage and attractions
		Surface area of habitats supported to attain a better conservation status
Ip 7/b	Cross-border population served by modernized infrastructure leading to TEN-T	Total length of newly built roads
		Total length of reconstructed or upgraded roads
Ip 7/c	Ratio of people to motorized road vehicles crossing the border	Number of cross-border public transport services developed / improved
		Total length of newly built bicycle road
Ip 8/b	Employment rate in the eligible area as a percentage of the working age population	Number of participants in joint local employment initiatives and joint training
Ip 9/a	Average service level in health care institutions in the eligible area	Population having access to improved health services
		Number of health-care departments affected by modernized equipment
Ip 5/b	Quality of the joint risk management	Population safeguarded by improved emergency response services
Ip 11/b	Intensity level of cross-border cooperation	Number of institutions directly involved in cross-border cooperation initiatives
		Number of people participating in cross-border cooperation initiatives

Please bear in mind that for the present Call only Ip 7/c, 8/b, and 9/a are relevant, and applications can solely be submitted under these Ips.

Please refer to the relevant Fact-Sheets in Annex I of the present Guide for detailed information on the Programme indicators per each Investment priority that are relevant for this Call.

Nevertheless, the focus in the 2014-2020 programming period is on the results. The Programme results are measured by indicators. The **Performance framework** is one of the tools to achieve a result-orientation of the ESI Funds. It is a table in which a set of milestones and targets is defined for each priority in the programme.

The achievement of milestones will be assessed by the European Commission in 2019 and in case of failure it could lead to the suspension of payments. The achievements of final targets will be assessed in 2024 and might form the basis of financial corrections.

Indicators measure whether the project has achieved its objectives or not. In this respect, each project must contribute to the achieving of the Programme indicators (both output and result indicators). The choice of appropriate indicators and the way your project contributes to the Programme results is important for the project and its selection by the Monitoring Committee.

Therefore, result oriented projects, with tangible results and with high impact on the eligible area shall be selected.

In addition, the **environmental indicators** set during the Strategic Environmental Assessment procedure for the Programme are to be taken into account.

Relevant for Interreg V-A Romania-Hungary are the followings:

Environmental issue	Monitoring indicators (that result from the relevant environmental objective)
Biodiversity, flora, fauna, NATURA 2000	<i>Surface area of habitats supported in order to attain a better conservation status</i>
	I1: Number of actions which have impact on habitats in the eligible area
	I2: Number of actions which have impact on NATURA 2000 sites in the eligible area
Water (surface waters, ground waters); Air and fighting climate change	Water quality (ecological condition) of cross- border rivers at the measurement points in the eligible area
	<i>Number of measurement points positively affected by the interventions (after the completion of the project)</i>
	<i>Quality of the joint risk management</i>
	<i>Population safeguarded by improved emergency response services (after the completion of projects)</i>
Water (surface waters, ground waters)	I3: Number of actions impacting the elimination of pollution sources in the eligible area
Soil and land use	I4: Number of actions having an impact on landscape and soil in the eligible area
Air and fighting climate change	<i>Number of cross-border public transport services developed/improved</i>
	I5: Number of sustainable routes in the eligible area
Landscape	I6: Number of actions contributing to the rehabilitated land in the eligible area
Population and human health	<i>Population having access to improved health services</i>
Material assets, cultural heritage including architectural and archaeological heritage	I7: Number of restored historical, natural and cultural heritage sites

* The programme's specific output/result indicators are marked with italic. The additional SEA environmental indicators are marked with bold type letters.

Please refer to Annex II of the present Guide for the Performance Framework and Environmental Indicators for the Programme.

For further details on programme indicators and performance framework please refer to the programming document (including Annexes).

1.2.3 Horizontal Principles

Horizontal principles refer to priorities agreed by the Member States of the European Union, which are embedded in various forms in all the EU policies. The horizontal principles are referring mainly to sustainable development and energy efficiency, equal opportunities and non-discrimination, including equality between men and women.

The following horizontal principles shall be observed by all applicants in the development and implementation of their projects:

1. **Sustainable development** – development process that meets the needs of the present without compromising the ability of future generations to meet their own needs. The environmental protection is an integrated part of the development process. In designing and implementing the project, the applicants should aim at a balanced use of resources, appropriate choice of logistics and raising public awareness on sustainable development issues (e.g. by inserting messages on printed materials or in the e-mails).

In addition, challenges brought by the **climate change** shall be duly taken into account. Climate change - a great concern at global and EU level – should be another key element of which the applicants should be aware of. The main factors contributing to climate change are greenhouse gases deployed in the atmosphere from energy and non-energy sources. Projects should at least avoid making use of such sources, and additionally support the fight against climate change.

Special attention on the above is needed under PA1, **PA2** and PA5.

In order to ensure sustainable development, the followings will be used as general guiding principles:

- Due attention will be paid to the environmental protection requirements, climate change mitigation and adaptation.
- In case of transport development, the aspect of smart regional mobility should be promoted.
- In case of road constructions silent road surface for road constructions in populated areas can be requested.
- In case of purchasing vehicles for the improvement of the transport conditions, silent modes shall be taken into account when selecting.
- In case of investments negatively affecting nature, fauna and flora, and biodiversity, only those projects should be selected, where investments are accompanied by compensatory measures and damage mitigation.

- In addition, wherever relevant, in the case of investment projects the following requirements will be considered:
 - for projects involving purchasing products, those products should comply with the energy efficiency requirements set out in Annex III of the Energy Efficiency Directive (2012/27/EU) for products subject to public procurement;
 - if a project involves building, construction and renovation, requirement to prove cost-optimal levels of energy performance according to Directive 2010/31/EU.
- 2. **Equal opportunities and non-discrimination** - a fundamental right, ensuring the access of every person, on free and equal basis, in the areas of public life such as in the workplace, in education, or in accessing goods and services. Especially projects under **PA3, PA4** and PA6 need to deal with this aspect.
- 3. Equal opportunities refer to preventing any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation or on any other similar criterion. This also includes Equality between men and women, specified below.
Equality between men and women – special attention on this aspect is to be paid for projects under **PA3** and PA6.

The projects will have to apply the gender mainstreaming and promote the fundamental rights, non-discrimination and equal opportunities in their activities. The projects shall promote equal opportunities for all in order to tackle the barriers faced by minorities, the disabled, and other vulnerable groups.

In order to ensure equal opportunities and non-discrimination, at least the followings will be taken into account:

- Only those projects could be selected, which are non-discriminatory and transparent and take into account gender equality and non-discrimination principles.
- In projects, where it is feasible, preference may be given on the social inclusion of people living in deep poverty.

During the design of the details of the project, the principles of transparency, equal treatment, non-discrimination, national integrity and sustainable development will be met.

Therefore, in development of your projects, please have in view the followings:

- The inclusion of relevant features related to the profile of persons involved in the projects, e.g. on gender, ethnic origin, age, occupation and education level, disabilities etc.;
- The evaluation of actions for the involvement of potentially discriminated groups in project implementation e.g. related to flexible working arrangements, representation arrangements, provisions for persons with disabilities etc.;

- Consideration of the different needs and intended and unintended impact of the project on different groups, e.g. vulnerable population with disabilities, returning and internal migrants etc.;
- Consideration of equal opportunities and non-discrimination in project implementation, e.g. concerning the establishment of an Equal Opportunities Action Plan, definition of equal opportunity targets, provision of equal opportunities training or diversity management courses, provision of supporting services;
- Provisions for an equal access to the project's outputs and benefits for all members of the society;
- Consideration of the different starting positions of the target groups based on gender (existence and extent of differences between women and men and the implications of these differences for the specific policy area etc.) and intended and unintended impact of the operation of the project on those groups in the project concept;
- Consideration of equality between men and women in project implementation, e.g. through inclusion of gender mainstreaming provisions, concerning the special needs and circumstances of men and women employees, introducing flexible, individual arrangements for female employees including childcare, information about these provisions in advertisements for job opportunities.

Please be informed that the observance of the horizontal principles shall be taken into account during projects assessment. Projects which propose explicit measures with positive impact on one or more of them, even in terms of raising public awareness, may be awarded additional points.

However, accomplishing the minimum requirements of law in the fields of promotion of equal opportunities and non-discrimination, equality between men and women and sustainable development is mandatory and will not be extra scored.

For further information please refer to the Cooperation Programme document.

1.3 Programme implementation structure

According to the EU Regulations, the two partner states in the programme - Romania and Hungary - have established a number of bodies forming the implementation and monitoring mechanism of the programme. The most relevant bodies for the potential beneficiaries are:

Managing Authority (MA) – the Romanian Ministry of Regional Development, Public Administration and European Funds - is responsible for managing and implementing the operational programme in accordance with EC Regulations and the principles of sound financial management. The Managing Authority signs the ERDF subsidy contracts with the Lead Beneficiaries as well as the co-financing contracts with the Romanian project beneficiaries (for the co-financing granted from the Romanian state budget). The Managing Authority took over the role of certifying the expenditures (role of Certifying Authority).

National Authority (NA) - the Prime Minister's Office from Hungary – is the counterpart of

the Managing Authority and will sign the co-financing contracts with the Hungarian project beneficiaries (for the co-financing granted from the Hungarian state budget).

Monitoring Committee (MC) is formed of representatives at national, regional and local level from both countries, supervises the programme and selects the projects.

Joint Secretariat (JS) is based within the Cross Border Cooperation Regional Office Oradea for Romania-Hungary Border - BRECO, situated in Oradea (Romania). It assists the Managing Authority and the Monitoring Committee in carrying out their respective duties and is the main contact point between the programme and the potential/project beneficiaries.

Info Points (IPs) are established in Hungary, in each of the 4 eligible counties, carrying out activities related to information and monitoring and having as main role to serve as local contact point for potential/project beneficiaries from Hungary.

For further details on programme implementation structure please refer to the Cooperation Programme.

1.4 Financial Allocation for the Call for Proposals

The total budget of the programme for the entire 7-year programming period is of € 231,861,763.00, of which € 189,138,672.00 is represented by EU contribution through the European Regional Development Fund. The remaining € 42,723,091.00 is national contribution from Romanian and Hungarian state budgets and project beneficiaries.

The **total amount allocated for the present Open Call for proposals**, including national public and private funding, is of **€59,875,069.41¹**, broken down as follows:

Investment Priorities	Community Funding ERDF	National counterpart*	Total funding
	(a)	(b)	(a)+(b)
PA 2 - Ip 7/c	4,910,249.00	866,514.53	5,776,763.53
PA 3 – Ip 8/b	38,449,237.00	6,785,159.47	45,234,396.47
PA 4 – Ip 9/a	7,534,323.00	1,329,586.41	8,863,909.41
Total	50,893,809.00	8,981,260.41	59,875,069.41

*Includes the contributions from Romanian and Hungarian state budgets, and local/private budgets from both countries, respectively, expected own contribution, as estimated during

¹ Estimated based on the financing plan of the Cooperation Programme.

the programming period; this represents the minimum total *national counterpart*, which may be increased by higher own contributions of the project partners.

The total ERDF amount may not be exceeded unless otherwise decided by the Monitoring Committee and / or with approval by the European Commission if the case. Any amounts not contracted under the present Call shall be transferred to Open call(s) or used as decided by the Monitoring Committee.

The above allocation is based on the followings:

- ✓ The rate of ERDF financing within a project is **maximum 85%** of the total eligible project budget.
- ✓ The rate of national state budget co-financing is maximum 13%² of the total eligible budget for Romanian beneficiaries, other than Central Public Authorities that are financed through the Romanian state budget, and maximum 10%³ or 15% for Hungarian beneficiaries in line with national legislation (see footnote).
- ✓ Please note that an advance payment of the Romanian national co-financing may be granted to Romanian beneficiaries for their part of the budget, in a percentage according to national legislation; for the Hungarian beneficiaries, an advance payment of maximum 100% of the Hungarian national co-financing may be granted for their part of the budget.
- ✓ Each Beneficiary has to bring an own contribution to the project, that shall be minimum 2 % in case of Romanian Beneficiaries, other than Central Public Authorities for which the contribution is fully ensured by the Romanian state budget, and 5 % or 0% in case of Hungarian Beneficiaries in line with national legislation (see footnote).

Each Project Beneficiary has to ensure the financial resources necessary for the implementation of the project until the reimbursement of ERDF funds.

The following table reflects an allocation scenario at project potential beneficiary level, based on financing sources:

Financing sources	Romanian Central Public Authorities	Romanian Beneficiaries other than Central Public Authorities	Hungarian Central Budgetary Organs and 100% owned by state in line with national legislation⁴ as Beneficiaries	Other Hungarian Beneficiaries

² This rate is depending on the granted ERDF, and may vary accordingly. Whereas the rate of ERDF decreases, the national co-financing drawn from the state budget is proportionally decreased as well.

³ Idem as no. 3, above.

⁴ Please, consult Hungarian Government Decree No. 126/2016 (VI.7.) on the implementation of certain cross-border co-operation programmes financed under the European Regional Development Fund and the Instrument for Pre-accession Assistance in the 2014-2020 programming period

ERDF	Max. 85%	Max. 85%	Max. 85%	Max. 85%
But not more than €2,550,000.00 / project				
State contribution	Min. 15%	Max. 13%	Max. 15%	Max. 10%
		But not more than 15.2941% from ERDF	But not more than 17.6470% from ERDF	But not more than 11.7647% from ERDF
Own contribution		Min. 2%	Min. 0%	Min. 5%

1.5 Revenue Generating Projects

Revenue generating projects may be financed under the present Call for proposals.

However, it must be kept in mind that the goals of Interreg V-A Romania – Hungary Programme relate to general public interests and well-being, thus envisaging and strongly encouraging **not for-profit** activities.

The EU Regulations applicable to 2014-2020 period do not provide for a definition of "revenue" as only "**net revenue**" needs to be taken into account for the calculation of eligible expenditure.

Net-revenues are not eligible.

According to Article 61 CPR (EU Regulation No. 1303/2013) "**net revenue** means **cash in-flows directly paid by users for the goods and services provided by the operation**, such as charges borne directly by the users for the use of infrastructure, sale or rent of land or buildings, or payments for services **less any operating costs and replacement costs of short-life equipment** incurred during the corresponding period."

This means that operating costs and replacement costs of short-life equipment (as referred to in Article 17 of Commission Delegated Regulation (EU) No 480/2014) decrease the net revenue in case the revenue remains unchanged.

In addition, operating cost-savings generated by the project shall be treated as net revenue (except where the operation cost-savings are the only source of revenue for the operation). The eligible expenditure of the operation shall be reduced taking into account the expected net revenue by applying one of the methods set out in Article 61(3) (or alternatively Article 61(5)) of CPR, as complemented by Articles 15 and 16 of the above-mentioned CDR.

Eligible expenditure on revenue-generating projects shall not exceed the current value of the investment cost less the current value of the net revenue from the investment over a specific reference period for:

(a) investments in infrastructure; or

(b) other projects where it is possible to objectively estimate the revenues in advance.

The net revenue generated during implementation of the project, resulting from sources of revenue not taken into account in determining the potential net revenue of the project, shall be deducted from the eligible expenditure of the project, no later than in the final payment claim submitted by the beneficiary.

Where it is objectively not possible to determine the revenue in advance, the net revenue generated within three years of the completion of a project, or by the deadline for the submission of documents for programme closure, whichever is earlier, shall be refunded to the MA and/or to NA according to the ERDF and national state budget contributions.

The implementation of the provisions mentioned above is done by the following measures:

- In the application form, the applicants shall mention if their project is revenue generating.

Whereas the project's budget annexed to the Application Form shall not include the net revenue, net revenue shall be mentioned however, as potential, in the Application Form. The budget template provided in e-MS allows the applicants to fill in such information.

- In the implementation phase, or, according to the art 61. (6) of Regulation 1303/2013, where it is objectively not possible to determine the revenue in advance based on any of the methods set out in paragraphs 3 or 5, the net revenue generated within three years of the completion of an operation, or by the deadline for the submission of documents for programme closure fixed in the Fund-specific rules, whichever is the earlier, shall be deducted from the expenditure declared to the Commission.

1.6 State Aid

IMPORTANT: Projects submitted under this Call for proposals may fall under the State aid incidence; therefore, the project proposals will undergo a State aid assessment process.

In order to support the applicants in developing their project proposals in line with State aid rules, a specific help-desk service has been set up and can be accessed at the following dedicated e-mail address: stateaid@breacoradea.ro. Therefore, questions/aspects regarding State aid can be submitted by the applicants at the indicated address.

Info Points will also provide support for applicants. The information will be provided on the programme website.

The relevant legislation which will be applied to assess State aid within the present call is represented by the general EU legislation in the field, available at http://ec.europa.eu/competition/state_aid/legislation/legislation.html.

Following the analyses of the potential eligible applicants, eligible types of activities and related costs and considering the legal procedural framework, the potential types of State aid at Programme level have been established. Thus, the analysis of the activities⁵ eligible within the Programme, from the State aid incidence viewpoint, is presented in the State aid Matrix (**Annex IX.7**).

The four situations identified at Programme level, as regards State aid incidence, are the following:

- a) activities that are State aid free
- b) activities that imply the entrustment of a Service of General Economic Interest (SGEI) or SGEI under EU Regulation 1370/2007
- c) activities eligible under GBER scheme (identified options: culture or local infrastructure)
- d) activities that can be financed under *De minimis* scheme

Based on State aid related options identified in the State aid Matrix, at Programme level, the Managing Authority has elaborated two schemes approved through Minister Order no.6510/17.10.2017 - "The exempted State aid scheme for investment priorities 6/c and 8/b"(culture and local infrastructure aid), hereinafter the **GBER scheme (Annex IX.4)** and Minister Order no.6509/17.10.2017 - "*De minimis* aid scheme for activities within investment priorities 6/c, 7/c and 8/b", hereinafter the ***De minimis* scheme (Annex IX.5)** - for the ERDF Community funding and RO national (state and local budgets) contribution representing State aid/*de minimis* aid, while for the HU national contribution, **44/2016. (III. 10.) Government Regulation** in relation with state aid rules related to the funds provided by the European Territorial Cooperation Programmes for the 2014-2020 programme period (**Annex IX.6**) applies.

⁵ Please note that the activities listed in the State aid Matrix are of indicative nature. However, any other eligible activities will have to be categorized in one of the four situations identified at Programme level, in relation with State aid incidence

Also, in case of Ips 9/a and 7/c, there are activities implying the entrustment of a SGEI/SGEI under EC Regulation 1370/2007.

From **State aid viewpoint**, within Interreg V-A Romania-Hungary Programme, the applicant/potential beneficiary of funding may fall in one of the following categories:

- the applicant/potential beneficiary of funding is also the potential beneficiary of aid;
- the applicant/potential beneficiary of funding is the beneficiary of aid, but also transfers part of the aid/advantage to another State aid beneficiary, which is not part of the project partnership;
- the applicant/potential beneficiary of funding is only a vehicle and transfers the entire aid/advantage to another State aid beneficiary, which is not part of the project partnership.

Consequently, for all the situations presented herein-above, both the provisions of the GfA and, as the case may be, the provisions of the State aid schemes (Annex IX.4 and IX.5) and/or those included in the entrustment act of SGEI/SGEI under EC Reg. 1370/2007 shall be complied with when developing the project proposal.

1.6.1. Definitions

As defined in Art. 107 para.(1) of the Treaty on the Functioning of European Union, a measure is considered State aid if it meets, on cumulative bases, *all* of the following criteria:

- 1. the beneficiary is an undertaking (is engaged in economic activity)**
- 2. the measure is financed from the State budget or is imputable to the state**
- 3. the measure confers an advantage to the beneficiary**
- 4. the measure is selective**
- 5. the measure affects the trade and competition between the Member States – within the Union.**

Undertaking - any entity, regardless of its legal status, which is engaged in economic (commercial/competitive) activity and where there is a market in comparable goods or services.

Economic activity – offering goods and/or services on a given market and which could, at least in principle, be carried out by another operator.

State resources - State resources include all resources of the public sector, including resources of intra-State entities (decentralised, federated, regional or other) and, under certain circumstances, resources of private bodies.

Economic advantage: The project support is an economic advantage that the undertaking would not have received in the normal course of business. Such an economic advantage can be assumed if the undertaking does not provide for any market-driven consideration (e.g. it promises to create jobs in return for state funds received or it buys land from the state for a price lower than the market price).

Selectivity – the measures grant an advantage in a selective way to certain undertakings or categories of undertakings or to certain economic sectors.

Effect on competition and trade: This criterion is already fulfilled if an aid has potential effect on competition and trade between Member States. It is sufficient if it can be shown that the beneficiary is involved in an economic activity and that it operates in a market in which there is trade between Member States. As a general rule, no effects on competition and trade are to be expected in case of purely local activities or legal monopolies.

Some activities under the Investment Priorities 7/c, 8/b and 9/a do not constitute State aid as at least one of the above-mentioned criteria is not met.

Also, in the COMMUNICATION FROM THE COMMISSION on the notion of State aid pursuant to Article 107(1) TFEU, the paragraph 18 of the respective document states that:

a) Activities that intrinsically form part of the prerogatives of official authority and are performed by the State do not constitute economic activities.

b) It follows from the case-law that Article 107 TFEU does not apply where the State acts "by exercising public power" or where public entities act "in their capacity as public authorities". An entity may be deemed to act by exercising public powers where the activity in question is a task that forms part of the essential functions of the State or is connected with those functions by its nature, its aim and the rules to which it is subject.

In addition, the paragraphs 115 and 116 of the same document stipulate:

115. An advantage can be conferred on undertakings other than those to which State resources are directly transferred (indirect advantage). A measure can also constitute both a direct advantage to the recipient undertaking and an indirect advantage to other undertakings, for instance, undertakings operating at subsequent levels of activity. The direct recipient of the advantage can be either an undertaking or an entity (natural or legal person) not engaged in any economic activity.

116. Such indirect advantages should be distinguished from mere secondary economic effects that are inherent in almost all State aid measures (for example through an increase of output). For this purpose, the foreseeable effects of the measure should be examined from an ex ante point of view. An indirect advantage is present if the measure is designed in such a way as to channel its secondary effects towards identifiable undertakings or groups of undertakings. This is the case, for example, if the direct aid is, de facto or de jure, made conditional on the purchase of goods or services produced by certain undertakings only (for example only undertakings established in certain areas⁶).

Indirect aid (aid to third beneficiaries)

It may also be that project beneficiaries grant State aid to third parties outside the project partnership. This is because other undertakings (i.e. entities engaged in economic activities) not included as project beneficiaries in the project partnership (e.g. associated organisations, target groups, etc.) could receive an advantage through the project's activities that they would not have received under normal market conditions. And this implies that they could be recipient of State aid.

⁶ 2016/C 262/01- Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union

It is worth mentioning, that even though the project beneficiary does not perform State aid relevant activities in the project thus at its level it does not mean State aid but its activities could mean an advantage for third parties outside the project partnership.

Therefore, when preparing the Application Form, each applicant must also consider whether its activities will give rise to State aid to third parties.

Indirect aid may happen if:

- The beneficiary transmits (part of) the aid to one/more third party/ies through a financial aid;
- The outputs of the projects are put at disposal of certain subject(s) at advantageous conditions;
- Any other situation in which an undertaking or more ends up by getting an economic advantage as a direct consequence of the project implementation.

Where a beneficiary provides State aid to end users, it will be necessary for the project beneficiary providing the advantage to calculate the value of the supportive activities.

Then, consideration should be given to eliminating any State aid element, for instance, by charging a market price for that particular item.

The requirement regarding an open procedure should not be confused with the open tendering procedure according to the law on public procurement. In this case, this principle should be interpreted as opening up towards the competition through an appropriate degree of publicity so that all stakeholders can participate in the tender.

For particularly complex projects "competitive dialogue" may apply, where the contracting authority is objectively unable to define the technical means best suited to its needs, or to assess what the market can offer in terms of technical, financial or legal solutions.

Under this Call for Proposal, the projects' activities may have the following State aid classifications: State aid free, implying the entrustment of a SGEI/SGEI under EU Reg. 1370/2007, financed under GBER scheme (local infrastructure) or under *De minimis* scheme.

In order to facilitate the State aid assessment process, the applicant is requested to provide its own opinion on the classification of its application from the State aid point of view, by filling in the **"Declaration on the proposed qualification of the application in relation to State-aid" (Annex V.9)**. The declaration should be provided based on the type of activity/activities proposed in the application, according to the expected State aid classification of the activities provided in the following paragraphs, for each investment priority. It should take into consideration both, possible direct aid and indirect aid situations.

The declaration has only an indicative value. The State aid assessment will identify the final classification of the application according to the various State aid options available for each Ip; in case such classification does not match the one proposed by the applicant, the State aid assessor will communicate it to the applicant through a clarification request during the assessment process. Clarifications may anyway be asked in any other case in which the State aid assessor will consider it needed.

1.6.2. In relation to Ip 7/c – Developing and improving environmentally-friendly (including low noise), and low-carbon transport systems including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility⁷, the following options are available:

⁷ Please be informed that under 7/c inland waterways, maritime transport and airport infrastructure are not supported under the current Call for proposals. Please, consult also Factsheet 7/c.

A. State aid free activities

A.1. Activities that are considered State aid free subject to fully complying with GfA provisions regarding general eligibility criteria and specific eligibility criteria for eligible costs /expenditure,, in case of activities such as: *Preparation of particular investments: elaboration of studies, analyses, concepts, technical / design documentation, elaboration of recommendations concerning legal administrative bottlenecks hampering cross-border mobility; Sharing best practices as part of complex projects contributing to specific objective; Construction, upgrading / modernization of roads, bicycle roads, path or lane, also by using existing infrastructure elements, where appropriate (e.g. dams, agricultural roads, etc.).*

State aid assessors will anyway analyse the application in order to confirm that the proposed activities fall within the above mentioned situation, and ask for clarifications, if the case.

A.2. Fulfilment of Altmark Criteria (already fulfilled or declared)

In its 2003 [Altmark judgement](#), the European Court of Justice held that public service compensation **does not constitute State aid** when four cumulative conditions are met:

- the recipient undertaking must have public service obligations and the obligations must be clearly defined;
- the parameters for calculating the compensation must be objective, transparent and established in advance;
- the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit;
- where the undertaking which is to discharge public service obligations is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs of a typical well-run company.

Such activity may be: *Investment into public transport related infrastructure (e.g. low emission vehicles, bus).*

In case of fulfilling the Altmark criteria the applicant shall submit the Declaration on own responsibility **of the entrusting authority** regarding the **fulfilment of Altmark criteria (Annex V.10 – Altmark criteria Declaration)**, **as well as** the following SGEI under EC Reg. 1370/2007 related documents, as the case may be:

a) If the establishment of the SGEI already exists at the moment of the application:

- The entrustment act, endorsed by the competent authority, and relevant justifying documents proving the procedure of entrusting.

NB: Cases of existing SGEI not covered by competent authority opinion will be excluded. Also, the entrusted SGEI must include the infrastructures that are object of the funding application.

b) If the establishment of the SGEI under EC Reg. 1370/2007 does not exist at the moment of the application:

- Competent authority (**SGEI provider**) decision regarding the intent on declaring the SGEI;
- Declaration on own responsibility regarding **the commitment to obtain the entrustment act**, endorsed by the competent authority, until the **first reimbursement claim** for the project is submitted to JS (**Annex V.11 – Declaration on entrustment act Ip 7/c**);
- 1 year prior announcement regarding the intention to declare the entrustment published in the OJEU according to Regulation (EC) No. 1370/2007, if applicable.

Important: All the activities related to transport are pursued in keeping with EC Regulation no. 1370/2007. Note that all tender related activities and contracts must be pursued in keeping with EC Regulation no. 1370/2007. Publication in EU Official Journal is required, one year in advance of entrustment.

Where at least one of the Altmark conditions is not fulfilled, the public service compensation will be examined under State aid rules. For this case, please see point B.

B. Projects including activities that are declared Services for General Economic Interest (SGEI) with State aid incidence, based on Regulation No 1370/2007⁸.

Such activities may be: *Development of cross-border intelligent transport system, passenger information system, on-line schedule, e-ticketing, mobile apps, common tariff systems; Development and integration of cross-border public transport services; Investment into public transport related infrastructure (e.g. low emission vehicles, bus); Innovative solutions to improve cross-border public transport and reducing transport-related emission.*

In case of project's activities implying **SGEI with State aid under EC Regulation 1370/2007⁹**, the applicant shall provide, when submitting the application, the following documents, as the case may be:

a) If the SGEI has been already established:

- The entrustment act, endorsed by the competent authority, and relevant justifying documents proving the procedure of entrusting.

NB: Cases of existing SGEI not covered by competent authority opinion will be excluded. Also, the entrusted SGEI must include the infrastructures that are object of the funding application.

⁸ Regulation (EC) no 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70

⁹ See provisions of articles 3,4 and 5 of EC Regulation 1370/2007

b) If the SGEI has not yet been established:

- Competent authority (**SGEI provider**) decision regarding the intent on declaring the entrustment;
- Declaration on own responsibility regarding the **commitment to obtain the entrustment act**, endorsed by the competent authority, until the **first reimbursement claim** for the project is submitted to JS (**Annex V.11 – Declaration on entrustment act Ip 7/c**) ;
- Declaration on own responsibility regarding the **commitment to observe the parameters** calculated and to avoid over-compensation, based on the methods stipulated in Regulation no. 1370/2007 and on **commitment to observe the SGEI Regulation no. 1370/2007** for the time period of entrustment (**Annex V.12 – Declaration on observing parameters and EC Reg. 1370/2007**);
- 1 year prior announcement regarding the intention to declare the entrustment, published in the OJEU according to Regulation (EC) No. 1370/2007, if applicable.

IMPORTANT: In case not already finalized when submitting the application, the entrustment act, endorsed by the competent authority, has to be obtained until the first reimbursement claim for the project is submitted to the JS.

All the activities related to transport are pursued in keeping with EC Regulation no. 1370/2007. Note that all tender related activities and contracts must be pursued in keeping with EC Regulation no.1370/2007. Publication in EU Official Journal is required, one year in advance of entrustment.

C. Activities that are potentially State aid but can be financed under the *De minimis* scheme elaborated according to Commission Regulation No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid. (Please see Annex IX.5 and Annex IX.7)

Such activities may be: *Development of cross-border intelligent transport system, passenger information system, on-line schedule, e-ticketing, mobile apps, common tariff systems; Development and integration of cross-border public transport services; Innovative solutions to improve cross-border public transport and reducing transport-related emission.*

De minimis aid is “an aid granted to a single undertaking over a given period of time that does not exceed a certain fixed amount. The ceiling of the amount of *de minimis* aid is EUR 200 000 that a single undertaking may receive per Member State over any period of three years. This ceiling remains necessary to ensure that any measure falling under the abovementioned Regulation can be deemed not to have any effect on trade between Member States and not to distort or threaten to distort competition”¹⁰.

Practically, the *de minimis* regulation establishes a financial threshold under which the aid received by a single undertaking, in a period of 3 fiscal years, though presenting the other typical characteristics of a State aid, is not considered significant enough to distort competition.

¹⁰ Commission Regulation No 1407/2013, Article 3

If the aid requested within the present call – together with the other *de minimis* aid obtained in the same fiscal year plus the 2 previous ones - does not overpass the threshold, the *de minimis* option can apply.

However, the applicant should be aware that:

- getting a *de minimis* aid will limit its possibility of getting other *de minimis* aid, from whatever public administration and for whatever purpose for a period of 2 fiscal years after the one of awarding;
- the calculation of the *de minimis* aid already obtained in the past has to be made at the level of "single undertaking": this particular notion includes not only the beneficiary, but all the other subjects that are connected to it – directly or indirectly – by one of four different kind of connections established by the regulation;
- all the conditions established in the *De minimis* scheme, with reference to the beneficiary, the kind of activity, the kind of costs etc. have to be respected.

In case the *De minimis* scheme applies, the applicants, in case being also the beneficiary of the *de minimis*, shall provide with the Application form, a Declaration on own responsibility in relation to the *De minimis* scheme, (**Annex V.13 – *De minimis* Declaration**), regarding the **previous *de minimis* aid** and **status of single undertaking**.

In case the *de minimis* option is used for an indirect aid (the aid beneficiary does not belong to the project partnership):

- if the *de minimis* aid beneficiary is already identified, the Declaration shall be provided by the *de minimis* aid beneficiary;
- if the *de minimis* aid beneficiary(ies) will be identified in a later phase, the aid shall be awarded in full compliance with the *De minimis* scheme provisions and shall be regulated by the *de minimis* awarding contract, to be signed between the beneficiary of financing and the beneficiary of *de minimis* aid.

In the assessment process, the assessor will analyse the application, the *De minimis* declaration and any other relevant document and may ask for completions and clarifications.

IMPORTANT: Other project activities eligible under Ip 7/c that are not listed in the GfA and/or in the Factsheet afferent to Ip 7/c will be assessed and accordingly categorised by the external State aid assessor under one of the above-mentioned situations (A., B., or C.), as the case may be.

Moreover, during the State aid assessment process, supplementary information and/or completion might be requested.

1.6.3 In relation to Ip 8/b - Supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources, the following options are available:

A. Activities that are considered State aid free subject to fully complying with GfA provisions regarding **general eligibility criteria** and **specific eligibility criteria for eligible costs /expenditure**, in case of activities such as: *Preparation of integrated development strategy and action plans of specific territories to introduce the coherence among the planned actions; Establishment of joint networks, exchange of good practices, having a demonstrable effect on reaching the set objective under this Ip; or; Improving*

cross-border accessibility to employment related facilities in the eligible counties through the construction, upgrading / modernization of roads with cross-border impact.

State aid assessors will anyway analyse the application in order to confirm that the proposed activities fall within the above mentioned situation, and ask for clarifications, if the case.

B. Activities that are State aid and can be financed under the GBER scheme(Annex IX.4) elaborated according to Commission Regulation No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs. (Please see Annex IX.4 and Annex IX.7)

Such activities may be: *Implementation of cross-border employment initiatives, cross-border cooperation between relevant stakeholders of labour market (e.g. employment centres, training providers, social partners, enterprises and NGOs); Targeted actions facilitating the creation of local products/services and related infrastructures based on the local potential; Increase employment by improving business environment through integrated development measures; Support for climate change and mitigation through the development of green skills and green employment opportunities in sectors based on the local potential.*

Option B applies in case of activities that are State aid relevant and all the conditions established in the GBER scheme, with reference to the beneficiary, the kind of activity, the kind of costs etc. are respected.

According to article 56, Section 13 - COMMISSION REGULATION (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, "*aid for local infrastructures shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempt from the notification requirement of Article 108(3) of the Treaty*", *provided that the conditions laid down in Article 56 and in Chapter I of the Regulation are fulfilled*".

Aid scheme means "*any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount*" ¹¹.

The activities within Ip 8/b supported under the GBER scheme contribute to a favourable increase in employment through the upgrading / funding of investments in local and related infrastructures with an effect on employment growth and the creation of new local products/ services based on local potential.

In case the GBER scheme applies, the applicants, when being also the beneficiary of State aid, shall provide along with the application, a Declaration on own responsibility in relation to the **eligibility to the GBER scheme (Annex V.14 – GBER Declaration)**, underlining also that **they are not an undertaking in difficulty**, according to EU definition.

¹¹ Regulation No 651/2014, Article 2, paragraph (15)

In case of a **transfer** of aid/advantage to a State aid beneficiary outside the project partnership, the Declaration shall be provided by the State aid beneficiary.

When a transfer of aid/advantage occurs, it shall be made in full compliance with GBER scheme provisions and shall be regulated by the State aid awarding contract, to be signed between the beneficiary of financing and the beneficiary of State aid.

In the assessment process, the assessor will analyse the application, the GBER declaration and any other relevant document and may ask for completions and clarifications, including relevant justifying financial documents.

C. Activities that are potentially State aid but can be financed under the De minimis scheme(Annex IX.5) elaborated according to Commission Regulation No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid. (please see Annex IX.5 and Annex IX.7).

Such activities may be: *Implementation of cross-border employment initiatives, cross-border cooperation between relevant stakeholders of labour market (e.g. employment centres, training providers, social partners, enterprises and NGOs); Targeted actions facilitating the creation of local products/services and related infrastructures based on the local potential; Increase employment by improving business environment through integrated development measures; Support for climate change and mitigation through the development of green skills and green employment opportunities in sectors based on the local potential .*

De minimis aid is “an aid granted to a single undertaking over a given period of time that does not exceed a certain fixed amount. The ceiling of the amount of *de minimis* aid is EUR 200 000 that a single undertaking may receive per Member State over any period of three years. This ceiling remains necessary to ensure that any measure falling under the abovementioned Regulation can be deemed not to have any effect on trade between Member States and not to distort or threaten to distort competition”¹².

Practically, the *de minimis* regulation establishes a financial threshold under which the aid received by a single undertaking, in a period of 3 fiscal years, though presenting the other typical characteristics of a State aid, is not considered significant enough to distort competition.

If the aid requested within the present call – together with the other *de minimis* aid obtained in the same fiscal year plus the 2 previous ones - does not overpass the threshold, the *de minimis* option can apply.

However, the applicant should be aware that:

- getting a *de minimis* aid will limit its possibility of getting other *de minimis* aid, from whatever public administration and for whatever purpose for a period of 2 fiscal years after the one of awarding;
- the calculation of the *de minimis* aid already obtained in the past has to be made at the level of “single undertaking”: this particular notion includes not only the beneficiary, but all the other subjects that are connected to it – directly or indirectly – by one of four different kind of connections established by the regulation;
- all the conditions established in the *De minimis* scheme, with reference to the beneficiary, the kind of activity, the kind of costs etc. have to be respected.

¹² Commission Regulation No 1407/2013, Article 3

In case the *De minimis* scheme applies, the applicants, when being also the beneficiary of *de minimis*, shall provide along with the application, a Declaration on own responsibility in relation to the *De minimis* scheme (**Annex V.13 – *De minimis* Declaration**), regarding the previous *de minimis* aid and status of single undertaking.

In case the *de minimis* option is used for an indirect aid (the aid beneficiary does not belong to the project partnership):

- if the aid beneficiary is already identified, the Declaration shall be provided by the *de minimis* aid beneficiary;
- if the aid beneficiary(ies) will be identified in a later phase, the aid shall be awarded in full compliance with the *De minimis* scheme provisions and shall be regulated by the *de minimis* awarding contract, to be signed between the beneficiary of financing and the beneficiary of *de minimis* aid.

In the assessment process, the assessor will analyse the application, the *De minimis* declaration and any other relevant document and may ask for completions and clarifications.

IMPORTANT: Other project activities eligible under Ip 8/b that are not listed in the GfA and/or in the Factsheet afferent to Ip 8/b will be assessed and accordingly categorised by the external State aid assessor under one of the above-mentioned situations (A, B, or C), as the case may be.

Moreover, during the State aid assessment process, supplementary information and/or completion may be requested.

1.6.4 In relation to Ip 9/a – Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services.

IMPORTANT!!!

In case of Hungarian beneficiaries, the projects financed under Investment priority 9/a Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services do not fall under State aid, based on the principle of solidarity (according to paragraphs 23-24 of the Commission Notice on the Notion of State Aid and State Aid Monitoring Office letter, on 24 March 2017).

For Romanian applicants, the following possibilities might occur when analysing the project's activities from the State aid viewpoint:

A. State aid free activities

A.1. Activities that are State aid free, as being State's prerogative, in case of activities such as: *Activities related to emergency, including Development of telemedical and e-health infrastructure for diagnosis and treatment in order to achieve better patient information*

system and to reduce health inequalities in access to health services, which can be used for such activities.

A.2. Activities that are State aid free **subject to complying with GfA provisions** regarding **general eligibility criteria**¹³ and **specific eligibility criteria for eligible costs /expenditure**, in case of activities such as: *Promotional actions for health screening and providing information to prevent and diagnose diseases with high frequency in the eligible area; actions to improve access to health infrastructure by disadvantaged groups; exchange of know-how and capacity building activities; Harmonized development of specialized services; Improving cross-border accessibility of health-care services through construction, upgrading / modernization of roads with cross-border impact.*

A.3. Activities that are State aid free **subject to complying with GfA provisions** regarding **general eligibility criteria** and **specific eligibility criteria for eligible costs /expenditure AND** based on the **Confirmation letter** regarding the incidence of State aid rules, issued by the Romanian Competition Council, after receiving the **local impact analysis**¹⁴ **drafted by the applicant**, in case of activities such as: *Investments in health-care and prevention-related infrastructure; Purchase and installation of health-care equipment, delivery of training to staff on the use of new equipment.*

Please Note: In case the infrastructure/ purchased equipment is used to carry out emergency related activities, it is considered that is a prerogative of the State and its financing is non State aid.

The local impact analysis should address aspects similar to those regulated by paragraph 196 of the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union regarding the local impact. Consequently, in case of Ip 9/a, this analysis should address, NOT in a cumulative/exhaustive manner, indicative aspects such as:

- a) The aid does not lead to demand or investments being attracted to the region concerned and does not create obstacles to the establishment of undertakings from other Member States. In this respect, the following guiding questions could be addressed by the applicant, if applicable:
 - How many paying reserves are currently within the healthcare department? Which is the cost for renting as against the costs in private units?
 - Is the equipment to be purchased is used for diagnosis and/or treatment?
- b) The goods or services produced by the beneficiary are purely local or have a geographically limited attraction zone.

In this respect, the following guiding questions could be addressed by the applicant, if applicable:

¹³ Conditions for training, roads etc, shall be assessed during the state aid quality assessment.

¹⁴ Local impact analysis will prove the non-incidence of the State aid given the local character of the planned intervention. Eventually, the data provided should prove that at least one of the State aid criteria referred to in Article 107(1) of the Treaty on the Functioning of the European Union is not met; the local impact analysis will be based on the guidelines, as defined herein.

- A short description of the need to provide a specific healthcare service in the area. Which are the reasons for this?
 - What is the number of patients treated in the last 3 years in the hospital/ healthcare institution/prevention institutions to be affected by the investment/to be equipped with the equipment specified in the project? What is the waiting time for providing the treatment? How many patients are treated on monthly bases as against the number of requests?
 - Does the project envisage an increase of the number of beds within the relevant department? If the answer is affirmative, the increment has to be justified by the necessity in this respect. What is the overall capacity in term of beds within public/private health facilities addressing the same medical specialization? Please provide any detail also related to the number of patients treated in these public/private facilities.
- c) There is at most a marginal effect on the markets and on consumers in neighbouring Member States.

In this respect, the following guiding question could be addressed by the applicant, if applicable:

- How many non-resident, foreign patients were treated in the last 3 years within the department of the facility envisaged by the project?

Please provide any other useful information related to the above mentioned points, as well as any other aspects underlining the local character of the activity.

The local impact analysis will be submitted to the Romanian Competition Council in order to obtain a Confirmation letter regarding the incidence of State aid rules, based on the data provided by the applicant. Confirmation letter regarding the incidence of State aid rules has to be attached to the Application package, in Romanian language.

Please note that data provided within the local impact analysis should be supported by statistical facts and figures, coming from reliable official sources, if available.

NOTE: The Application to be submitted under the Interreg V-A Romania-Hungary Programme is in conformity with the data included in the local impact analysis, previously submitted to the Romanian Competition Council in order to obtain the Confirmation letter regarding the incidence of State aid rules as to the project's activities, and is compliant with the recommendations formulated by the Romanian Competition Council, if applicable.

B. Projects including activities that are declared *Services for General Economic Interest (SGEI)*¹⁵ in case of activities such as: *Investments in health-care and prevention-related infrastructure; Purchase and installation of health-care equipment, delivery of training to staff on the use of new equipment*), in the operating phase.

Considering that the SGEI occurs during the operating phase of the project, the investments envisaged may be started before the entrustment of the SGEI, provided that the applicant undertakes to have the entrustment act adopted until the operating phase.

The concept of SGEI appears in Articles 14 and 106(2) TFEU and in Protocol No 26 to the TFEU, but it is not defined in the TFEU or in secondary legislation. The Commission has clarified in its Quality Framework that SGEIs¹⁶ are economic activities which deliver outcomes in the overall public good that would not be supplied (or would be supplied under different conditions in terms of objective quality, safety, affordability, equal treatment or universal access) by the market without public intervention.

¹⁵ The entrustment act or, if the case, the general State aid scheme for SGEI shall receive a formal opinion from the Romanian Competition Council, before the start of the operating phase, but not later than the end of the implementation period. Considering that the SGEI occurs during the operating phase of the project, the investments envisaged may be started before the entrustment of the SGEI, provided that the Applicant undertakes to have the entrustment act adopted until the operating phase. The entrustment act of SGEI will be submitted individually to the Competition Council for a formal opinion, if the entrustment of the SGEI will not be issued under a state aid scheme that already received a formal opinion from the Competition Council.

¹⁶Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest; Commission Decision of 20 December on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest; Communication from the Commission, European Union framework for State aid in the form of public service compensation (2011).

According to the provisions of Commission Decision of 20.12.2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, there are the following requirements to be considered when entrusting a SGEI:

First, the recipient undertaking must actually have public service obligations to discharge, and the obligations must be clearly defined in the main proceedings. The national court will therefore have to examine whether the public service obligations which were imposed on Altmark Trans are clear from the national legislation and/or the licences at issue in the main proceedings.

Second, the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner, to avoid it conferring an economic advantage which may favour the recipient undertaking over competing undertakings. Payment by a Member State of compensation for the loss incurred by an undertaking without the parameters of such compensation having been established beforehand, where it turns out after the event that the operation of certain services in connection with the discharge of public service obligations was not economically viable, therefore constitutes a financial measure which falls within the concept of State aid within the meaning of Article [107 (1)] of the Treaty.

Third, the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of public service obligations, taking into account the relevant receipts and a reasonable profit for discharging those obligations. Compliance with such a condition is essential to ensure that the recipient undertaking is not given any advantage which distorts or threatens to distort competition by strengthening that undertaking's competitive position.

Fourth, where the undertaking which is to discharge public service obligations, in a specific case, is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately provided with means of transport so as to be able to meet the necessary public service requirements, would have incurred in discharging those obligations, taking into account the relevant receipts and a reasonable profit for discharging the obligations.

NOTE: Please be advised that the compensation for SGEI does not fall under State aid in case all the above mentioned criteria are fulfilled in a cumulative manner. In case the last Altmark criterion is not fulfilled, then the compensation for SGEI is considered State aid.

Therefore, in practical terms, the SGEI in order to be entrusted shall entail the following steps to be undertaken:

- The service has to be defined through means of a normative act, endorsed¹⁷ by the Romanian Competition Council (law, ordinance, emergency ordinance, Government Decision, Decision of the local authority) and shall include, according to Article 4 of the Commission Decision of 20.12.2011, in particular:

¹⁷ The entrustment act of SGEI will be submitted individually to the Competition Council for a formal opinion, if the entrustment of the SGEI will not be issued under a state aid scheme that already received a formal opinion from the Competition Council.

- (a) the content and duration of the public service obligations;
 - (b) the undertaking and, where applicable, the territory concerned;
 - (c) the nature of any exclusive or special rights assigned to the undertaking by the granting authority;
 - (d) a description of the compensation mechanism and the parameters for calculating, controlling and reviewing the compensation;
 - (e) the arrangements for avoiding and recovering any overcompensation; and
 - (f) a reference to the Commission Decision of 20.12.2011.
- The compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit.

For the specific case of Ip 9/a, this SGEI entrustments occurs at the operating stage, where it is to be entrusted to hospitals/healthcare institution/prevention institution and it is the responsibility of the SGEI entrusting entity in keeping with the above-mentioned requirements.

Note: Please be advised that the RO applicants submitting a Confirmation letter regarding the incidence of State aid rules issued by RO Competition Council, will be assessed only from the administrative point of view, i.e. the existence of relevant documents will be checked.

In the case of RO Applicants applying as future SGEI subjects, the State aid incidence will be assessed both from administrative and qualitative point of view.

Note, however, that SGEI with State aid incidence shall apply only to the operating phase, unless public non – discriminatory transparent procedure applies. The entrustment act regarding the SGEI has to be provided until the end of the implementation period and before the start of the operating phase. The purchase of equipment/investments in infrastructure is to fall under the requirements of public procurement.

In case of project's activities implying **SGEI**, the applicant shall provide, when submitting the Application form, the followings:

a) If the SGEI has been already established:

- The entrustment act, endorsed by the Romanian Competition Council and compliant to the relevant EC decision.

b) If the SGEI has not yet been established:

- Declaration on own responsibility regarding the commitment to obtain the entrustment act, endorsed¹⁸ by the Romanian Competition Council (**Annex V.15 - Declaration on entrustment act Ip 9/a**), before the start of the operating phase, but not later than the end of the implementation period;
- Competent authority (**SGEI provider**) decision **regarding the intention to entrust** a SGEI to the hospital/healthcare institution/prevention institution (e.g. Local/County Council Decision);

¹⁸ The entrustment act of SGEI will be submitted individually to the Competition Council for a formal opinion, if the entrustment of the SGEI will not be issued under a state aid scheme that already received a formal opinion from the Competition Council.

- Hospital/healthcare institution/prevention institution's **consent on being entrusted** with the SGEI (based on the official correspondence exchanged with the competent authority-SGEI provider).

IMPORTANT: Other project activities eligible under Ip 9/a, that are not listed in the GfA and/or in the Factsheet afferent to Ip 9/a will be assessed and accordingly categorised by the external State aid assessor under one of the above-mentioned situations (A. or B., as the case may be.

Moreover, during the State aid assessment process, supplementary information and/or completion might be requested.

CHAPTER 2. RULES OF THE CALL FOR PROPOSALS

2.1 Description of the Call

This is an Open Call for proposals, designed in "one step procedure" and dedicated to the applicants who address common challenges and exploit common potentials through various types of joint initiatives, joint projects and joint actions.

The financing under the Interreg V-A Romania – Hungary Programme shall be made available to potential beneficiaries through a transparent and competitive process.

The present Call for proposals has the goal of establishing solid cross-border partnerships in the eligible area by financing operations aiming at improving the living conditions of the population in the eligible area, from better health care services and increase employment to innovative solutions to improve cross-border public transportation, therefore reducing transport-related emissions. It is important that projects involve investments with a concrete impact in the cross-border area, addressing the identified needs and having a relevant contribution to the Programme's objectives.

The present Call is designed based on the following **main features**:

- The Investment priorities¹⁹ in the frame of which project proposals are expected, are presented in Chapter I. and were identified already in the planning phase and stated within the approved CP.
- The implementation period and the total amount of the ERDF contribution for a project, ranging between minimum and maximum limits, are differentiated by Ips, as follows:

¹⁹ Please see specifics of each Investment priority in the related Fact Sheets.

Investment priority	Total ERDF funds/project (Eur)	Project duration²⁰ (maximum months)
7/c Developing and improving environmentally-friendly (including low noise) and low-carbon transport systems, including inland waterways and maritime transport, ports, multimodal links and airport infrastructure, in order to promote sustainable regional and local mobility	425,000-2,550,000	up to 30
8/b Supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources	210,000-2,550,000	up to 30
9/a Investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and transition from institutional to community-based services	425,000-2,550,000	up to 30

The maximum limits for ERDF and the State Contribution are presented in chapter 1.4. Financial Allocation for the Call for Proposals.

The projects must have direct CBC impact, which shall be understood in terms of proving that at least 3 of the cooperation criteria are fulfilled ²¹: joint development, joint

²⁰ As presented in the Application Form

²¹ Joint development – means that the project must be designed in common by partners from both sides of the border. This means that project proposals must clearly integrate the ideas, priorities and actions of stakeholders on both sides of the border. The Lead Beneficiary is the coordinator of this process but should include other partners from the beginning of the development process;

Joint implementation – means that activities must be carried out and coordinated among partners on both sides of the border. It is not enough that activities run in parallel. There must be clear content-based links between what is happening on either side of the border and regular contact between the two sides. The Lead Beneficiary is responsible for ensuring that activities are properly coordinated, that schedules are kept and that the right quality levels are achieved;

Joint staffing – means that the project should not duplicate functions on either side of the border. Therefore, regardless of where the person is located, there should be one joint project manager, one joint financial manager etc., (of course more staff may be required for larger projects). These staff will be responsible for project activities on both sides of the border. The Lead Beneficiary is generally the employer of core project staff;

Joint financing – means that there will be only one contract per project and therefore there must be one joint project budget. The budget should be divided between partners according to the activities carried out. A project with 0 Euro or very small financing from one side of the border cannot be considered as having joint financing. There is also only one project bank account for the ERDF contribution (held by the Lead Beneficiary) and payments representing EU support are made from the programme to this account. The Lead Beneficiary is responsible for administration and distribution of these funds and for reporting on their use. Match-funding should come from both sides of the border and illustrates the commitment by each partner to the joint project.

implementation, joint financing and joint staffing.

Partnerships involving strong commitment and contributions (observing the joint development, joint implementation, joint staffing and joint financing criteria) from all partners will be scored with maximum points!

The following scheme is a chronological demonstration of the main milestones:

Phase	Estimated Duration/Date	Explanation
Launching the Call for Proposals	3 months	Open competitive Call, designed in one step procedure.
Deadline for submitting Project Proposals	31.01.2018	Project Proposals will be submitted via the electronic system eMS, by the Lead Applicant.
Assessment and selection of Project Proposals	5-6 months	Best Project Proposals will be selected for financing and implementation. Notifications on approval of Project Proposal are sent out to the Lead Applicants.
Contracting	2 months	For the selected Project Proposals, documents will be required in order to sign subsidy and national co-financing contracts.
Contracting under conditions	Maximum 3 months after the Notification for approval	The applicants will have to prove the compliance with the formulated conditions in maximum 3 months after the Notification for approval
Implementation of the project	Maximum 30 months	The implementation of the project may start on the date of the Notification for approval. ²²

The achievement of the output indicators, as established for each of the priority axis MUST be fulfilled through the supported projects, proving proportionality between the estimated necessary costs and the targeted values of indicators!



Please see further details in the dedicated FACT-SHEETS, annexed to the present Guide.

Please keep in mind that all necessary information regarding the priority axes and the related specific objectives, as well as the output indicators and the estimated ERDF allocation of funds on each category of intervention are available also in the Cooperation Programme (CP).

The final version of the document can be accessed at the following links

www.interreg-rohu.eu

www.mdrap.ro

²² This is without prejudice to the eligibility of preparation costs, if the project is selected and contracted.

2.2 Conditions and criteria for selection of projects

2.2.1 General eligibility criteria

The submission of projects is open to all potential beneficiaries and projects that meet the eligibility criteria set-out below. These eligibility criteria shall apply for the entire programme duration.

The specificities and detailed criteria for the selection of projects are presented further on, and in the dedicated FACT-SHEETS (Annex I).

Nevertheless, there are a number of important general principles that need to be reflected in the selection criteria under all Investment priorities. These include:

- ✓ respecting the principle of sustainability, justified demand for the new capacities created;
- ✓ cost-efficiency of the supported actions;
- ✓ clearly justified contribution to the SO of the relevant Ip;
- ✓ preventing programme level double-financing of projects/operations (examples may include institutional development, road development, water management);
- ✓ creating added value;
- ✓ clear cross-border impact, synergies of the interventions;
- ✓ respecting the horizontal principles, i.e. sustainable development, non-discriminations and equal opportunities, where relevant.

The eligibility criteria, with regard to the assessment and selection of projects are related to the *potential applicants*, *actions (activities/operations)* and *costs*. General eligibility criteria, mandatory for all projects regardless of the priority axis they are submitted under, are the following:

- eligibility of the applicants;
- eligibility of the actions (activities/operations);
- eligibility of the costs/expenditures.

2.2.1.1 Eligibility of applicants

In the framework of the present programme only legal entities, as identified below, can apply for financing and become Lead Beneficiaries or Beneficiaries, who are established based on the relevant national public or private law and act in the purpose of public benefit.

Natural persons cannot apply for funding.

Political parties/organisations are not eligible! Private bodies, with exception of NGOs, are not eligible!



Important!!!

1. All projects must have at least one Project Applicant on the other side of the border²³, which must fulfil the same eligibility criteria.
2. The maximum number of Project Applicants in one project is **6 (six)**. Not complying with this provision will lead to the rejection of applications.
3. It is expected that when a partnership is designed, only partners who can make an important and real contribution in achieving the proposed indicators will be invited in the partnership.
4. The (Lead) Applicant must have legal competencies in the project relevant field. For all projects, it is compulsory that the applicant has among its attributions, according to their statute or according to the national legislation, the implementation of the proposed activities or it must prove that it has a partnership agreement with the institutions, competent to implement such activities, according to their statute or according to the national legislation.
5. The applicants must prove stable and sufficient financial resources to ensure the continuity of their organization throughout the duration of project and to play part in financing it.
6. The applicants must demonstrate that they have not received financing support from public funds in the past 5 years before the deadline for submitting the applications under this Call for proposals for the same operation / project in terms of objectives, activities and results.
7. All applicants involved in the project have to prove their professional, operational / administrative and financial capacity to manage their share of activities in the field of action they are applying for and must have direct responsibility for the preparation and management of the proposed actions both from a professional and from a financial point of view, not acting as intermediaries.
8. The **Project Applicants have to be entities falling into one of the following categories:**
 - a. Public bodies;
 - b. Public equivalent bodies, governed by public law²⁴;

A body governed by public law means a body:

- ✓ Established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
- ✓ Having legal personality, and
- ✓ Financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are

²³ For EGTC, please see item 8, below.

²⁴ The definition of this particular category of possible applicants (in terms of cumulative conditions to be met) is according to the text of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (and according to Annex 1 and 2 of the Bulletin 9001/2002 (SK 3.) of the Central Statistical Office as well, for HU Applicants).

appointed by the State, regional or local authorities, or by other bodies governed by public law.

- c. State owned companies²⁵
- d. Non-profit bodies: non-profit legal body established under the private or public law, acting in the general public interest.
- e. European Groupings for Territorial Cooperation (EGTCs) introduced by Regulation (EC) 1082/2006, as further amended and complemented by EC Regulation 1302/2013, and established according to the national legislation of Romania²⁶ and Hungary²⁷ are considered eligible in case they satisfy the eligibility criteria applicable for each applicant, excluding the necessity to have a cross border partner.

EGTCs have to meet the following criteria:

- ✓ To be established by legal persons governed by public or private law having their seat on the territory of Romania or Hungary;
- ✓ To have its seat located in the eligible Programme area;
- ✓ To have incorporated in its statute as objective and field of activity the contribution to the development of the Romania - Hungary cross-border programme area, and references to the field to be addressed by the proposed project.

In order to be eligible, in terms of location, the applicants must have their seats or a regional/local branch registered in the eligible programme area: Satu Mare, Bihor, Arad and Timiș counties in Romania, and Szabolcs–Szatmár–Bereg, Hajdú-Bihar, Békés and Csongrád counties in Hungary.

In case the entity's headquarter is registered outside the eligible programme area, but there is a regional/local branch office **with a legal entity** in the eligible programme area, then the regional/local branch shall apply for financing and in case of contracting, it shall be the beneficiary. The regional / local branch office needs to prove its existence and the relation with headquarter.

Exceptions are also possible – in the case of **public entities** not having their legal seat in the eligible area, **but having legal competencies for implementing operations in the programme area.**

²⁵ In case of RO Applicants: The legal context is provided by the Government Emergency Ordinance no. 109/2011 concerning the corporate governance of state-owned enterprises. Eligible applicants can be also other state-owned companies based on matching the criteria defined for bodies governed by public law.

In case of HU Applicants: State owned companies are listed in Annex II of Act CXCVI of 2011 on National Assets or if not other state owned companies can be also eligible based on matching the criteria defined for bodies governed by public law.

²⁶ Government Emergency Ordinance No. 127/2007 regarding EGTCs

²⁷ Act LXXV of 2014 on EGTCs

Two situations are identified:

1) In case the public entity's headquarter is registered outside the eligible programme area and its branch office is not a legal entity, the respective public entity may apply and, in case of contracting, it shall be the beneficiary. In this special case, the legal representative of the main entity shall nominate the person responsible for acting in the scope of the project implementation and the regional / local branch office needs to prove its existence and the relation with the headquarter.

2) In case the public entity's headquarter is registered outside the eligible programme area without a branch office in the eligible area, the respective public entity may apply²⁸.

Due to management and financial capacity needs, one applicant will be selected as Lead Beneficiary in maximum 3 projects and in total in 6 projects, in the context of Interreg V-A Romania-Hungary Programme.

The restriction applies only for an Applicant submitting a project proposal in its own name, and not, if it is the case, for subordinated institutions according to Romanian legislation. e.g. Romanian County Councils could apply for county hospitals, Municipalities could apply for schools, etc. as they are responsible for their administration. Also, the restriction does not apply for Romanian universities applying for the subordinated faculties, under the condition that each faculty has its own Project Implementation Unit.

Important! When setting up partnership, due care shall be taken in order to comply with Cooperation Programme document in terms of obligation to have legal competences in the field of intervention and also in terms of indicators.

Potential applicants shall be excluded from participation in the present Call for proposals if:

- ✓ they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- ✓ they, or persons having powers of representation, decision making or control over them, have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of res judicata;
- ✓ they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify, including by decisions of the European Investment Bank and international organizations;

²⁸ Central authorities with competencies in the eligible area are eligible applicants and may implement projects in the Programme area.

- ✓ they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- ✓ they, or persons having powers of representation, decision making or control over them, have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;
- ✓ they are subject to an administrative penalty referred to in Article 1 (13) of the Regulation (EU, EURATOM) 1929/2015, amending Regulation 966/2012 on the financial rules applicable to the general budget of the Union.

Applicants are also excluded from participation in Calls for proposals or the award of financial support if, at the time of the Call for proposals, they:

- ✓ are subject to a conflict of interests; the conflict of interests represents any circumstances that may affect the assessment or implementation process, in an objective and impartial manner. Such circumstances may result from economic interests, political or national preferences or family connections.
- ✓ are guilty of misrepresentation in supplying the information required by the Managing Authority/ Joint Secretariat as a condition of participation in the call for proposals or fail to supply this information which might have led to a different decision of the evaluators/ Managing Authority during the assessment process;
- ✓ have attempted to obtain confidential information or influence the assessment bodies or the Managing Authority during the assessment process of current or previous Calls for proposals.

In the cases referred above, the exclusion applies for a maximum period of ten years, from the time when the infringement is established or from the date of notification of the judgment.

In the signed "Project (Lead) Beneficiary Declaration" included in the application pack, applicants must declare that they do not fall into any of the above mentioned categories.

IMPORTANT: In case of projects falling under the State aid incidence, the provisions of the 2 State aid schemes, approved at Programme level, regarding the eligibility of State aid/*de minimis* aid beneficiaries shall be also complied with.

The Managing Authority or the Joint Secretariat may request, during the assessment of project proposals or in the phase of contracting, additional documentary evidence and argumentations regarding the eligibility of applicants!

The specific types of potential beneficiaries for each Ip are listed in the dedicated FACT- SHEET (Annex I).

2.2.1.2 Eligibility of actions (projects)

This is an Open call, seeking to support projects that must be in line with one of the indicative actions from an Investment priority under Priority axis **PA2-Ip 7/c, PA3-Ip 8/b** and **PA4-Ip 9/a** as described in Chapter I. of the GfA.

When designing your project, please take into account the following common rules:

1. The project will ensure a relevant contribution to the Programme objectives, addressing the needs and development challenges identified in the eligible area.
2. It's preferable that projects contribute to a wider strategy on one or more policy levels (EU / national / regional / county) contingency; to be in synergy with other key interventions.
3. It is recommended that a project is based on a strong and balanced partnership on the two sides of the border.
4. The projects must provide added-value on activities already implemented in the field or represents the beginning of activities that will be undertaken on a long term.
5. The projects should make a positive contribution to the programme horizontal principles: equal opportunities and non-discrimination, equality between men and women, sustainable development, access for disabled persons.
6. All projects should demonstrate their contribution to the objectives of the EUSDR²⁹ strategy.
7. The activities have to be implemented in the Programme eligible area, respectively on the territory of the following 8 counties: Satu Mare, Bihor, Arad and Timiș from Romania; Szabolcs-Szatmár-Bereg, Hajdú-Bihar, Békés and Csongrád from Hungary. Exceptions from this rule apply for activities implemented outside the eligible area, with a significant importance and impact on the Programme' area, directly implemented for the benefit of the Programme area. The total costs incurred outside of the eligible area (related to any activity or any category of expenditure) shall be limited to 10% of the support from the ERDF at project level.

Nonetheless, please bear in mind that **no investment in equipment or infrastructure be that endowment or works shall be placed outside the eligible area!**

8. The importance of the cross-border approach to the topic addressed should be clearly demonstrated. In this matter, at least 3 (from 4) cooperation criteria shall

²⁹ The EUSDR is a macro-regional strategy adopted by the EC on 08 December 2010 and endorsed by the European Council on 24 June 2011. The Strategy was developed by the Commission together with the Danube Region countries and stakeholders in order to address common challenges.

be fulfilled: joint development, joint implementation, joint staffing and joint financing.

9. The quality of the project proposals, as reflected in their compliance with the selection criteria, is very important in order to ensure that the Programme delivers concrete and visible outputs and results that tackle, in a cross-border and integrated manner, the challenges and needs affecting the programme area. **Projects focusing solely on research (with no applicable output), or exclusively on exchange of experience, or projects not indicating the concrete and sustainable follow-up of "soft" activities (studies, surveys, action plans etc.) will not be supported by the Programme.**
10. The project must be in line with the Priority axes mentioned in Chapter I. and results sought, as stipulated in the Interreg V-A Romania - Hungary Programme (CP). When developing the project proposal, the applicants should keep in mind the Performance framework of the respective PA and the milestones for 2018. The applicants demonstrating contribution³⁰ to the achievement of indicators or the key implementation steps set for 2018, will get higher score in the quality assessment.

Also, the Project Proposals demonstrating a level of proportionality between the estimated costs of the project and the output indicators lower than 40% shall not be recommended for support.

11. In case of projects that involve the elaboration of studies or analyses it is important that beneficiaries take stock of the knowledge already available and results from other projects co-financed by European funds across Europe and take all measures necessary to avoid double-financing. In addition, beneficiaries will be required to present their plans on capitalizing the results of the project.
12. In reference to purchase of equipment in a project, irrespective of the equipment nature, the beneficiary making the acquisition (in whose budget the expenditures for such purchase are included) will be able to place the equipment in a location for which it holds a legal document proving the property/ administration/concession / other relevant such right. The equipment shall be used for implementing the project, taking also into consideration the sustainability period stipulated in the Subsidy contract. Last but not least, it is important that the equipment should be installed in an adequate place, ensuring its optimal functioning, according to standards in force.
13. Under Ip 8/b – exclusively referring to investments related to culture and tourism infrastructure, as part of the supported projects - in line with Article 3 of the ERDF regulation (Regulation No 1301/2013)³¹ support for **investments in cultural and tourism infrastructure is limited to *small-scale* type only**. The Commission considers an investment in built infrastructure as being a *small-scale* one if its total cost is below or equal to EUR 5 mil.; this ceiling is raised to EUR 10 mil. in the case of infrastructure considered as world cultural heritage in the sense of Article 1 of the

³⁰ Consideration to be given when filling-in the description in the Workplan > Workpackage List

³¹ Please see also Commission's position on small-scale infrastructure (Ref. Ares(2015) 481089 - 05/02/2015)

1972 Convention concerning the protection of the world cultural and natural heritage listed by UNESCO.

Therefore, in terms of quantum of support, if projects submitted under PA1, Ip 6/c and PA3, Ip 8/b include **built infrastructure objectives** for **investments in culture and tourism**, each infrastructure objective shall have a **maximum total costs** of EUR 5,000,000.00, or EUR 10,000,000.00 in the specific case indicated above³².

Please note that the maximum threshold of € 5 mil. / € 10 mil. shall include the ERDF + national (state budget) co-financing + own contribution. These costs must cover all expenditures according to the estimation of necessary costs for the investment / construction works.

Nevertheless please note that in all case the legislation in force shall apply, meaning that if the amendment enters into force the Commission interpretation will not be valid anymore.

14. Please be aware that under Ip 8/b, preparation of a strategy or an action plan cannot be supported as a separate standalone project. Instead of one-off initiatives, only sustainable programmes - joint employment initiatives and trainings – are to be supported, repeated on a regular basis and sustained even after the finalization of the project. Also, the supported joint employment initiatives and trainings are required to contribute to employment.
15. Under Ip 9/a, no support will be provided under the present Call to projects envisaging exclusively soft measures (i.e. promotional actions for health screening, exchange of know-how and capacity building activities, development of specialized services), without an investment component (endowment).
16. Please be aware that investments in roads under priority axes other than priority axis no. 2 (in this case 8/b and 9/a) cannot be supported as standalone operations; such investments need to be ancillary to investment in the related field and shall contribute directly to reaching the selected thematic objective and investment priority under the specific objective. This means that total cost of such investments in roads cannot exceed 30% of the total budget of an operation (project).
17. For infrastructure investments, the applicants must prove they have the legal right to perform the project activities in the specific location, through the following documents which must be provided by the applicant(s):
 - the title deed justifying the ownership of the real estate;
 - or, if the land and/or building and/or /item of infrastructure is not owned by the applicant: **the legal act** (e.g. government decision, law, government ordinance, decision of local counties, etc.) or **other relevant document** (e.g. a contract with the owner of the real

³² Please note that it is not allowed to artificially split such projects/investment objectives into smaller investment component to avoid the ceiling. Also, it is essential that the impact on growth and jobs to be clearly demonstrated in case of such investments.

estate) proving that the owner of the real estate granted the rights of use and the rights of disposal or the rights of administration³³ to the applicant organization for at least the duration until 5 years after the estimated month of the financial closure of the project, and that the owner has given its written agreement stating that the applicant may perform the infrastructure actions on/ in the relevant land/ building/ item of infrastructure.

- declaration from the land and/or building/ item of infrastructure owner/ concessioner/administrator that the land and/or building/ item of infrastructure is:
 - free of any encumbrances;
 - not the object of a pending litigation;
 - not the object of a claim according to the relevant national legislation.
- documents related to the registration of the land and/or building/ item of infrastructure in the relevant public registers (Title Deed, not older than 30 calendar days, issued by the Land Registry).

18. In case of (bicycle) road construction, the public (bicycle) road will be open to the public and free of charge, while also part of a local/regional strategy or subject of a Governmental Decision. Only costs related to construction of public (bicycle) roads are eligible.

19. All projects financed under this Programme are obliged to meet the minimum mandatory information and communication requirements laid down in the EU Regulation 1303/2013 (Annex XII, section 2.2) and in the Visual Identity Manual (VIM) of the Programme.

The VIM is available on the Programme's website (<http://interreg-rohu.eu/en/communication-and-visual-identity/>).

Besides the mandatory measures mentioned in the EU Regulation 1303/2013, in order to achieve the widest dissemination of results, beneficiaries are strongly encouraged to use different forms and tools of communication. In line with the goals and resource of the projects, applicants may plan, create and use different means of communication (i.e. events, project websites, publications, audio-visual productions, promotional materials, media relations and many others) and carefully tailor them to the size, content, target groups, and needs of the project.

Partners are advised to define in the earliest stage possible the messages and values they want to promote with the help of the chosen communication tools, as well as the target groups they want to address, to ensure efficient dissemination of project results.

³³ Stating the fact that the applicant has the legal right of execution of construction works for that land/building/item of infrastructure (a real right) and the legal right to obtain, according to the legislation in force, the building permit.

All Project Beneficiaries (PB) are jointly responsible for ensuring sufficient information about the start, the progress and the results of projects. The LB and PB should carefully clarify and divide communication responsibilities, so that each partner shall be able to bring its own contribution. It is also recommended to appoint a person responsible for communication on project level, having in mind the size and the capacity of projects. In case of small projects, members of existing project team can carry out these tasks too.

Therefore, we kindly advise applicants to consider these activities and related costs when planning their project proposals. Projects having a coherent Communication Plan will be scored in the quality assessment.

In compliance with the provisions of art. 65(6) CPR (EU Regulation No. 1303/2013), projects shall not be selected for support where they had been physically completed or fully implemented before the Project Proposal was submitted for funding under the Programme, irrespective of whether all related payments have been made by the beneficiary.

The projects which have initiated investments in infrastructure (even not physically completed or fully implemented) before the application for funding under the Programme are not eligible, if the initiated investment is still ongoing and the application contains the same investment in infrastructure. Just as well, in compliance with the approved CP, any newly built cross-border infrastructure will become operational right after the completion of the project and shall remain operational for at least 5 years after the financial closure of the project.

Selection of projects that include cross-border road infrastructure is conditional to a prior bilateral agreement with the commitment of the Member States to set up Schengen-compatible border-crossing checkpoints (or other existing solutions according to the legislation in force at the time of submission of the project applications) at the completion of any such projects and to operate it for at least 5 years from the financial closure of the respective project or until the enlargement of the Schengen zone.

When the national legislation requires signature of bilateral agreement between the Member States in case of cross border infrastructure, for projects financing cross border infrastructure other than roads, those bilateral agreements have to be in force at the time of submission of project applications.

IMPORTANT: In case of project's falling under the State aid incidence, the provisions of the 2 state aid schemes, approved at Programme level, regarding the eligibility of actions shall be complied with.

NOTE: The eligibility of an activity does not confer eligibility of the expenditure made for the implementation of that activity.

The specific types of indicative actions for each Ip are included in the dedicated FACT-SHEET (Annex I).

2.2.1.3 Eligibility of costs/expenditure



The general rules for eligibility of expenditure under Interreg V-A Romania-Hungary Programme are described in the *Programme general rules on eligibility of expenditure*³⁴, to be found on the programme's website, www.interreg-rohu.eu.

Expenditures have to be eligible in order to be covered by financial support. Afferent costs are eligible if they comply with the following general and cumulative conditions:

- ✓ cost is directly related to the project, is necessary for initiating and carrying out the operation;
- ✓ costs must comply with the principles of sound financial management (principle of efficiency, effectiveness and economy) in particular value for money and cost-effectiveness;
- ✓ cost is in line with the provisions of the subsidy contract, co-financing contracts / national and European legislation;

As a general rule the expenditures within this Call for proposal are eligible if:

- ✓ cost is committed by the beneficiary after submission of the Project Proposal;
- ✓ expenditures must be incurred after approval by the Monitoring Committee, but until the last day of the implementation period; costs have to be paid out, at the latest, in 30 calendar days after the end of the project implementation period;
- ✓ exception to this rule is made only for **preparation costs**, which must be committed and incurred between 1 January 2014 and the date of the submission of the Project Proposal; in order to be eligible, preparation costs must be paid out no later than 60 calendar days after the Project Proposal approval by the MC.

NOTE: Projects' implementation may be started after the approval of the project by the MC (but this will be on the risk of the applicants)!

Nevertheless, the costs will be eligible only in case the project is finally selected for financing and subject to the conclusion and execution of the subsidy contract.

³⁴ See Annex III.

- ✓ all costs incurred must be free from bias and conflict of interest; that is the case when a decision is compromised for reasons involving family, emotional life, political or national affinity, or where any economic interest or any other interest is shared with another person;
- ✓ cost is borne by the beneficiary, respectively is paid out by the beneficiary and is recorded in the beneficiaries' accounts and tax documents, is identifiable and verifiable, and is backed up by legal and valid supporting documents, except for any office and administrative costs that are reported as a flat-rate cost; cost is verified and validated as eligible by the first level controllers;
- ✓ all expenditures must comply with the principle of real costs, with the exception of the office and administrative expenditures, calculated as flat rates;
- ✓ all expenditures relate to activities that have not been financed from other financial instruments and/or other public funds;
- ✓ all expenditures are supported by invoices or other documents with equivalent probative value directly attributable to a certain project partner with the exception of the costs calculated as flat rates;

NOTE: The Lead Applicant / Project Partner or their employees cannot act as a contractor or subcontractor that provides works, services and products within the project.

- ✓ as a general rule, the eligible expenditures shall be incurred related to activities implemented in the eligible programme area, respectively on the territory of the following 8 counties: Satu Mare, Bihor, Arad and Timiș from Romania; Szabolcs-Szatmár-Bereg, Hajdú-Bihar, Békés and Csongrád from Hungary.

Exceptions from this rule are made for activities outside the eligible area and related expenditures with a significant importance and impact in the Programme' area, directly implemented for the benefit of the Programme area. Total amount for such activities and expenditures shall be limited to maximum 10% of the support from the ERDF at project level.

This aspect shall be duly verified during the assessment and selection procedure, thus presented and accepted in the approved Project Proposal, part of the future subsidy contract.

The following cost categories, presented in the budget tables as main budgetary lines, are considered eligible:

- a) Staff costs;**
- b) Office and administrative expenditure;**
- c) Travel and accommodation costs;**

- d) **External expertise and services costs;**
- e) **Equipment expenditure;**
- f) **Infrastructure and works.**

IMPORTANT: In case of projects falling under the State aid incidence, the provisions of the 2 state aid schemes, approved at Programme level, regarding the eligibility of costs shall be complied with.

Costs not in compliance with the rules on the eligibility of expenditures are ineligible and shall be covered from own financial sources, apart from the project' budget.

Attention! In case there are deviations from the estimated amounts for the planned activities, in order to ensure the project's sound financial management and focusing on reaching the envisaged output indicators, the Programme recommends these are of maximum 20%. However, in case such deviations occur, the budget chapters shall not be affected.

Be advised that the Application Form is structured based on work-packages, which comprise activities and sub-activities, either on project level (WP Preparation, Management and Communication) or on partner level (WP Implementation and Investment). For each activity/sub-activity you shall provide enough details in terms of methodology of implementation, estimated deliverable and indicative budget.

If summed-up, all the indicative amounts on activity/sub-activity level equal the related budget chapter, on partner level. Consequently, the summed-up partners' budgets equal the project budget.

According to the Subsidy Contract, any modifications of the budget lines (in this case to be read as chapters) will require addenda. However, the subdivisions (activities/sub-activities) budgets can, therefore, as already explained, be modified up to a threshold of maximum 20%.

2.2.2 Specific eligibility criteria for eligible costs/expenditure

Besides the general eligibility rules regulated by the *Programme general rules on eligibility of expenditures* on programme's level, specific rules are applied for this Call. **These specific rules prevail over the general ones, and are hereby detailed below:**

a) In case of procurements:

- In the context of the Interreg V-A Romania-Hungary, all procurements will be made with respect to the national public procurement law in Romania/Hungary. This provision is mandatory for all types of beneficiaries, no matter of their statute (either public or private).
- Any purchase of goods, services or works (or other comparable transactions) will be carried out through a competitive, transparent, non-discriminatory and unconditional procedure, including direct procurement³⁵.
- Regardless the procurement procedure, in case only one bid is submitted, this will not normally be sufficient to prove the market price. In this case, to justify the market price, for validation of the expenditure, 2 additional valid, comparable offers will be provided.
- Any procurement above EUR 2,500 net, will be widely publicized, through at least the following channels: the Programme's website, the beneficiary's website. The announcement will be published prior to launching the procurement process.

For expenditure where no public procurement procedure is required by the national law (below national threshold):

1. Above EUR 2,500 (excluding VAT): Beneficiaries must perform and document the execution of adequate market searches (proper justification of the estimated cost, the terms of references, at least 3 valid, comparable, independent offers and the documented summary, including the justification of the selection of the winning bid, Hu beneficiaries using centralized e-procurement services and RO beneficiaries preferably using SEAP – electronic system for public procurement).
 - a. This is meant to provide a sound knowledge and sufficient information on the relevant market, allowing for a sound comparison of offers in terms of price and/or quality and a profound assessment of the adequacy of the price to be paid.
 - b. Consequently, the value and the complexity of the service should be reflected in the specification and breakdown of the terms of reference, as well as in the respective offer.
 - c. For ordering similar services / external expertise which has already been procured in the period of 3 months counted back at the time of the

³⁵ The direct procurements of services, equipment and infrastructure above EUR 2,500.00 net equivalent values (without VAT) and below the national threshold will be based on a procedure documenting at least the following: a document establishing the internal rules/procedures regarding direct procurement, proper justification of the estimated cost and the evaluation principle (the lowest or the best technical-economical offer), the terms of references, at least 3 valid, comparable offers and the documented summary, including the justification of the selection of the winning bid.

procurement, collecting of the bids (three independent offers) is not an obligation, but the previously requested offers can be used as proof.

2. Below EUR 2,500 (excluding VAT): the principles of sound financial management must be applied, but no specific proof of the market price is required. Note that procurement must not be split artificially to circumvent the 2,500 Euro threshold. More strict approach can be applied on National level.

b) Please be advised that in case you plan to organise **events**, such as fairs or festivals, not falling under State aid incidence, the following conditions will be met:

- The participants will not have to pay any participation fees;
- The sales of products is forbidden, so that no commercial activities are thus supported by the project;
- The event will be widely promoted and the access of the public will be permitted free of charge.

c) In case of **training**:

- Other than those related to the functioning of the equipment purchased in the context of the project, it is mandatory to ensure a nondiscriminatory participation of all interested stakeholders/persons (not only the applicant's own staff, but also employees of tertiary institutions/organizations). The occasions will have to be widely disseminated, including on the Programme's website and in other relevant publications. The subject of the training will exclude the minimum required curricula for the occupations of the persons participating, as regulated by the valid legislation. Thus, costs for training which beneficiaries carry out for own staff to comply with national mandatory standards on training are not eligible.
- Related to the functioning of the equipment purchased in the context of the project, the price of trainings will be included in the newly acquired equipment. Training can be done only for beneficiary's staff who will operate the equipment;
- The participants (others than the staff of a public institution) must attend the training as natural person;
- Regarding the training support materials, these will have to be published on the Programme's website as well, either entirely, or at least in the format of a coherent summary;
- Any other types of trainings that need to be purchased in the implementation period shall be open to the general public, free of charge. In order to insure transparency, trainings shall be promoted on websites, like the beneficiary's website and the RO-HU Programme website.

d) In case of **telemedical and e-health infrastructure**:

- Non-discriminating access to the telemedicine network (if there are technical conditions) as wide as possible for medical entities (including private entities) operating similar type will be provided.
- The rules related to the conditions of confidentiality related to the medical act are mandatory.

- If it is intended to collect a fee for the use of this system, to cover the costs for maintenance, the same fee will be charged to all users, public or private.

Please note that telemedical and e-health infrastructure activities are State Aid free if related to State's prerogative (e.g. emergency medical services).

The following table summarises the distinction between cost categories eligible for the preparation and for the implementation phases:

Eligible expenditures		
	Preparation costs	Implementation costs
Staff	-	✓
Office & administrative	-	✓
Travel & accommodation	✓	✓
External expertise and services	✓ ³⁶	✓
Equipment	-	✓
Infrastructure & works	✓	✓



For further information **please see Annex III. Programme general rules on eligibility of expenditure.**

Given that some costs can be included in different budget lines (e.g., license fee for the use of software needed for the project, annual insurances for vehicles purchased and used for the implementation of project tasks etc.) please read carefully ***Annex III. Programme general rules on eligibility of expenditures*** to properly budget the expenditures for activities.

Additional rules for Preparation costs:

- ✓ Only costs for mandatory certificates / permits in order to comply with the rules of the present Call will be eligible preparation costs under *Infrastructure and works* budget line (e.g. urban planning certificate).

In case of road/bicycle road infrastructure the costs of purchase/expropriations of land may be included in the budget, up to 5% of the ERDF estimated costs for the relevant investment object.

- ✓ Please note that the market price of a property (land), in case of road construction, will be established exclusively by a professional certificated evaluator. This will be a condition for the eligibility of the acquisition related costs! In case of already existing Feasibility Studies, the Feasibility Study itself or its revised version shall be valid according to the national legislation (the document must bear the date of elaboration/revision). Any other submitted studies, technical plans, etc. shall also not be older than one year. Multiyear documents, adopted as such will also be considered.

³⁶ Including costs for translation of necessary documents for submission of the Application.

- ✓ The rate of the eligible preparation cost shall generally not exceed 5% of the total eligible project cost.
- ✓ The elaboration of application may add up to the amount of maximum 1% of the total eligible costs, but no more than 15,000 €, and shall be proportionate with the project complexity.

Additional rules for Infrastructure & works:

- ✓ In case of road/bicycle road infrastructure, eligible only under Ip 7/c, the costs of purchase/expropriations of land may be included in the budget, up to 5% of the ERDF estimated costs for the relevant investment object.

Please note that the market price of a property (land), in case of road /bicycle road construction, will be established exclusively by a professional certificated evaluator. This will be a condition for the eligibility of the acquisition related costs!

Additional rules for Management costs:

The management costs (staff costs and/or externalized services for project management) shall not exceed 10% of total eligible project costs.

When you design the schedule of spending forecast, pay attention to the provisions of the Subsidy Contract, where is mentioned that in case of under spending compared to the spending forecasts, the MA, at the half of the implementation period, is entitled to decommit the project by reducing the original project budget and the corresponding ERDF contribution.

CHAPTER 3. HOW TO APPLY

Applications must be submitted through the electronic monitoring system - eMS.

The eMS system can be accessed on the following link: <https://ems-rohu.mdrap.ro/app/main?execution=e1s1..>

3.1 Process overview

As there are two or more partners cooperating in a project, one of them shall be designated as the Lead. The Lead Applicant/Beneficiary³⁷ shall be established in one of the two participating countries to the programme.

Moreover, all applicants should dispose of the knowledge, resources and capacity to fulfil their designated tasks. The applicants must state their financial and administrative capacity to manage their share of the project.

The same applicants will need to sign the partnership agreement before the Lead will be in the position of signing the subsidy contract with the MA.

³⁷ The tasks of the Lead Applicant/Beneficiary are provided in article 13 of the REGULATION (EU) No 1299/2013 of the EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013

How to complete the Application Form is detailed in Annex IV: "eMS - Application Instructions"

☐ Make sure you fill-in by computer, correctly and completely, the Application and its Annexes and attach all related documents. The Annexes are part of the Project Application.

Applications and Annexes must be submitted using the standard templates included in the Applicant's Guide (pay particular attention to observing the limit of characters imposed in the template of Application Form; character includes space).

The Application and its Annexes must be filled in using English. The supporting documents issued by national/local authorities or other bodies shall be attached in the original language accompanied by a translation in English, where the case (**translations provided by certified translators are required**). Translations provided by certified translators are required only for documents relevant for quality assessment, where required (See 3.2 List of mandatory Annexes to the Application Form).

Where the format of the Annexes requires, they should be signed and stamped by the legal representative of the Lead Applicant or of the Applicant to which the Annex refers (in case of Annexes which should be annexed for each Applicant) or by an empowered person (a letter of empowerment will be attached) wherever this is requested by the standard templates.

The Application will be submitted online, in the eMS system. The applicants prepare the original of the Application dossier, with all the supporting documents and with the relevant documents signed by the legal representatives. The Application will be filled-in online, then printed, signed and stamped and will have attached all the documents from the original dossier (held at the Lead Applicant premises). The whole package will be scanned and uploaded into the eMS system. Depending on the size of the documentation, it is recommended to create as many scanned files as necessary. A file cannot exceed 50 MB. In assessment process, the electronic eMS version of the Applications will be prevailing in terms of content, in case any technical error occurs. All documents will be page numbered continuously. The first and last page number of each Annex should be specified in the table of content³⁸.

Before the submission of the Project Application, the Lead Applicant will need to click on **"Check Saved Project"** to activate the automatic checks. If any issues are found, such as missing or wrong data, the Lead Applicant will need to correct this before saving and checking it again. **Only after all checks are okay, the Lead Applicant will be able to submit the application by clicking the "Submit checked project" button.**

Note. If a field is mandatory to fill in, it is enough to place a character in the field and the eMS system will consider it as completed. The Applicant is solely responsible for the quality / accuracy of data entered into the fields of the eMS system.

After submission, the Lead Applicant will receive an automatic e-mail confirmation. **Once submitted, you are not able to make further changes to your application.**

³⁸ A template is provided as Annex V.16.

Application can only be submitted until <31.01.2018>, 16:00 hours Bucharest time (EET).

Please take time zone differences into account!

After submitting the Application, the Lead Applicant will see the project status in the column "Project state" of the table "List Of Projects" as **Subm = Submitted**.

Now the application will enter in the assessment phase (Administrative and Eligibility check) by the Assessment Working Group, while the Lead Applicant can check the status of the application in the eMS (*My projects* section) and answer to the clarifications sent by the members of the Assessment Working Group.

Please note that the clarifications will be send officially using the email section of the eMS as an attached letter of clarification and the Lead Applicant will respond only through email from eMS. Errata, amendments to the Application package which will be sent after the deadline without being explicitly requested shall not be considered.

We strongly advise you to keep an eye on your eMS email in order to be able to respond to any clarifications may be requested during the assessment phase! Also, please keep in mind that the notification of either rejection or approval of your application will be send via eMS e-mail system.

After the deadline, the applicant cannot create an application nor can send an application previously created. In such a case, the error message **"Submission after deadline"** will be sent by the eMS system. Consequently, the application will not be registered as submitted into the system and it shall not enter into the assessment and selection process.

For any problems you might experience with the eMS, please contact the Joint Secretariat at: joint.secretariat@breacoradea.ro, or by telephone at +40 259 473 174 or +40 359 436 529 during office hours: 9:00 to 17:00.



If you have any questions regarding the rules of this Call, we strongly recommend you to send your questions up to 21 working days before the deadline, to the following e-mail address: joint.secretariat@breacoradea.ro

Any other questions submitted after this interval may not receive an answer / in due time, considering the necessary time for processing.

Final answers shall be released (published) not later than 11 working days before the submission deadline.

The Joint Secretariat organizes the assessment and selection process, in compliance with the criteria and methodology approved by the Monitoring Committee.

3.2 List of mandatory Annexes to the Application Form

No.	Mandatory information/documents for submitting an eligible application
1	Partnership declaration signed and stamped by all involved parties/entities (see Annex V.1), separately submitted by each of the partners. To be provided in EN language.
2	PROJECT (LEAD) APPLICANT DECLARATION ³⁹ (see Annex V.2). To be provided in EN language.
3	Copy of the establishing documents of the Applicants: Articles of Association, Statutes, Deed of foundation, establishing resolution law or equivalent documents according to the national legislation, etc. Exception: public institutions/authorities/ do NOT need to submit this document! Additionally, establishing documents will be provided for the related branch / field office, etc., that will prove its existence and the relation with the headquarter. With regard to Churches in Hungary: In case the religious organization is listed in the register kept by the Ministry of Human Capacities (http://egyhazi.emmi.gov.hu/), the extract issued by the Ministry must be attached. In case the Church is not listed in the register, official confirmation issued by the Main Church must be attached. To be provided in RO / HU language.
4	The official statement of the relevant decision-making body regarding the support of the project and the availability of the own contribution for the planned investment, during the implementation of the project (e.g. County Council Decision, Local Council Decision, Board of Directors Decision , authorised person etc.); the document will have to be issued after the official launch of the Call for proposal ⁴⁰ . This requirement does not affect the eligibility of the preparation costs. To be provided in RO / HU language.

³⁹ The Project (Lead) Applicant Declaration will be submitted by each of the applicants and it will cover the following facts:

- Reality of the data provided within the application
- Applicants do not fall into any of the categories for which shall be excluded from participation in calls for proposals, according to EU Financial Regulation 966/2012. The document will be provided by all partners, signed and stamped.
- Applicants commit themselves and the activities.
- Conformity regarding the double financing of the operations;
- Applicant(s) VAT status;
- Possible generated revenues;
- Partners contribution to the project budget;
- Public funds have not been received in the previous 5 years before the submission deadline for the same projects in terms of objectives, activities and results.
- Compliance with the obligation on ensuring project sustainability and its operation for at least 5 years after the financial closure of the project;
- Compliance with the horizontal principles and contribution to the objectives of the EUSDR.

⁴⁰ Except the ones for preparation costs.

No.	Mandatory information/documents for submitting an eligible application
5	<p>In case of Romanian applicants: Justifying document stating the method of representation (according to the national legislation)</p> <p>In case of Hungarian applicants: Original specimen of signature containing the method of representation of the legally authorized representative(s) of the applicant organizations/institutions certified by a public notary in the original language, where the case.</p> <p>To be provided in RO / HU language.</p>
6	<p>Letter of empowerment (if the case):</p> <p>For RO applicants: signed and stamped by the legal representative of the applicant institution</p> <p>For HU applicants: certified by a public notary.</p> <p>To be provided in RO / HU language.</p>
7	<p>The job descriptions for all positions included in the proposed management team AND/OR the Terms of references, in case the management is externalized.</p> <p>To be provided in EN language.</p>
8	<p>In case of Romanian applicants: Urban planning certificate (<i>certificat de urbanism</i>).</p> <p>In case of Hungarian applicants: Preliminary declaration of construction works according to the template provided in Annex V.5, signed by a certified architect.</p> <p>To be provided in RO / HU language.</p>
9	<p>RO applicants: Template MMP, signed/stamped by Environmental Protection Agency at county level, requested based on GO 445/2009 in reference to public and private projects impact evaluation on the environment (Annex V.8)</p> <p>To be provided in RO language.</p>
10	<p>Other relevant studies/surveys, not older than one year (evaluations, strategies, design plans, opportunity studies, impact assessment, location studies, etc.), if there are available. Multiyear documents, adopted as such will also be considered!</p> <p>To be provided in RO / HU language.</p>
11	<p>Title Deed⁴¹ (<i>extras de carte funciară / tulajdoni lap másolat</i>) issued by the Land Registry, not older than 30 calendar days, of each real estate (land and/or building) affected by the investment.</p> <p>In case the land and / or building is in concession/administration, etc, it must be proved that the duration of the concession/administration of the land and/or building is based on a long term contract/enactment (i.e. min. 5 years after the estimated month for the financial closure of the project) and</p>

⁴¹ Exceptions are considered Title Deeds for road construction where purchase / expropriation is necessary, in case they are not yet available due to non-completion of the purchase / expropriation procedures. However, the applicants will have to provide the Title Deed **in maximum 3 months after the notification of approval of the Application**, or otherwise be excluded

No.	Mandatory information/documents for submitting an eligible application
	that the owner of the real estate has given his written agreement (no standard format) that the applicant is free to perform the investment. To be provided in RO / HU language.
12	Affidavit regarding the land acquisition (purchase/expropriation) process, in case the road infrastructure involves purchase/expropriations (see Annex V.7) The document will state: - that the respective applicant understands his/her obligation to complete the purchase/expropriation process and to submit the Title Deed in maximum 3 months after the notification of approval of the Application, ensuring they understand the consequences in case they fail; - that the maximum expenditure budgeted for purchase/expropriations will be no more than 5% of the ERDF estimated costs for the investment objective. To be provided in EN language.
13	In case the road infrastructure involves land acquisition (purchase / expropriations): For RO applicants: Government/county/local council Decision approving the start of the purchase / expropriation procedure and the approval of the technical and economic indicators for the respective investment For HU applicants: If available, the Building Permit OR the proof that the process of obtaining the building permit has started, issued by the competent authority. To be provided in RO/HU language.
14	Declaration from the land and/or building/ item of infrastructure owner stating that the land and / or building / item of infrastructure is free of any encumbrances, not the object of a pending litigation, not the object of a claim according to the relevant national legislation. (Exception in case of purchase / expropriation allowed only for road construction). To be provided in RO / HU language.
15	Copy of the bilateral agreement with the commitment of the Member States to set up Schengen-compatible border-crossing checkpoints (or other existing solutions according to the legislation in force at the time of submission of the project proposals) at the completion of any such projects, and to operate it for at least 5 years or until the enlargement of the Schengen zone, for projects that include cross-border road infrastructure. To be provided in RO/HU/EN language.
16	Copy of the bilateral agreement , in case of CB infrastructure, for projects financing CB infrastructure other than roads; the bilateral agreement have to be in force at the time of submission of project proposals. To be provided in RO/HU/EN language.
17	Environmental indicators (see Annex V.6) To be provided in EN language.

In order to support your project proposal, the Programme recommends you, to submit also the following supporting documents to the Application Form, if there are available:

For RO applicants: **Feasibility study⁴² / Documentation for approval of intervention works⁴³**. The Feasibility Study/DAIW or its revised version is valid according to the national legislation (the document must bear the date of elaboration / revision) and should be accompanied by the legal agreements and approvals (e.g. Local/County Council Decision, proof of the reception of the service, etc.). **Please be advised that English translation is compulsory.**

For HU applicants: **Feasibility Study (see Annex V.3)**, shall be submitted for new investment objectives (the document contains the compulsory elements, according to the Gov. Decree 312/2012 Annex VIII (Chapter 1-1.4.) / **Documentations for approval of intervention works (see Annex V.4)**, shall be submitted for intervention at already existing investment objectives and it contains the list of mandatory documents, in case that the works are not subject to building permit, as follows:

- technical description (HU: *műszaki leírás*)
- the diagrammatical plan (HU: *vázrajz*)
- the general plan of the building site (HU: *átnézeti helyszínrajz*)

Please be advised that English translation is compulsory.

Regarding the State aid, as the case may be:
For all cases: Declaration on the proposed qualification of the application in relation to State aid (see Annex V.9)
I. In case of State aid free projects
Ip 7/c (Non aid as SGEI respecting the 4 "Altmark" criteria) a. If SGEI already entrusted: <ol style="list-style-type: none"> 1. Altmark criteria Declaration (see Annex V.10) 2. Relevant SGEI documents (e.g.: the entrustment act, endorsed by the competent authority; relevant justifying documents proving the procedure of entrusting the SGEI under Regulation (EC) 1370/2007; the announcement regarding the intention to declare the SGEI published 1 year before entrusting such SGEI) <p>NB: Cases of existing SGEI not covered by a competent authority opinion will be excluded. Also, the entrusted SGEI must include the infrastructures that are object of the funding application.</p>

⁴² Shall be submitted for new investment objectives.

⁴³ Shall be submitted for intervention at already existing investment objectives.

b. If SGEI to be entrusted:

1. Competent authority (**SGEI provider**) decision regarding the intent on declaring the SGEI under Regulation (EC) 1370/2007
2. Altmark criteria Declaration (see Annex V.10)
3. Declaration on entrustment act Ip 7/c (see Annex V.11)
4. 1 year prior announcement, published in the OJEU according to Regulation (EC) No. 1370/2007, if applicable

Ip 9/a

Confirmation letter regarding the incidence of State aid rules issued by the Romanian Competition Council, after receiving the **local impact analysis⁴⁴ drafted by the applicant.**

II. In case of projects falling under State aid incidence

Ip 7/c (SGEI with State aid under EC Reg. 1370/2007)

a. If SGEI already entrusted:

1. The entrustment act, endorsed by the competent authority
2. Relevant justifying documents proving the procedure of entrusting the SGEI (e.g.: Document detailing how the compensation for the service has been calculated; documents detailing the procedures with which the recipient undertaking has been selected, the announcement regarding the intention to declare the SGEI published 1 year before entrusting such SGEI)

NB: Cases of existing SGEI not covered by a competent authority opinion will be excluded. Also, the entrusted SGEI must include the infrastructures that are object of the funding application.

b. If SGEI to be entrusted:

1. Competent authority (**SGEI provider**) decision regarding the intent on declaring the SGEI under Regulation (EC) 1370/2007
2. Declaration on entrustment act Ip 7/c (see Annex V.11)
3. Declaration on observing parameters and EC Reg. 1370/2007 (see Annex V.12)
4. 1 year prior announcement, published in the OJEU according to Regulation (EC) No. 1370/2007, if applicable

Ip 9/a

⁴⁴ Local impact analysis will prove the non-incidence of the State aid given the local character of the planned intervention. Eventually, the data provided should prove that at least one of the State aid criteria referred to in Article 107(1) of the Treaty on the Functioning of the European Union is not met.

If SGEI already entrusted:

1. Entrustment act (compliant to European Commission relevant Decision), endorsed by Romanian Competition Council⁴⁵

If SGEI to be entrusted:

1. Declaration on entrustment act Ip 9/a (see Annex V.15)
2. Competent authority (**SGEI provider**) decision regarding the intention to entrust a SGEI to the hospital/health care institution/prevention institution/ (e.g. Local/County Council Decision/Ministry of Health Decision)
3. Hospital/health care institution/prevention institution/ consent on being entrusted with the SGEI (based on the official correspondence exchanged with the competent authority)

In case of **GBER, scheme for Ip 8/b:**

GBER Declaration (see Annex V.14)

(supported by relevant justifying financial documents*)

To be provided by the State aid beneficiary.

In case of *De minimis* scheme, for Ip7/c and Ip 8/b:

De minimis Declaration (see Annex V.13)

To be provided by the *de minimis* beneficiary.

Any analyses, document, justification, additional information which contribute to the assessment of application from state aid point of view.

*** The latest version of the relevant financial documents of the applicant/ State aid beneficiary proving that it is not in difficulty may be requested in the State aid assessment process.**

IMPORTANT: State aid related documents, not provided by the Programme as templates, will be submitted in national (RO/HU) language, unless an English version of such documents is available.

⁴⁵ The entrustment act of SGEI will be submitted individually to the Competition Council for a formal opinion, if the entrustment of the SGEI will not be issued under a state aid scheme that already received a formal opinion from the Competition Council.

CHAPTER 4. ASSESSMENT AND SELECTION OF APPLICATIONS⁴⁶

This is the description of the assessment and selection process. The present Open Call is launched to select the best project proposals, demonstrating **considerable contribution to the programme's output indicators. Under these terms, projects are expected to prove that their estimated results are well correlated with the estimated budgets!**

E.g. A project with a total estimated budget covering 30% of the axis but only contributing with 10% of the output indicators of the axis shall not be recommended for financing!

Project proposals will be submitted via the eMS electronic system, by the given deadline. All project proposals submitted under these conditions will be assessed and eventually selected according to the assessment criteria previously approved by the Monitoring Committee.

The assessment and selection process within the Interreg V-A Romania-Hungary Programme will be carried out with regard to:

- e) Transparency
- f) Equal of treatment
- g) Non-discrimination
- h) National integrity
- i) Sustainable development

The assessment and selection procedure promotes the fulfilment of these principles and excludes any opposite behaviour or action.

4.1 ASSESSMENT OF THE PROJECT PROPOSALS

The assessment of project proposals will be carried out in two phases:

First phase, implying ***administrative compliance and eligibility check***⁴⁷, carried out by internal assessors from the Joint Secretariat and Info Points.

The purpose of the eligibility and administrative assessments is to:

- Verify that the proposal fulfils minimum requirements of the Programme;
- Avoid further assessment of ineligible project proposals;
- Ensure equal treatment of all proposals to be selected for funding.

Failure to comply with the formal requirements (administrative compliance) and established eligibility criteria will lead to the rejection of the project proposal; thus, the Project Proposal that did not fulfil the formal requirements and eligibility criteria shall not be passed on to the quality assessment.

Clarifications and/or completions will be requested by the JS within the administrative and eligibility check in 2 (two) rounds. The requests will be addressed in writing to the Lead

⁴⁶The assessment period may last up to 4 months after given deadline. Applicants shall take into account when planning project events, as no project can be scheduled to start before its prospective approval.

⁴⁷ The assessment grid for the administrative assessment is presented in ANNEX VI.1- Grid for Administrative and eligibility check.

Applicant, who will have **5** and respectively **3 working days** to submit the necessary documents/clarifications.

The JS will provide assistance to the applicants, in case they need clarification on the content of the requests formulated with regards to their application. A dedicated email address is to be created for this purpose only.

Whereas the deadline is not met, or the documents/clarifications submitted are not satisfactory, or prove incompliance with the formal and eligibility requirements, option NO should be ticked and the project proposal deemed to be rejected.

The clarifications provided in the assessment phase cannot bring new elements that would alter the initial content of the Application Form.

Please be aware that the conditions for eligibility of the applicants must be met at the time of submission of the application.

Exceptionally, in case the proposal is not fully compliant, in the case of the costs limitations (criteria B11-B17), the project proposal will be passed for quality assessment under the condition that the necessary budget-cuts will be made in the quality assessment phase.

The MC will approve the lists of projects rejected / recommended for the quality check, based on compliance after the administrative and eligibility check. The Lead Applicant will be notified accordingly.

Next step is the **State aid assessment** that aims at ensuring compliance of the activities envisaged by the projects with the State aid rules and is performed after the administrative and eligibility check of the assessment and selection process for the projects falling under State aid incidence. The State aid assessment is followed by the quality (technical and financial) assessment.

The **State aid assessment** is performed by external assessors contracted by the MA

The State aid assessment process will be performed in what concerns both the administrative compliance and technical aspects.

a) Administrative check

The administrative check will focus on the existence of specific documents mentioned in chapters 1.6 and 3.2 of the GfA and in the relevant State aid assessment grid for each Investment priority.

As the case may be, these documents have to be attached to the Application form, or may be requested in the State aid assessment process, as they are necessary for the proper classification of project proposals' activities in relation to State aid rules, following the quality assessment.

Please note: In case of Investment priority 9/a ***Investing in health and social infrastructure***, the activities performed by **Hungarian applicants** will not be assessed as to State aid incidence.⁴⁸

⁴⁸ According to **State Aid Monitoring Office letter, issued on March 24th, 2017** in Hungary financing health care under Ip 9/a, does not fall under State aid based on the principle of solidarity.

The Romanian applicants will have to submit a local impact analysis⁴⁹ to the RO Competition Council, in order to obtain a **Confirmation letter** regarding the incidence of State aid rules, based on the data provided by the applicant. Thus, in case of the activities performed by **Romanian applicants submitting** the Confirmation letter, the State aid assessment will imply only the administrative check (i.e. the existence of relevant documents). In the case of Romanian applicants applying as future SGEI subjects, the State aid incidence will be assessed based on the criteria set in the relevant assessment grid.

b) Quality assessment

The quality assessment will focus on the identification of State aid incidence at activity level within the project as well as to ensure that any support granted under the Programme complies with European and national State aid regulations and with the provisions of the state aid schemes approved at Programme level.

The assessors will check if the activities of the project are correctly categorized in relation to State aid rules (please see Chapter 1.6. State Aid) as:

- activities not falling under the State aid incidence, based on the analysis regarding the observance of the 5 State aid criteria and the general eligibility criteria and specific recommendations within the GfA;
- project activities implying the entrustment of a SGEI/ SGEI under EU Regulation 1370/2007;
- project activities that can be financed under the GBER scheme (local infrastructure);
- project activities that can be financed under the *De minimis* scheme.

The State aid assessor shall also check the possible incidence of indirect State aid. Based on his/her professional judgment, he/she will formulate specific recommendations, to be respected accordingly.

The assessment will have to conclude, for each activity, whether or not it is falling under State aid incidence, the type of aid, requested budget and who is the implementing partner, according to the categories of State aid mentioned in the current document and taking into account the already identified and approved categories of aid within the State aid Matrix (Annex IX.7). Also, proper justification and recommendations will be formulated.

In case during the State aid assessment it turns out that an activity has not been correctly categorised by the Applicant in relation to State aid, the Applicant will be notified about the outcome of the assessment and will be asked to provide necessary documents (clarifications) and its agreement on the continuation of the evaluation process under the new circumstances. A deadline for submitting the documents will be set. Within the State aid assessment process, clarifications and/or completions may be requested several times by

⁴⁹ The local impact analysis/study has to address indicative aspects similar to those regulated by paragraph 196 of the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union regarding the local impact.

the State aid experts, through the JS. Such clarifications/completions may concern both the administrative check and the quality assessment.

The requests will be made in writing to the Lead Applicant, through AWG, using the e-mail section of the eMS,. The period allocated for requesting and submitting the clarifications/completions may not exceed 30 calendar days, except for special cases (for example, issuance of a Decision by the competent authority) in which case, the deadline⁵⁰ for submitting the clarifications/completions may be extended accordingly.

In case the Lead Applicant **does not provide the supplementary completions/clarification within the specified deadlines, the application will be assessed based on the initial documents and information, if possible**, and the **project activities will be categorized by the State aid** experts accordingly.

However, if further assessment of the project is not possible based on the initial documents provided, and the deadline for providing new documents and information is not met, or such documents **are not submitted/compliant**, the project proposal shall be rejected. Also, if the project proposal does not meet the necessary criteria to be qualified under any of the State aid related acceptable situations, the State aid assessor will either recommend the rejection of project as non-compliant or, if possible, he/she will formulate recommendations/conditions to be further considered in the quality assessment process and/or in the selection process⁵¹.

Relevant State aid assessment grids are attached to the GfA package.

Next phase is the **quality assessment**⁵², carried out by external assessors contracted by the MA.

Regarding the quality assessment, each application will be scored against technical and financial assessment criteria and given a maximum score of 100 points.

The purpose of the quality assessment is to provide the MC members with sufficient information on how each of the project proposals complies with the quality assessment criteria.

The table below reflects an example of how to calculate the proportionality between the estimated project budget and the contribution to the program's output indicators. The scope of the example is to clarify the criterion A.7.-Quality assessment grid (Is there proportionality between the estimated costs of the project and the output indicators fulfilled through its implementation versus total allocated budget and estimated output indicators per Investment Priority?). The presented scenario is for a project submitted under Ip 8/b.

⁵⁰ The deadlines for each case will be specified in the clarification/completion request. In case the deadline for submitting the clarifications/completions exceeds the time allocated for the Quality assessment phase of the assessment and selection process, then the MC may approve the project proposal under condition.

⁵¹ In case the non-compliant activities represent a significant proportion at project level and/or the potential cutting-offs might lead to either the ineligibility partner/project or to the impossibility of implementation.

⁵² See Annex VI.2- Quality assessment grid

	Project 1	Project 2
A. Total funds allocated for Ip 8/b (Euro)	45,234,396.88	45,234,396.88
B. Number of participants in joint local employment initiatives and joint training (programme specific output indicator)	12,315	12,315
C. Unit cost (Euro/indicator). Please see the Annex I. Fact-sheets	3,000.00	3,000.00
D. Total project budget (Euro)	2,370,000	2,370,000
E. Estimated participants / project	700	400
F. Total project budget / total funds allocated for Ip (D/A %)	5.23%	5.23%
G. Project indicator (estimated participants) / total indicator for Ip (E/B %)	5.68%	3.25%
H. Proportionality between the estimated costs of the operation and the output indicators (G/F %)	108.60%	62.14%
I. Numerical assessment (points)	10 points	4 points

The output indicators of the Ip 9/a are:

9/a1 Population having access to improved health services, and

9/a2 Number of health-care departments affected by modernized equipment

For projects submitted under this Ip, the final score will be established by calculating the arithmetic average of points obtained for both output indicators (in the case that a project tackles also number of health-care departments and number of people).

Health-care department is any structure organised as such, in the context of an authorized medical institution (e.g. hospital) and defined as a separate unit in the organisational chart or the Rules of Functions of that particular institution. The approach on project level will, obviously, consider the size and the specifics of each such unit, in terms of cost efficiency.

Quality assessment criteria are divided into two categories:

1. **Strategic assessment criteria** - The main aim is to determine the extent of the

project's contribution to the achievement of programme objectives (contribution to programme results), by addressing joint or common target group needs.

2. **Operational assessment criteria** - The main aim is to assess the viability and the feasibility of the proposed project, as well as its value for money in terms of resources used versus results delivered.

Projects implementing positive specific measures to clearly promote horizontal themes⁵³ will receive higher points during assessment!

If certain information is not very clear, supplementary clarifications, but not completions, will be requested only once during the quality assessment. The Lead Applicant is invited to submit this information within a deadline of maximum **5 working days**.

In case the Lead Applicant does not provide the supplementary clarification within the deadline as required, the Application will be assessed based on the initial information.

Only projects with a score of at least 65 points (out of a total of 100) will be proposed for approval. Also, the minimum threshold for the strategic assessment criteria will be 30 points (out of a total of maximum 45 points).

The projects are ranked in descending order, taking into account the:

- ❖ **scores awarded**
- ❖ **their contribution to the programme's indicators (output and result)**
- ❖ **the amount allocated for each Ip**

In case two or more projects obtain equal scores under the same Ip, the selection of the project to be financed shall be made taking into account the following criteria, in the mentioned order:

- a. the scores obtained for the strategic criteria in the quality assessment phase;
- b. the scores obtained for criterion referring to the project's contribution to the programme's outputs indicators;

4.2 SELECTION OF APPLICATIONS

The final list of project proposals⁵⁴, selected to be supported for financing, is approved by the Monitoring Committee. The decision of the MC is communicated, in writing, by the JS to the Lead Applicant.

The Monitoring Committee will approve the list of all the assessed Project Proposals, in a descending order according to the scores that have been granted, as well as the list of

⁵³ Accomplishing the minimum requirements of law in the fields of promotion of equal opportunities and non-discrimination, equality between men and women, social inclusion of disadvantaged groups and sustainable development is mandatory and will not be extra scored.

⁵⁴At the proposal of the Joint Secretariat and Managing Authority, the Monitoring Committee should decide to create a reserve list. Any project that has reached the minimum thresholds mentioned above is included on the reserve list.

rejected projects, and possible reserves, per Ip.

The projects proposed for financing are those projects which have obtained the minimum score (65 points) in the quality assessment per total and minimum 30 points (out of 45) for the strategic criteria, and whose budgets contain eligible expenses which do not exceed the limit set forth for the present Call.

If, for any reason, a selected project shall not be contracted, the next one from the reserve list for the respective Ip shall be mobilised.

The reserve list contains applications which have obtained the minimum total score of 65 points (out of 100) per total and minimum 30 points (out of 45) for the strategic criteria, but due to limited available budget of the Call, cannot be proposed for financing.

In the situation the *reserve* also fails for contracting purposes, or there is no alternative under the reserve list, the amount shall be transferred to the next Open Call or as decided by the Monitoring Committee.

The projects which have scored less than 65 points are considered rejected.

Nonetheless, for the entire assessment and selection process, all applicants need to consider that:

Any attempt to obtain confidential information or to influence the Programme structures and assessors within the assessment and selection process will lead to disqualification!

You will be excluded in case it is proven that you are guilty of serious misleading of the assessors by providing false information, that are being taken into consideration in the assessment process or if you did not inform the evaluators on issues that would have led to a different decision of the assessors.

The list of projects proposed for financing shall be approved at the first meeting of the Monitoring Committee, organized following the completion of the assessment process.

Within maximum 3 working days after the decision of the MC, the JS will send online notification letters to all the Lead Applicants who have submitted project proposals which were analysed within the respective assessment session and were successful. For applicants whose proposals were put on reserve list or rejected, the deadline for communication is 5 working days from the MC' decision.

The decision of the Monitoring Committee is followed by the pre-contractual phase and further MA and JS shall begin the contracting process, in order to conclude the contracts.

As a general rule, during the contracting stage the JS shall ensure all communication with beneficiaries in view of gathering all necessary supporting documents.

Since the focus during the 2014-2020 period is on the results, please note that if the analysis during the selection process indicates that the programme's indicators (in theory, by contracting) are tackled in a percentage of at least 110%, so that the indicators from the Performance framework are secured (including the financial ones), the Monitoring Committee may decide to stop contracting although the financial allocation was not entirely reached.

Whereas there are firm recommendations of the external assessors impacting / conditioning the approval and contracting of an Application, the respective project may be put forth for approval by the MC **"under conditions"**. The MC decision shall also stipulate the **deadline** when conditions must be met, and this shall not exceed 3 months. Contracting of such project may occur only when these conditions are fully satisfied.

Selection conditioned by over-contracting:

Following the evaluation and selection process, the list of projects proposed for financing, per Ips, shall be submitted for approval by the Monitoring Committee. Projects that comply with all requirements of the call, and obtain at least the minimum scores, but cannot be financed due to lack of available financial allocation, are to be put forth for the Monitoring Committee' approval under a reserve list. These projects are prioritized according to their ranking, just as the ones that fit into the available financial allocation and are listed on the core list of projects selected for financing in the first place.

After the approval of the reserve list, whereas financial allocation is made available, the first projects on the reserve list per each Ip, are invited to enter the contracting phase. In case the Programme exceeds the 100% absorption, or the maximum absorption level in case of a decommitment, the Lead Beneficiary and its project partners commit to support from their own budgets the funds necessary for the implementation of the project, according to the provisions of the Subsidy Contract, the Application Form approved by the Monitoring Committee and its Annexes, the Partnership Agreement, the Project Implementation Manual and the national and European legislation in force. If such situation occurs, the MA has the right to request the LB to repay all or part of the amounts reimbursed to him under the over-contracting subsidy contract.

4.3 COMPLAINTS

In accordance with Art 74(3) of Regulation (EU) No 1303/2013 "Member States shall ensure that effective arrangements for the examination of complaints concerning the ESIF are in place".

The procedure established will cover complaints against decisions taken by the Programme during the project assessment and selection process, with the purpose of effectively examining complaints.

The decision of the MC not to finance applications can be appealed by the applicants, by sending the notifications to the MA. Only the project's Lead Applicant as the one representing the project partnership affected by the funding decision is entitled to file a complaint. It is therefore the task of the Lead Applicant to collect and bring forward the complaint reasons from all project partners.

The complaint must be submitted by the Lead Applicant in no more than 10 working days from the date of receiving the rejection letter sent by the JS. Any complaint received later than 10 working days will not be taken into consideration.

The complaints shall be formulated in respect to the provisions of the procedure presented below. The template of the complaint is attached to this Guide (please see the Annex IX.3).

The complaint should be lodged in writing by e-mail, mail or fax to the MA, and may only be lodged against the following criteria:

- ⇒ The outcomes of the quality assessment of the project proposal do not correspond to the information provided by the Lead Applicant;
- ⇒ The project assessment and selection process failed to comply with specific procedures laid down.

Regarding arrangements for the examination of complaints in relation to State aid assessment, such process shall follow the same procedure as in the case of assessment and selection process.

The complaint shall include:

- a. name and address of the Lead Applicant;
- b. reference number of the project proposal which is a subject of the complaint;
- c. clearly indicated reasons and justification for the complaint, including listing of all elements of the assessment which are being complaint and/or failures in adherence with procedures limited to those criteria mentioned above;
- d. signature of the legal representative of the Lead Applicant;
- e. any supporting documents;
 - ✓ the relevant documentation shall be provided for the sole purpose of supporting the complaint and may not alter the quality or content of the assessed project proposal.

No other grounds for the complaint than indicated above will be taken into account during the complaint procedure.

A complaint will be rejected without further examination if submitted after the deadline set above or if the formal requirements are not observed. Should the complaint be rejected for this reason, the MA/JS conveys this information within 5 working days to the Lead Applicant.

Within maximum 10 working days after the receipt of the complaint the MA confirms to the Lead Applicant in writing that the complaint was received. The complaint will be then examined by the MA, assisted by the JS, on the basis of the information brought forward by the Lead Applicant in the complaint, and technical examination will be performed regarding the merit of complaint. Afterwards, the complaint is forwarded to the Complaint Panel to be convened for this purpose by the head of MA.

The members of the Complaint Panel are nominated by the MA, ensuring impartiality of members of the Complaint Panel towards the case under review. Meetings of the Complaint Panel are assembled by the Head of the MA, and the panel examines the complaint based on:

- the complaint, with the technical examination by the MA;
- the original project proposal and all supporting documents;

- all documents relating to the assessment of the project proposal;
- any other document requested by the Members of the Complaint Panel relevant to the complaint. **The relevant documentation shall be provided for the sole purpose of supporting the complaint and may not alter the quality or content of the assessed project proposal.**

The MA and the JS are invited to the meeting to present the position of the technical examination and the Lead Applicant may also be invited for a hearing.

The decision if the complaint is justified or needs to be rejected is taken by the Complaint Panel, desirably by consensus. However, if consensus cannot be reached, the decision shall be deemed adopted if at least 2/3 of the members present at the meeting agree with it.

If the complaint proves to be justified, the case will be sent back to the Monitoring Committee to review the project application and its assessment. On behalf of the MA, JS communicates the decision of the Complaint Panel to the Lead Applicant within 10 working days.

The decision of the Complaint Panel is final, binding to all parties and not subject to any further complaint proceedings within the Programme based on the same grounds and in the same phase of the procedure.

The complaint procedure - from the receipt of the complaint by the MA until the communication of the Complaint Panel's decision to the Lead Applicant - should be resolved within maximum 90 calendar days.

Any attempt to obtain confidential information or to influence the Programme' structures and/or the members of the Complaint Panel within the review process will lead to your disqualification!

The clarifications provided in the review phase cannot bring new elements that would alter the initial content of the Application Form.

Please be aware that the conditions for eligibility of the applicants must be met at the time of submission of the application.

You will be excluded in case it is proven that you are guilty of serious misleading of the Assessment Working Group / Complaint Panel by providing false information, that are being taken into consideration in the assessment and selection / review process or if you did not inform the Assessment Working Group / Complaint Panel on issues that would have led to a different decision related to your Application(s).

CHAPTER 5. CONTRACTING

5.1 Pre-Contractual conditions

The process of projects' assessment and selection ends with the Monitoring Committee's decision regarding the selected / rejected projects⁵⁵. Following the issuance of the said decision, the MA and JS shall begin the contracting process.

As a general rule, during the contracting stage the JS shall ensure all communication with beneficiaries in view of gathering all necessary supporting documents and provide all the support to them in order to perform this task. The JS shall make sure that all the documents received from the beneficiaries comply with the requirements of the GfA, before submitting it to the MA.

Within 3 working days from the issuance of the decision of the MC for the selected projects, the JS will notify the beneficiaries upon the selection of their projects. For the beneficiaries whose projects have been rejected, the term for sending the notification will be of maximum 5 working days. At the same time, JS shall update in the eMS the status of the projects.

Following the decision of the MC regarding the selected projects, JS shall perform on site visits to all Lead Beneficiaries and the selected project partners for the purpose of establishing the coherence of the Application Form with the actual state of fact at beneficiary's premises and in order to prevent contracting errors or frauds. On-site visits shall be performed to:

- all Lead Beneficiaries, and
- to all Beneficiaries, regardless their quality within the project, having investment activities and expenses.

During the pre-contracting stage, respectively the preparation phase of the on-site visits, recommendations of the Assessment Working Group shall be introduced, and the JS shall request a declaration regarding the beneficiaries' acceptance that JS could operate budgetary adjustments, e.g. recommendations of the Assessment Working Group regarding the project, budget cuts, correction of arithmetical errors etc., if applicable, as well as additional contracting documentation, according to the relevant procedure. The beneficiaries shall upload into eMS the documents requested by the JS. During the on-site visits, the JS shall verify the conformity of uploaded documents with the original-ones.

Whereas a project has been put forth for approval by the MC "under conditions", whilst the MC decision shall also stipulate the deadline when conditions must be met (not exceeding 3 months from the JS' notification), pre-contracting of such project shall also imply verification of whether these conditions are fully satisfied, in the said deadline.

In order to satisfy itself of the sound management of the contracting process, at any stage the MA may request additional documents from the beneficiary. The JS must ensure that the documents are submitted to the MA in due time according to specific MA requirements.

The subsidy contract models⁵⁶ annexed to this Guide are only indicative; the final version of all contracts will be presented to the beneficiaries of the selected projects in the contractual phase.

⁵⁵ Including projects on reserve list.

IMPORTANT: For projects falling under the State aid incidence, State aid-related clauses will be included in the relevant subsidy contracts/partnership agreements.

5.2 Contracting

The JS shall prepare and submit to the MA the subsidy contracts with Lead Beneficiaries, within 12 working days after the date of the on-site visit/ receiving the complete contracting documentations.

The subsidy contracts will be signed by the MA and by the Lead Beneficiaries. Following the signature of the subsidy contracts by the MA's representative, the subsidy contracts will be sent to JS, in order to be signed by Lead Beneficiaries.

After the subsidy contracts have been signed by both parties, the Romanian beneficiaries will be able to sign the co-financing contracts with MRDPAEF. For Hungarian beneficiaries, on behalf of the Prime Minister's office, the PMO / SZPO will sign co-financing contract.

After the signature of the subsidy contracts by both parties:

- an original copy and the Annexes thereto shall be given to the Lead Beneficiary, based on delivery and receiving protocol / cover letter.
- an original copy, with MA internal endorsements, and the Annexes thereto shall be sent to MA, after the signature of the contract by the Beneficiary / JS receives the signed contract from the Beneficiary.
- an original copy remains at the JS, who also has the obligation to archive all contracting documentation.

5.3 Over-Contracting

Following the MC approval of the list of selected projects and based on the final decision on the over-contracted amounts taken at MS level the projects to be over-contracted shall be selected. In 5 working days after the selection of such projects, the JS shall further notify the Lead Beneficiaries, about the decision and invite them to sign specific financing contracts (Annex VIII.2).

⁵⁶ See Annex VIII

The signing of specific financing contracts shall follow the contracting procedure. In case a Lead Beneficiary does not agree to enter a subsidy contract under over-contracting conditions, it shall notify the JS, in maximum 3 working days, on its refusal. The JS shall address the invitation to the next project on the approved reserve list, for the relevant Ip.

The Beneficiaries shall bear the financial responsibility of over-contracting. In case the ERDF funds are insufficient at Programme level, the Lead Beneficiary and its partners commit to support from their own budget the funds necessary for the implementation of the project, according to the approved Application Form and observing the provisions of the specific subsidy contract, its Annexes and the European and national legislation in force. In case of insufficient ERDF funds at Programme level, the MA has the right to request the Lead Beneficiary all or part of the funds already paid.

In case the MA cannot recover the debts resulted from over-contracting in accordance with the provisions of the specific subsidy contracts, the relevant Member State shall reimburse to the MA the respective amounts related to national beneficiaries.

NOTE: The Beneficiary will be at all times obliged to present for audit/control purposes all files, documents and data about the project.

6. ANNEXES

I. FACT-SHEETS ON INVESTMENTS PRIORITIES AFFERENT TO THE PRESENT CALL

1. Fact sheet 7/c
2. Fact sheet 8/b
3. Fact sheet 9/a

II. Programme Performance Framework and Environmental Indicators

III. Programme general rules on eligibility of expenditure (including General Matrix of costs)

IV. eMS – Application Instructions

V. APPLICATION Form and its standard Annexes

Annex 0 Application Form

Annex 1 Partnership Declaration template

Annex 2 Project (Lead) Applicant Declaration

Annex 3 Feasibility Study (for HU Applicants) – template (where the case)

Annex 4 Documentation for Approval of Intervention Works (for HU Applicants) – template (where the case)

Annex 5 Preliminary declaration of construction works

Annex 6 Environmental Indicators

Annex 7 Affidavit in case of land acquisition

Annex 8 Template MMP for RO applicants

Annex 9 Declaration on the proposed qualification of the application in relation to State aid

Annex 10 Altmark criteria Declaration

Annex 11 Declaration on entrustment act Ip 7/c

Annex 12 Declaration on observing parameters and EC Reg. 1370/2007

Annex 13 *De minimis* Declaration

Annex 14 GBER Declaration

Annex 15 Declaration on entrustment act Ip 9/a

VI. Assessment grids

VII. Partnership Agreement indicative

VIII. Subsidy contract Indicative

IX. Other

1. List of abbreviations & Glossary of terms
2. Relevant regulatory framework
3. Complaint template
4. GBER scheme
5. *De minimis* scheme
6. HU Government Regulation in relation with State aid rules
7. State aid Matrix