**Detailed action plan on the second criterion of the EIA/SEA ex-ante conditionality**

| **Conditionality** | **Unfulfilled/partially fulfilled criteria** | **Actions taken to fulfill the criteria** | **Deadlines** | **Responsible body** |
| --- | --- | --- | --- | --- |
| 6. Environmental legislation relating to Environmental Impact Assessment (EIA) and, Strategic Environmental Assessment (SEA) | * Arrangements for training and dissemination of information for staff involved in the implementation of EIA and SEA Directives | **In 2007**, **environmental authorities have been trained** both to **apply the provisions of EIA/SEA** at the time of their transposition into national legislation and for **application of subsequent legislation and guidelines** to ensure correct application of EU law. Also, the environmental authorities were trained to **apply the guidelines** as follows:   * **In 2008**, proper **training** of personnel involved in the implementation of the **SEA Directive** - for **guidelines on energy**, **industry, spatial and transport plans**, guidelines developed in 2007 through a PHARE project assistance; * **In 2010,** proper **training** of personnel involved in the implementation of the **EIA Directive** - for sectorial specific **guidelines on water / wastewater, waste, heating and transport**, guidelines developed by Jaspers technical assistance. The training was attended by around 200 people (from local environmental authorities, Regional and National Agency for Environmental Protection, Ministry of Environment, and Water Basin Administration, the SOP Environment managing authority and intermediate bodies). The training agenda contained EIA guidelines, requirements of the content of Annex 21 to Regulation no. 1083/2006 and concrete examples for completing the sections of the application form. | Realized | Ministry of Environment, Waters and Forests |
| For **2014-2020** the **training for environmental authorities will be better substantiated**:   * **identification of the authorities** involved in the EIA/SEA process in order to organize the training and dissemination of information in the implementation of those directives was realized by the MECC together with JASPERS. * were identified **2 level of authorities**:   + **environmental competent authorities** and   + **other authorities** involved in project/plan/programme (as management authorities and intermediate bodies at national and regional level etc.) | Realized |
| * **a Strategy and Plan for training were developed** for the **environmental competent authorities**. Those documents were realised through assistance from JASPERS. * The Strategy and the Plan for training **contain 2 cycles: 2014-2016 and 2017-2020**. | Realized |
| * **Implementation of the first cycle 2014-2016 of the Strategy and Plan** will be organized **in 2 stages** for around 400 staff per stage. Every stage has:   + EIA training: 15 sessions, 3 days each session;   + SEA training: 15 sessions, 2 days each session. | 2014 – 2016 |
| * **Training development of the first stage of the first cycle of the Strategy and Plan** | 2014 – November 2015 |
| * **Elaboration** of an **intermediary assessment of the training needs** at the end of first stage. The assessment will be taken into account in the organization of the second stage. | December 2015 |
| * **implementation of the second stage of the first cycle of the Strategy and Plan** | January – December 2016 |
| * **elaboration of the report of the cycle I** | December 2016 |
| * **Approval of the Jaspers Guidelines by Ministerial Order and training of the personnel of the environmental authorities (NEPA, DDBRA, EPAs) in the training sessions of 2 stages of the first cycle which are developed under the Strategy and Plan developed by Jaspers** | December 2016 |
| * **Identification of new fields for which guidelines needs to be prepared (7 guidelines)** | Realized |
| * **Drafting the new guidelines through an ESF project promoted under OP ADC** |  |
| * + Submission of project proposal | May/June 2015 |
| * + First stage: development, verification and validation of the guidelines | December 2015 – October 2016 |
| * + Second stage: training the environmental authorities and guidelines dissemination for the project promoters and the environmental consultants, with tailored approach for the new guidelines | December 2016 |

**Working methodology to be applied for fulfillment of ex-ante conditionality**

The current action plan is designed to answer to unfulfilled criterion “Arrangements for training and dissemination of information for staff involved in the implementation of EIA and SEA Directives” of the *EAC G6 Environmental legislation relating to Environmental Impact Assessment (EIA) and, Strategic Environmental Assessment (SEA).*

The main issues covered by the proposed actions are to provide adequate training to environmental agencies as well managing authorities and dissemination to beneficiaries and consultants. Training sessions and dissemination events will integrate and explain the use of guidelines drafted in this regard, with the aim of ensuring that beneficiaries and consultants are aware of guidelines existance, while environmental authorities perform a quality and consistent assessment of environmental reports.

1. **Details regarding the assessment of the current use of guidelines by local environmental agencies**

The EIA Directive was transposed into the national law through GD no. 445/2009 on environmental impact assessment pertaining to certain public and private projects, with modifications as amended and supplemented, and SEA Directive was transposed in 2004 through GD no. 1076/2004 concerning the procedure for environmental assessment of plans and programs.

Based on those legislative acts, subsequent legislaion was approved. This envisage:

* methodology for implementing EIA for public and private projects (Order No 135/76/84/1284/2010);
* ensure the quality of information used in the EIA/SEA procedures (Order No 1026/2009 approving the conditions for the development of the environmental report, environmental impact report, environmental audit, site safety report and the proper evaluation study - which establishes the procedure by which the experts are registered in the Experts National Register who prepare EIA, SEA, EA reports);
* application of the environmental assessment procedure for plans and programs (Order No 117/2006 approving the Manual on the application of the environmental assessment procedure for plans and programs, which is based on the Commission's Guidance on the implementation of Directive 2001/42/EC).
* appropriate assessment procedure of the potential effects of plans or projects on Natura 2000 sites (Order No 19/2010 approving the methodological guideline for appropriate assessment procedure of the potential effects of plans or projects on natural protected areas of community interest). The appropriate assessment procedure is part of EIA/SEA procedure developed for project and plans.

Simultaneously, in order to detail the application of the EIA procedures for projects prepared for EU funding, 7 gudelines was elaborated with JASPERS support:

* [groundwater abstraction and drinking water supply networks](http://www.jaspers-europa-info.org/attachments/article/129/JASPERS_EIA_Guidelines_2010_WATER_SUPPLY.pdf);
* [wastewater](http://www.jaspers-europa-info.org/attachments/article/129/JASPERS_EIA_Guidelines_2010_WASTEWATER.pdf) projects;
* [flood prevention](http://www.jaspers-europa-info.org/attachments/article/129/JASPERS_EIA_Guidelines_2010_FLOODS.pdf) and/or protection projects;
* [integrated waste management](http://www.jaspers-europa-info.org/attachments/article/129/JASPERS_EIA_Guidelines_2010_WASTE.pdf) projects;
* flue gas desulphurisation projects applied to large combustion plants;
* [motorway and road construction](http://www.jaspers-europa-info.org/attachments/article/129/JASPERS_EIA_Guidelines_2010_ROADS.pdf) projects;
* [railway](http://www.jaspers-europa-info.org/attachments/article/129/JASPERS_EIA_Guidelines_2010_RAILS.pdf) construction projects.

At the same time, for the implementation of the provisions of the SEA Directive, with PHARE astistance, were developed guidelines for energy, industry, spatial planning and transport plans.

In 2007, environmental authorities were trained both for the application of the EIA/SEA Directives, at the time of their transposition into national law, and for the subsequent legislation enforcement.

Regarding the 7 guidelines developed with the support of Jaspers, they address environmental experts from the authorities in Romania involved in completing procedures for environmental impact assessment

The Ministry of Environment, Waters and Forests made a screening and asked all environmental authorities in the country to provide the information necessary to determine the use of EIA guidelines developed with the Jaspers support.

Thus, resulted that in defining the scope of the EIA (scoping stage), in addition to the Order no. 863/2002 on the approval of methodological guidelines applicable to the stages of environmental impact assessment framework procedure, environmental authorities are using Jaspers specific guidelines in the preparation of guidance on information to be included in the EIA report[[1]](#footnote-1). Also, these guidelines aim to support the beneficiaries/project owners and consultants in order to carry out the EIA and to elaborate IM Report ("environmental assessors"). The Ministry of Environment, Waters and Forests will enforce the Jaspers gudelines and these will be sistematically applicated through the procedures by the environmetal authorities (NEPA and LEPAs), for ensuring consistent and quality assessment and any relevant  environmental authorities.

Currently, the environmental authorities of municipalities/regions where are requests for projects in areas that have been covered by the 7 guidelines elaborated by Jaspers, are using these guidelines during the completion of the assessment of environmental impact. It was found that such kind of projects (in the field covered by Jaspers guidelines) are not developed in all areas of the country. After the approval of the Jaspers guidelines by Ministerial Order, those will become effective environmental legislation to be respected during EIA procedure and, therefore, the application of the Jaspers guidelines by environmental authorities, consultants and project beneficiaries will become mandatory.

Taking into account that the training on the Jaspers and Phare guidelines was held in 2010, respectively 2008 and and having in mind the personnel fluctuation, those guidelines will be part of the training activity which will be organised based on Jaspers Strategy and Plan for training for the environmental competent authorities.

The legislation, procedures, guidelines mentioned above and detailed information are available on the National Enviromnental Protection Agency: <http://www.anpm.ro/acordul-de-mediu>.

1. **Mapping of the practices in Romania regarding projects concerned by full EIA / screening procedures and identification of the corresponding gaps for issuing further guidelines for projects not covered but statistically relevant**

The Ministry of Environment, Waters and Forests, together with local environmental authorities, made a screening and identified the need for new guidelines and similar methodological tools for other types of projects not covered by Jaspers guidelines.

Based on the analysis carried out abover, the following fields have been identified as requiring tailored guidance for carrying out EIA procedure:

1. Quarries and open-cast mining (including industrial equipment for surface mining);
2. Installations for the intensive rearing of poultry or pigs;
3. Installations for hydroelectric energy production
4. Initial afforestation and deforestation for the purposes of conversion to another type of land use.

These guidelines were chosen because of the large number of requests for projects in those areas at the country level analysis is made for projects covered the period 2009 - 2014, therefore:

* Quarries and open-cast mining (including industrial equipment for surface mining) – Annex I and Annex II of the EIA Directive – 705 projects;
* Installations for the intensive rearing of poultry or pigs - Annex I and Annex II of the EIA Directive – 213 projects;
* Installations for hydroelectric energy production - Annex II of the EIA Directive – 112 projects;
* Initial afforestation and deforestation for the purposes of conversion to another type of land use - Annex II of the EIA Directive – 98 projects.

The assessments on the application of the EIA Directive at the country level revealed some situations of misapplication of the term "cumulative impact with other projects / activities", mentioned guidelines will contain specific information required including in the screening stage (ex. the statement presentation, chapter III Project description - the cumulative impact).

In addition, the Ministry of Environment, Waters and Forests decided to:

* Update the methodological guidelines applicable to the stages of environmental impact assessment framework procedure (approved through Order of Minister of Environment No 863/2002). This methodological guidelines used by environmental authorities is going through various stages of the environmental impact assessment are:
* Methodological guide on the screening stage;
* Methodological guide on the scoping stage and on the elaboration of the EIA report. The second part of this guide includes the structures of the EIA report;
* Methodological guide on the EIA report quality review.

The updatind is according to:

* horizontal application of the guidelines elaborated in 2002;
* repeated changes to legislation;
* relevant aspects in the application of the EIA Directive resulted from the cases of the European Court of Justice;
* The need to develop some chapters in the EIA Report, currently dealt very vague (the term "cumulative impact") or non-existent (ex. climate change - particularly important in the context of the new EIA Directive 2014/52 / EU).
* Translate and adapt two JASPERS guides (for incinerators and transboundary EIA).

1. **Approach and milestones for preparing the remaining guidelines**

Drafting of the new guidelines will be realized through an ESF project, financed under OP Administrative Capacity. The project will be submitted for approval under the first call of projects under OP AC, in May/June 2015.

It is estimated that the project will be approved by September this year, allowing starting the effective implementation of guidelines in December 2015.

The duration of the project is 2 years, out of which:

* The first year will be focused in drafting the new guidelines (December 2015 – October 2016)
* The next year will be dedicated to training to the environmental authority and dissemination activities to the owner and consultants, of the technical assistance project financed by the OPTA 2007-2013.

Dissemination sessions will envisage the modality of application of the new guidelines by the consultants from National Register of elaborators of environmental impact studies; potential beneficiaries of EU or national funding, where the fields are relevant; local and central authorities’ active in the fields relevant to the promoted guides.

1. **Organisation of subsequent tailored dissemination / training sessions**

The dissemination of the new guidance will be organized during 1 year (first part will be organized until December 2016 and the second part will continue until 2017), the target groups of dissemination activities consisting of both specialized stakeholders as well as potential project promoters in any field covered by GD No 445/2009 (taking into account that one of the guides to be drafted is the general guide). Also, the main categories will be consultants from National Register of elaborators of environmental impact studies; potential beneficiaries of EU or national funding, for the relevant fields; local and central authorities active in the relevant fields covered by the promoted guides.

The number of training sessions for representatives of environmental authorities (MEWF, NEPA, DDBRA, EPAs) and the number of sessions for dissemination of guidelines for project owners and environmental consultants will be determined upon completion and submission of project fiche application form (May/June 2015) for the project will be financed through OPAC.

The second cycle of the Strategy and Plan for training developed for the environmental competent authorities (elaborated by JASPERS), based on the conclusions of the Report carried out for Cycle I, will be organized 2017-2020.

1. For example, the JASPERS Guidelines were used for the projects SMID Harghita, Lugoj-Deva motorway, Pașcani ring road and Câmpulung Moldovenesc ring road. [↑](#footnote-ref-1)