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Member of the European Commission
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Brussels, **13 FEB. 2019**

Dear Ms O'Reilly,

Subject: Strategic Initiative SI/3/2018/JN

Thank you for your letter of 25 September 2018 to President JUNCKER about this Strategic Initiative.

I am pleased to enclose the comments of the Commission on the above-mentioned initiative.

Naturally, the Commission remains at your disposal for any further information you may require.

Yours sincerely,

Corina CREȚU

Enclosures

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**Comments of the Commission on a Strategic Initiative from the European Ombudsman
– Ref. SI/3/2018/JN**

I. SUMMARY OF THE FACTS

On 19 May 2014, the European Ombudsman opened an own-initiative inquiry to clarify the means the Commission has at its disposal to ensure that fundamental rights enshrined in the Charter of Fundamental Rights of the European Union (the Charter) are complied with at all stages of the implementation of the cohesion policy in the Member States.

On 29 October 2014, the Commission replied to the European Ombudsman's investigation, following which the European Ombudsman informed the Commission on 11 May 2015 of her decision to close the inquiry, while making recommendations, to which the Commission replied on 23 November 2015.

On 25 September 2018, the European Ombudsman opened a Strategic Initiative to receive information on the follow-up the Commission has given to one of the guidance points provided by the European Ombudsman.

Guidance point (v)¹ concerned complaint-handling arrangements at Member State level. Specifically, Article 74(3) of Regulation (EU) No 1303/2013² - hereinafter ‘the CPR’ (‘Common Provisions Regulation’) - requires Member States to ‘ensure that effective arrangements for the examination of complaints concerning the ESI Funds are in place. The scope, rules and procedures concerning such arrangements shall be the responsibility of Member States in accordance with their institutional and legal framework. Member States shall, upon request by the Commission, examine complaints submitted to the Commission falling within the scope of their arrangements. Member States shall inform the Commission, upon request, of the results of those examinations’.

¹ (v) Apply strictly and without exception the obligation to verify that the management and control systems, including complaint-handling arrangements, are adequate and sufficient, that they remain so for as long as programmes are implemented and that weaknesses are duly corrected. This includes systematically requiring that Member States inform the Commission of the results of all complaints concerning ESI Funds, whether they were initially submitted to the Commission or not.

² Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund (OJ L 347, 20.12.2013, p. 320).

II. THE EUROPEAN OMBUDSMAN INQUIRY

The European Ombudsman asked to the Commission the following questions:

- 1) What steps has the Commission taken to help Member States put in place effective arrangements to examine complaints concerning the European Structural and Investment Funds? How has the Commission been monitoring Member States' compliance with this obligation? Can you please provide a copy of the Commission's study (referred to in the Commission's response of 23 November 2015) on complaints arrangements in the Member States?
- 2) What has the Commission learned to date about how Member States have fulfilled their obligation to have in place effective arrangements to examine complaints concerning the European Structural and Investment Funds? Provide copies of reports received by the Commission on the outcome of Member States' examination of complaints.
- 3) Has the Commission detected any issues of concern regarding the Member States' arrangements for examining complaints in this area? Has the Commission taken any remedial action? Has the Commission so far used its power to suspend payments or to recover money?

III. THE COMMISSION'S RESPONSE

The Commission wishes to inform the European Ombudsman that, as a follow-up of the recommendations made on 11 May 2015 by the European Ombudsman, the Commission has commissioned a "*Study on the complaints-handling systems in Member States for dealing with complaints concerning the European Structural and Investment (ESI) Funds*".

The Study is based on the Service contract No 2017CE16BAT061 signed between the European Commission, Directorate-General for Regional and Urban Policy ("DG Regio") and Ernst & Young, s.r.o. ("EY") on 29 August 2017. The Study took place from August 2017 to October 2018.

Its aim was to assess how Member States ensure that effective arrangements for complaints-handling are in place as regards the European Structural and Investment Funds (ESIF), specifically the European Regional Development Fund (ERDF) and the Cohesion Fund in the context of the CPR and to provide to Member States with the 'good practices' in this respect. The Study is based on the following approach:

- a) Description of the arrangements for the examination of complaints currently in place for the 2007-2013 programming period in each Member State and, if new arrangements have been put in place for the programming period 2014-2020;

- b) Assessment of the effectiveness of the arrangements for the examination of complaints concerning the ERDF and the Cohesion Fund in place for the 2007-2013 and 2014-2020 programming periods in each Member State;
- c) Comparison of the arrangements for the examination of complaints concerning the ERDF and the Cohesion Fund with the arrangements for the examination of complaints relating to purely national funding in each Member State;
- d) Identification of good practices for the examination of complaints concerning the 2007-2013 programming period as well as for the 2014-2020 programming period in Member States.

As requested, the Final report of the Study as well as the booklet containing these good practices are enclosed to this response (Annex I and II). The Study and its findings have been presented to Member States experts on 1 October 2018.

1) As regards the steps taken by the Commission to help Member States to put in place effective arrangements to examine complaints concerning the ESI Funds:

For the programming period 2014-2020, Member States had to set up a system for handling complaints concerning the ESI Funds if it was not in place yet during the previous programming period. Article 74(3) CPR expressly provided that this is under the responsibility of the Member States in accordance with their institutional and legal framework. Furthermore, Article 59(1) CPR explicitly provides that, at the initiative of the Member States, the ESI Funds (technical assistance) may be used by the Member States to support actions for complaint resolution.

Therefore, Member States could establish the system that best suited their legal and institutional system, provided that the arrangements put in place were effective. The Commission had no competence to adopt further provisions concerning the arrangements referred to in Article 74(3) CPR. Moreover, ESI Funds are managed under shared management on a decentralised basis as defined in Article 63 of Regulation (EU, Euratom) 2018/1046 (Financial Regulation)³.

It is worth mentioning again that, in order to obtain information on those arrangements which are already in place in Member States and to disseminate good practices among Member States on what the Commission considers as effective arrangements within the meaning of

³ Regulation (EU) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Article 74(3) CPR, the Commission launched the afore-mentioned study asking for a description for each Member State of the arrangements that are in place at national, regional and/or local level to examine complaints in the context of the implementation of programmes co-financed by the ERDF and the Cohesion Fund for both the 2007-2013 and 2014-2020 programming periods and an assessment of their effectiveness. The Commission also requested a comparison with the arrangements for examining complaints relating to purely national funding, and examples of good practices in examining complaints which could be communicated to the other Member States.

As regards to how the Commission has been monitoring Member States' compliance with the obligation to put in place effective arrangements to examine complaints concerning the ESI Funds:

In its previous response to the Ombudsman, the Commission committed to verify that management and control systems for programmes of the 2014-2020 programming period, including complaint-handling arrangements, were adequate and efficient, that they remained so for as long as programmes were implemented and that weaknesses were duly corrected.

Moreover, in accordance with Article 124(3) CPR⁴ for programmes above EUR 250 million of ESIF contribution, the Commission selected a sample of 52 operational programmes for which it requested the report and the opinion of the Independent Audit Body at the level of the Member States. The aim was to verify how these bodies assessed some aspects of functions and procedures under the management and control system to be set up by Member States – namely:

- (a) procedures for the verification of operations, including for ensuring the compliance of operations with the Union policies (such as those related to partnership and multi-governance, promotion of equality between men and women, non-discrimination, accessibility for persons with disabilities...);

⁴ Where the total amount of support from the Funds to an operational programme exceeds EUR 250 000 000 or from the EMFF exceeds EUR 100 000 000, the Commission may request, within one month of notification of the designations referred to in paragraph 1, the report and the opinion of the independent audit body referred to in paragraph 2 and the description of the functions and procedures in place for the managing authority or, where appropriate, the certifying authority. The Commission shall decide whether to request those documents on the basis of its risk assessment, taking into account information on significant changes in the functions and procedures of the managing authority or, where appropriate, the certifying authority compared to those in place for the previous programming period, and relevant evidence of their effective functioning. The Commission may make observations within two months of receipt of the documents referred to in the first subparagraph. Without prejudice to Article 83, the examination of those documents shall not interrupt the treatment of applications for interim payments.

(b) scope, rules and procedures of the managing authority and certifying authority concerning the effective arrangements set out by the Member States for the examination of complaints concerning the ESIF Funds, in the context of Article 74(3) CPR.

These aspects were included in the checklist attached to the Commission's guidance for Member States on Designation Procedure⁵, which were proposed for use by the Independent Audit Bodies.

Based on the information provided by the Independent Audit Bodies of each Member State, the assessment of the sampled operational programmes did not reveal the existence of serious deficiencies concerning the arrangements for examination of complaints in Member States.

In addition to the analysis of the management and control system of the Member States, some Member States were required to inform the Commission of the outcome of the analysis of complaints concerning the ESI Funds when they were initially submitted to the Commission. In most cases, the Member States provided full and timely responses. Member States also reported to the Commission about previous investigations, court hearings or their position on the complainant's allegations.

The Commission deals with complaints addressed directly to it and which cannot be transferred to Member States according to Article 74(3) CPR, because the complaint concerns either an act (or omission) of the Commission or of Union legislation.

Below are a few examples to illustrate how Member States have been involved in dealing with complaints related to ESI Funds for the 2014-2020 programming period:

Romania: Around 40% of complaints concerning Romania on the implementation of the ESI Funds received by the Commission were referred to Romania for examination. They concerned mainly allocations of funding, selection of projects for financing, provisions included in the guidance on calls for applications, extension of deadlines for submission of documents and fraud cases, among others. Romania was requested to inform the Commission of the results of those examinations. In all cases, the Romanian managing authorities provided a satisfactory reply based on which the Commission was able to inform the complainant and to close the complaint.

Poland: 20% of complaints concerning Poland on the implementation of the ESI Funds received by the Commission were sent to Poland for examination with the aim of providing the Commission with explanations on the allegations made by the complainant. Based on the information received, the Commission was able to inform the complainant and to close the complaint.

Greece and Cyprus: The Commission has not received any complaints for the 2014-2020 programming period that should have been referred to the Member States.

⁵ EGESIF 14-0013 of 18/12/2014

Hungary: The Commission has not received any complaints falling under Article 74(3) CPR concerning any project during the 2014-2020 programming period. However, there were several complaints where the managing authority was consulted and where the managing authority provided information to resolve the cases from the 2007-2013 and 2014-2020 programming periods.

Estonia, Finland, Latvia, Lithuania: The Commission requested the managing authorities of these Member States to provide the necessary information in order for the Commission to proceed with the assessment of complaints. Managing authorities always provided information fully (for example, explanations on complainant's allegations, controls and audits carried out, follow-up actions) and timely as requested.

With regard to the European Agricultural Fund for Rural Development (EAFRD), the Commission has treated nine complaints under Article 74(3) CPR.

2) As regards what the Commission has learned to date about how Member States have fulfilled their obligation to have in place effective arrangements to examine complaints concerning the ESI Funds:

As the study carried out by the Commission has shown, all Member States have in some way standardised the complaints-handling procedures, either in national laws or programme documents for the 2014-2020 period.

However, the complaints-handling arrangements in the Member States during the 2014-2020 programming period vary across the Member States.

The differences can be seen in the following examples:

- (a) Different level of standardised procedures – some of the Member States have codified procedures at national level applicable for all operational programmes whereas some have specific rules for each OP.
- (b) The form of the documents setting the rules of the complaints processes – in some Member States the rules are based on laws/acts, and in other Member States, rules are established by the programme manuals or guidelines.
- (c) The way the information is published – some Member States present all information online to the possible future complainants. That information is easily found on the webpage. Moreover, the information is well structured and the process is clearly explained, while other Member States limit detailed information to actual applicants/beneficiaries.
- (d) The independence of the complaints review – in some Member States the independence is guaranteed by an independent committee/team/organisation. In other Member States, the independence of the complaints review is not standardised by specific rules. However, such conclusion does not imply that the independence

and objectivity are not ensured in the individual cases but only that the process is not precisely spelled out in standardised rules.

(e) Submitting a complaint is free of charge in all Member States.

The assessment of the effectiveness of the complaints-handling arrangements in the Member States was conducted based on eight aspects: visibility, timeliness of the process, accessibility, responsiveness, objectivity and fairness, remedy/possible outcomes, review and fit for purpose. The effectiveness varies among the Member States.

Based on the assessment of effectiveness, examples of good practices in the Member States' arrangements have been highlighted. The good practice includes arrangements such as:

- Information about complaints-handling is available online to the possible complainants and easily found on the webpage. Moreover, the information is well structured and the process is clearly explained.
- The complainants are informed as to when the complaint is received, and throughout the process if any change occurs.
- The time for resolving complex issues is flexible, i.e., can be extended, with a prior announcement to the complainants in order to allow detailed investigation/verification.
- The independence of the complaint review is guaranteed by a committee, which is independent of the original decision-making body.
- The possibility of further administrative appeal is in place and the complainants are well informed about their options should they be unsatisfied with the outcome of the complaint. Moreover, the possibility of a judicial appeal is also in place and well-advertised.
- The complaints procedures are in line with the common processes of the organisation/Member State.

The study contains an Annex providing more detailed information on each Member State.

As regards the request to provide copies of reports received by the Commission on the outcome of Member States' examination of complaints:

Concerning the Ombudsman's recommendation that Member States should inform the Commission of the results of the examination of complaints carried out at national level, it has to be pointed out that Article 74(3) CPR neither requires nor excludes a request for such systematic reporting.

In order to allow the Commission to comply with its responsibilities under Article 17(1) TEU and as regards the implementation of the EU budget, the ESIF DGs agreed to systematically

request Member States to report on the outcome of their examination of complaints submitted to the Commission that reveal:

- a breach of Union law, including the Charter of Fundamental Rights, or of national law related to the application of Union law;
- a possible fraud;
- a systemic irregularity as defined in point (38) of Article 2 CPR.

In order to verify that the complaints-handling arrangements in place in Member States are adequate and function efficiently, the Commission may request a Member State to report on the results of all submitted complaints during a certain time-period.

As explained above, when dealing with complaints, the Commission systematically requests information from the Member State on the project and programmes subject of a complaint. This may include the request for Member States to report on actions taken to address the complaint.

3) As regards the Commission's possible detection of any issues of concern regarding the Member States' arrangements for examining complaints in this area and the possible remedial action taken, namely the Commission's power to suspend payments and recover money:

The handling of complaints is, as set out previously, part of the management and control system at national level. Failure to ensure effective arrangements for examining complaints may constitute a serious deficiency in the functioning of the management and control system, making it possible for the Commission to interrupt payment deadlines, suspend payments and apply financial corrections.

In addition, according to Article 75(2) CPR, Commission officials or authorised Commission representatives may carry out on-the-spot audits or checks. The scope of such audits or checks may include, in particular, verification of the effective functioning of management and control systems in a programme or part of a programme, and in operations, and assessment of the sound financial management of operations or programmes.

The Commission understands the concept of "shared management", defined in Article 63 of Regulation (EU, Euratom) 2018/1046, **as the Member States administering Union funds on a decentralised basis**, with an obligation on both the Commission and the Member States to fulfil their respective control and audit obligations.

The Commission may interrupt payment deadlines or suspend payments where there is clear evidence to suggest a significant deficiency in the functioning of the management and control system. According to Article 85(1) CPR, the Commission shall make financial corrections to exclude from Union financing expenditure which is in breach of applicable law. The criteria

and procedures are laid down in the Fund-specific rules, but apply in a similar way to all funds. For EAFRD, applicable provisions are included in Articles 41(2) and 52 of Regulation (EU) No 1306/2013.

In the case of the ‘Funds’⁶, this would apply where a Member State, which, in accordance to Article 143 CPR is in the first instance responsible for investigating irregularities and for making the financial corrections required, has not complied with this obligation (Article 144(1)(b) CPR). The Commission may also make financial corrections in cases where Member States do not comply with their obligation set out in Article 74(3) CPR, to ensure effective arrangements for the examination of complaints. The failure to ensure effective arrangements for the examination of complaints, which are part of the management and control system, could lead national authorities to select operations for funding which might be in breach of Union law without having proper means to identify such violations. This would constitute a serious deficiency within the meaning of Article 144(1)(a) CPR, read in conjunction with Article 30 of Commission Delegated Regulation (EU) No 480/2014⁷ setting out criteria for determining serious deficiencies in the effective functioning of management and control systems.

Paragraph 2 of Article 30 provides that ‘the main types of serious deficiency in the effective functioning of the management and control system shall be cases where any of the key requirements referred to in points 2, 4, 5, 13, 15, 16 and 18 of Table 1 or two or more of the other key requirements in Table 1 of Annex IV of of Commission Delegated Regulation (EU) No 480/2014 are assessed as falling into categories 3 or 4 set out in Table 2 of Annex IV of that Regulation’. The appropriate selection of operations is listed as one of the key requirements of the management and control system under point 2 in Table 1 of Annex IV, which includes a selection of operations that must comply with applicable Union and national law (Article 6 CPR).

The Commission has until now identified only one case of possible interruption of payments in accordance with Article 83(1)(a) CPR based on a finding in a national system audit report suggesting a significant deficiency in the functioning of the management and control system of an operational programme. This was due to among other findings to the lack of compliance with Article 74(3) CPR. Nevertheless, after in-depth analysis and exchanges with the managing authority, the Commission auditors considered that the Member State applied the following corrective measure:

⁶ Within the meaning of second sub-paragraph of Article 1 CPR.

⁷ Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund.

“Following the deficiencies identified in the process dealing with appeals/complaints (and it was clarified that the issues raised in the audit report relate to complaints and not to the selection process itself), the managing authority has established new procedures in order to increase the consistency and improve the coordination of the process. Additionally, according to the improved procedures, the managing authority draft reports on the work of the commission for solving complaints, provided a detailed analysis of the received complaints and of their resolution. Following this analysis, general recommendations for intermediate bodies are issued aiming at reducing the errors and minimising the number of complaints;”

Therefore, the Commission considered finally that no interruption of payments was necessary. Moreover, up to now, no suspension nor correction decision have been adopted by the Commission on the grounds of non-compliance by a Member State of Article 74(3) CPR.

IV. CONCLUSIONS

From the Commission’s experience in dealing with complaints related to the programming periods 2007-2013 and 2014-2020, the Commission considers that the necessity to ensure that effective arrangements are in place is a requirement that is taken seriously by Member States. Furthermore, the Commission expects the good practices shared through the publication of the study to have additional positive effects.

The Commission is indeed working closely with Member States in the handling of complaints. There is an intense contact with managing authorities in order to establish the facts related to a complaint and to ensure that the necessary follow-up is given to complaints.

Where the Commission discovers deficiencies in the functioning of the complaints-handling mechanisms as part of the management and control systems established by Member States, it will make use of the regulatory means at its disposal to ensure that the situation is corrected.

On a broader note, it should be noted that following the initial Ombudsman inquiry, the Commission has adopted on 23 July 2016, the Guidance on ensuring the respect for the Charter of Fundamental Rights of the EU when implementing the ESIF and has given trainings on the application of the Charter in this context in nearly all Member States.

ANNEXES:

- I - Final report of the ‘Study on the complaints-handling systems in Member States in ESIF’
- II - Booklet with best practices



Study on complaints-handling systems

Final Report

Ernst & Young, s.r.o.
September 2018



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Study on complaints-handling systems

Final Report

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ABSTRACT

The Study provides information about the complaints-handling arrangements in the EU Member States. Based on Regulation (EU) 1303/2013 laying down common provisions on the European Structural and Investment Funds, the Member States should ensure that effective arrangements for examination of complaints are in place.

According to the Study, in most cases the Member States have standardised complaints-handling arrangements based on national laws or programme documents. The arrangements among the EU Member States are effective overall. Moreover, the complaints-handling arrangements are more developed in the 2014-2020 programming period compared to the arrangements in the 2007-2013 period. In comparison to the national funding programmes, the arrangements for the ESIF in 2014-2020 period are generally more developed. Lastly, the Study presents the good examples of complaints-handling arrangements within the Member States.

The Study includes general description of the arrangements on the EU level and provides further details about each Member State.

RESUME

L'étude fournit des informations sur les modalités de traitement des plaintes dans les États membres de l'UE. En vertu du règlement (UE) 1303/2013 portant dispositions communes concernant les Fonds structurels et d'investissement européens les États membres devraient veiller à ce que des arrangements efficaces en matière de l'examen des plaintes soient mis en place.

Selon l'étude, dans la plupart des cas, les mécanismes de traitement des plaintes ont été normalisés et fondés sur la législation nationale ou les documents de programme. Les arrangements conclus entre les États membres sont globalement efficace. En outre, les modalités de traitement des plaintes dans la période de programmation 2014-2020 sont plus élaborées que celles de la période 2007-2013. Comparativement aux programmes de financement nationaux, les arrangements pour les Fonds ESI dans la période 2014-2020 sont généralement plus élaborés. Enfin, l'étude présente les bons exemples de procédures de traitement des plaintes dans les États membres.

L'étude comprend une description générale des arrangements au niveau de l'UE et fournit des informations supplémentaires sur chaque État membre.

KEY WORDS

Complaints-handling arrangements, Member State, ESIF, 2014-2020 programming period, 2007-2013 programming period, national funding programmes, effectivity

MOTS CLES

Modalités de traitement des plaintes, État membre, Fonds ESI, période de programmation 2014-2020, période de programmation 2007-2013, programme de financement national, effectivité

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List of abbreviations

| | |
|----------|---|
| AT | Austria |
| BE | Belgium |
| BG | Bulgaria |
| CF | Cohesion Fund |
| CY | Cyprus |
| CZ | Czech Republic |
| DE | Germany |
| DG Regio | Directorate-General for Regional and Urban Policy |
| DK | Denmark |
| EC | European Commission |
| EE | Estonia |
| EIB | European Investment Bank |
| EL | Greece |
| ERDF | European Regional and Development Fund |
| ES | Spain |
| ESIF | European and Structural Investment Funds |
| EY | Ernst & Young, s.r.o. |
| FI | Finland |
| FR | France |
| HR | Croatia |
| HU | Hungary |
| IE | Ireland |
| IT | Italy |
| JS | Joint Secretariat |
| LT | Lithuania |
| LU | Luxemburg |
| LV | Latvia |
| MA | Managing Authority |
| MT | Malta |
| NL | Netherlands |
| No. | Number |
| OP | Operational Programme |
| PL | Poland |
| PT | Portugal |
| RO | Romania |
| SE | Sweden |
| SI | Slovenia |
| SK | Slovakia |
| TC | Territorial Cooperation |
| UK | United Kingdom |
| UNDP | United Nations Development Programme |

EXECUTIVE SUMMARY

The aim of the “*Study on the complaints-handling systems in Member States for dealing with complaints concerning the European Structural and Investment (ESI) Funds*” (further referred to as “the Project”) was to find out how EU Member States ensure that effective arrangements for complaints-handling are in place in the European and Structural Investment Funds (ESIF) in the context of **Regulation (EU) No 1303/2013 laying down common provisions on the ESIF**.¹

The Project was based on Service contract No 2017CE16BAT061 (“the Contract”) between the European Commission, Directorate-General for Regional and Urban Policy (“DG Regio”) and Ernst & Young, s.r.o. (“EY”). The contract was signed on 29 August 2017. The Project took place from August 2017 to September 2018.

Introduction

The goal of the Project was to describe:

- The complaints-handling arrangements within the EU Member States in ESIF operational programmes in the 2007-2013 programming period.
- The complaints-handling arrangements within the EU Member States in ESIF operational programmes in the 2014-2020 programming period.
- Comparison of the arrangements in the ESIF operational programmes with the arrangements in the national funding programmes of the Member States.
- Good practice in the complaint-handling systems of the EU Member States.

Regulation (EU) No 1303/2013 is a key document for the ESIF in the programming period 2014-2020. It sets the basic rules for the Member States, including a requirement that effective arrangements for the examination of complaints are in place (Article 74 (3) of the Regulation). Such requirement was not included in the Regulation for the 2007-2013 programming period (Council Regulation (EC) No 1083/2006). Therefore, the Member States without any arrangements in place should have established new rules for complaints-handling in the 2014-2020 period.

The focus of the Study is the analysis of complaints-handling systems for the operational programmes (OPs) co-financed from European Regional and Development Fund (ERDF) and Cohesion Fund (CF). The outcomes of the Project are based on desk-research, a questionnaire and direct contact with the responsible authorities, as well as on analytical work, such as a multi-criteria analysis related to effectiveness in relation to these programmes. Where the Report refers to “ESIF” more generally, it should be borne in mind that the analysis relates only to ERDF and Cohesion Fund programmes.

¹ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

In the **First Interim Report** of the Project, we described the arrangements of the complaints-handling systems in each Member State in ESIF in both programming periods 2007-2013 and 2014-2020.

In the **Second Interim Report** of the Project, the effectivity of the complaints-handling arrangements in the Member States in the 2007-2013 and 2014-2020 programming period was assessed. Furthermore, we compared the arrangements of the complaints-handling of the national funding programmes with the arrangements of the operational programmes.

The **Final Report summarises** the information collected about the complaints-handling arrangements from the interim reports, i.e., systems in place in the Member States in the operational programmes as well as in the national funding programmes. Secondly, the report presents the good practice identified in the analysed programmes.

Main conclusions

The **main and general information** collected during the Project includes the following:

- All EU Member States have in some way standardised the complaints-handling procedures, either in national laws or programme documents in the ESIF in the 2014-2020 period.
- In 13 Member States, the arrangements developed from the 2007-2013 period, resulted in (more) standardised and detailed systems in the 2014-2020 period. The other Member States have the same or very similar systems in both the 2007-2013 and 2014-2020 periods.
- The national funding programmes have generally less standardised complaints-handling procedures compared to the ESIF. However, in rare cases (two), the national programmes have more developed complaints-handling procedures than the ESIF.
- The examples of good practice are based on the specific arrangements in the Member States or in the international organisations.

The complaints-handling arrangements in the **ESIF in the 2014-2020** programming period vary across the Member States. The differences can be seen in the following examples:

- **Different level of standardised procedures** – some of the Member States have codified procedures on the national level applicable for all OPs, some have specific rules for each OP.
- **The form of the documents setting the rules of the complaints processes** – in some Member States the rules are based on laws/acts, and in other Member States, rules are established by the programme manuals or guidelines.
- **The way the information is published** – some Member States present information online in its full scope, other Member States limit detailed information to the applicants/beneficiaries.
- **The independence of the complaints review** – in some Member States the independence is guaranteed by an independent committee/team/organisation. In other Member States, the independence of the complaints review is not standardised by specific rules. However, such conclusion does not implicate that the independence and objectivity are not ensured, only that the process is not standardised in the rules.

Submitting a complaint is free of charge in all Member States.

The Member States that have **different complaints-handling systems in the 2014-2020 period compared to the 2007-2013** either **(i)** standardised the complaints-handling processes as no such rules were in place in the 2007-2013 period (complaints were dealt with on an ad hoc basis) or **(ii)** developed further details of the complaints-handling processes or unified the systems that were already in place in the 2007-2013 period.

The same complaints-handling systems for the **national funding programmes** and ESIF are found in half of the Member States. The remaining Member States usually have less developed procedures in the national funding programmes, i.e., the complaints process is less described in the relevant documents or there are not that many possibilities to complain as compared to ESIF. In some of the national funding programmes, the complaints are also dealt with on an ad hoc basis.

The **assessment of the effectiveness** of the complaints-handling arrangements in the Member States was conducted based on **eight aspects**. The effectiveness varies among the Member States.

Based on the assessment of effectiveness, we have highlighted **examples of good practices** in the Member States arrangements. The good practice includes arrangements such as:

- Information about complaints-handling is **available** online to the possible complainants and easily found on the webpage. Moreover, the information is well **structured** and the process is clearly explained.
- The complainants are **informed** as to when the complaint is received, and throughout the process if any change occurs.
- The time for resolving complex issues is **flexible**, i.e., can be extended, with a prior announcement to the complainants in order to allow detailed investigation/verification.
- **The independence** of the complaint review is guaranteed by an independent committee of the original decision-making body.
- The possibility of **further administrative appeal** is in place and the complainants are well aware (informed) about their options should they be unsatisfied with the resolution of the complaint. Moreover, the possibility of a **judicial appeal** is also in place and well-advertised.
- The complaints procedures are in line with the common processes of the organisation/Member State.

Further examples of good practice in the complaints-handling of the international organisations were also identified during the Project and further analysed and described.

The presented Final Report is divided into the following chapters:

1. Methodology and activities of the Project
2. Description of the arrangements in the Member States
3. Good practices in the complaints-handling arrangements

The detailed description of the arrangements in the particular Member States is included in Annex 1 in order to keep the Final report clear.

We would like to thank all authorities and other entities that cooperated with us during the course of the Study and provided us with valuable information and documents. Moreover, we would like to thank the representatives of the Directorate-General for Regional and Urban Policy for their cooperation, comments and feedback at different stages of the Study.

Disclaimer

The information and views set out in this Report are those of the author and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

SOMMAIRE

«L'étude sur les systèmes mis en place par les États membres pour le traitement des plaintes relatives aux Fonds structurels et d'investissement européens (Fonds ESI)» (ci-après dénommée « le projet ») visait à trouver comment les États membres de l'UE assurent que dans le contexte du **règlement (UE) n° 1303/2013 portant dispositions communes sur les Fonds ESI²** des arrangements efficaces soient mis en place pour le traitement des plaintes touchant aux Fonds structurels et d'investissements européens (Fonds ESI).

Le projet était fondé sur le contrat de service n° 2017CE16BAT061 (« le contrat ») conclu entre la Commission européenne, la Direction générale de la politique régionale et urbaine (« DG Regio ») et Ernst & Young, s.r.o. (« EY »). Le contrat a été signé le 29 août 2017. La réalisation du projet a été effectuée pendant la période du mois d'août 2017 au mois de septembre 2018.

Introduction

Le projet avait pour but de décrire :

- Les modalités de traitement des plaintes au sein des États membres de l'UE dans le cadre des programmes opérationnels des Fonds ESI au cours de la période de programmation 2007-2013.
- Les modalités de traitement des plaintes au sein des États membres de l'UE dans le cadre des programmes opérationnels des Fonds ESI au cours de la période de programmation 2014-2020.
- La comparaison des dispositions figurant dans les programmes opérationnels des Fonds ESI avec les dispositions figurant dans les programmes de financement nationaux des États membres.
- Les bonnes pratiques dans les systèmes de traitement des plaintes dans les États membres de l'UE.

Le règlement (UE) n° 1303/2013 est un document clé pour les Fonds ESI dans la période de programmation 2014-2020. Il arrête, pour les États membres, les règles fondamentales y compris l'exigence d'introduire des arrangements efficaces pour l'examen des plaintes (l'article 74 (3) du règlement). Cette exigence n'était pas incluse dans le règlement relatif à la période de programmation 2007-2013 (règlement (CE) n° 1083/2006 du Conseil). Par conséquent, les États membres ne disposant d'aucun arrangements en place devraient avoir établi de nouvelles règles pour le traitement des plaintes dans la période 2014-2020.

L'étude a été axée sur l'analyse des systèmes de traitement des plaintes concernant les informations sur les dispositifs ESIF collectés pour les programmes opérationnels (PO) cofinancés par le Fonds européen de développement régional (FEDER) et le Fonds de cohésion (FC). Les résultats du projet reposent sur une recherche documentaire, un questionnaire et un contact direct avec les autorités responsables, ainsi que sur des

² Règlement (UE) n° 1303/2013 du Parlement européen et du Conseil du 17 décembre 2013 portant dispositions communes concernant le Fonds européen de développement régional, le Fonds social européen, le Fonds de cohésion, le Fonds européen agricole pour le développement rural et le Fonds européen pour les affaires maritimes et la pêche, et portant dispositions générales sur le Fonds européen de développement régional, le Fonds social européen, le Fonds de cohésion et le Fonds européen pour les affaires maritimes et la pêche, et abrogeant le règlement (CE) n° 1083/2006 du Conseil.

travaux analytiques, tels qu'une analyse multicritères relative à l'efficacité de ces programmes. Lorsque le rapport mentionne plus généralement les "Fonds ESI", il convient de garder à l'esprit que l'analyse ne concerne que les programmes du FEDER et du Fonds de cohésion.

Dans le **premier rapport intérimaire du projet**, nous avons décrit, pour chaque État membre, les dispositions des systèmes de traitement des plaintes touchant aux Fonds ESI pour les deux périodes de programmation, celles de 2007-2013 et 2014-2020.

Dans le **deuxième rapport intérimaire du projet**, l'efficacité des modalités de traitement des plaintes dans les États membres au cours des périodes de programmation 2007-2013 et 2014-2020 a été évaluée. En outre, nous avons comparé les dispositions relatives au traitement des plaintes dans les programmes de financement nationaux avec les dispositions dans les programmes opérationnels.

Le **rapport final résume** les informations sur les modalités de traitement des plaintes recueillies à partir des rapports intérimaires, à savoir sur les systèmes en place dans les États membres figurant dans les programmes opérationnels ainsi que dans les programmes de financement nationaux. Deuxièmement, le rapport présente les bonnes pratiques identifiées dans les programmes analysés.

Conclusions principales

Les **informations principales et générales** recueillies pendant le projet sont les suivantes :

- Dans la période 2014-2020, tous les États membres de l'UE ont les procédures de traitement des plaintes en quelque sorte normalisées, soit dans les lois nationales, soit dans les documents de programme des Fonds ESI.
- Dans 13 États membres, les arrangements de la période 2007-2013 ont été mis au point, ce qui a débouché sur des systèmes (plus) standardisés et détaillés dans la période 2014-2020. Les autres États membres ont des systèmes identiques ou très similaires dans les deux périodes, 2007-2013 et 2014-2020.
- En général, les programmes de financement nationaux suivent des procédures de traitement des plaintes moins normalisées que les Fonds ESI. Cependant, dans de rares cas (deux), les programmes de financement nationaux ont des procédures de traitement des plaintes plus élaborées que les Fonds ESI.
- Les exemples de bonnes pratiques s'appuient sur des arrangements spécifiques dans les États membres ou dans les organisations internationales.

Les modalités de traitement des plaintes dans le cadre des **Fonds ESI** pendant la période de programmation **2014-2020** varient selon les États membres. Les différences peuvent être vues dans les exemples suivants :

- **Le niveau différent des procédures normalisées** – certains États membres ont des procédures codifiées au niveau national et applicables à tous les PO, certains ont des règles spécifiques pour chaque PO.
- **La forme des documents fixant les règles des processus de traitement des plaintes** – dans certains États membres, les règles sont fondées sur des lois/actes, tandis que dans d'autres États membres, les règles sont établies dans les manuels ou lignes directrices des programmes.

- **La manière dont les informations sont publiées** – certains États membres présentent des informations en ligne dans leur intégralité, d’autres États membres limitent l’accès aux informations détaillées aux demandeurs/ bénéficiaires.
- **L’indépendance de l’examen des plaintes** – dans certains États membres, l’indépendance est garantie par un comité/une équipe/une organisation indépendante. Dans d’autres États membres, l’indépendance de l’examen des plaintes n’est pas normalisée par des règles précises. Cependant, une telle conclusion n’implique pas que l’indépendance et l’objectivité ne soient pas garanties, elle indique seulement que le processus n’est pas normalisé par des règles.

Déposer une plainte se fait gratuitement dans tous les États membres.

Les États membres qui ont des **systèmes de traitement des plaintes différents au cours de la période 2014-2020 par rapport à 2007-2013**, soit **(i)** ont normalisé les processus de traitement des plaintes, comme aucune réglementation n’avait été en vigueur dans la période 2007-2013 (les plaintes avaient été traitées de façon ponctuelle), soit **(ii)** ont développé les détails supplémentaires dans leurs processus de traitement des plaintes, ou bien ont unifié les systèmes déjà en place au cours de la période 2007-2013.

Les mêmes systèmes de traitement des plaintes pour les **programmes de financement nationaux** et les Fonds ESI ont été trouvés dans la moitié des États membres. Les autres États membres ont généralement des procédures moins élaborées dans les programmes de financement nationaux, c’est-à-dire la procédure de plainte est moins décrite dans les documents pertinents, ou il n’y a pas beaucoup de possibilités de déposer une plainte relative aux Fonds ESI. Dans certains programmes de financement nationaux, les plaintes sont aussi traitées de manière ponctuelle.

L’évaluation de l’efficacité des arrangements de traitement des plaintes dans les États membres a été menée en fonction de **huit aspects**. L’efficacité varie selon les États membres.

Ensuite, sur la base de l’évaluation de l’efficacité, nous avons mis en évidence des **exemples de bonnes pratiques** dans les arrangements appliqués par les États membres. Les bonnes pratiques comprennent des arrangements tels que :

- Les informations sur le traitement des plaintes sont **disponibles** en ligne pour les éventuels plaignants et facilement trouvables sur la page Web. De plus, les informations sont bien **structurées** et le processus y est clairement expliqué.
- Les plaignants sont **informés** de la date de réception de la plainte et de tous les changements éventuels tout au long du processus.
- Le temps nécessaire pour résoudre des problèmes complexes est **flexible**, c’est-à-dire il peut être prolongé, avec une annonce préalable aux plaignants, afin de permettre une enquête/vérification détaillée.
- **L’indépendance** de l’examen des plaintes est garantie par un comité indépendant de l’organe décisionnel initial.
- La possibilité d’un **appel administratif supplémentaire** est en place et les plaignants sont bien conscients (informés) au sujet de leurs options s’ils ne sont pas satisfaits de la résolution de leur plainte. En outre, la possibilité d’un **recours judiciaire** est également en place et bien annoncée.

- Les procédures de traitement des plaintes sont conformes aux processus communs de l'organisation/État membre.

D'autres exemples des bonnes pratiques dans le traitement des plaintes des organisations internationales ont été également identifiés pendant la réalisation du projet, analysés d'une manière approfondie et décrits.

Le rapport final présenté est divisé en chapitres suivants:

1. Méthodologie et activités du projet
2. Description des dispositions mises en place dans les États membres
3. Bonnes pratiques en matière de traitement des plaintes

La description détaillée des dispositions prises dans les différents États membres est donnée dans l'annexe 1 afin que le rapport final reste clair.

Nous aimerions remercier toutes les autorités et autres entités qui ont coopéré avec nous au cours de l'étude et nous ont fourni des informations et des documents précieux. De plus, nous tenons à remercier les représentants de la Direction générale de la politique régionale et urbaine pour leur coopération, leurs commentaires et réactions à différentes étapes de l'étude.

Exonération de responsabilité

Les informations et opinions présentées dans ce rapport sont celles de l'auteur et ne reflètent pas nécessairement l'opinion officielle de la Commission. La Commission ne garantit pas l'exactitude des données incluses dans cette étude. Ni la Commission ni aucune personne agissant au nom de la Commission ne peuvent être tenues responsables de l'utilisation qui pourrait éventuellement être faite des informations qui y figurent.

1 METHODOLOGY AND ACTIVITIES OF THE PROJECT

The EY approach to the study was based on the tender specifications, which were then introduced in the proposal. Afterwards, EY adjusted the approach during the course of the Project. The methodology was discussed with DG Regio at the beginning of each phase and during regular phone calls.

1.1 Legal background of the complaints-handling

In Council Regulation (EC) No 1083/2006, which set the basic rules for European and Structural Investments Funds (ESIF) in the 2007-2013 programming period, no explicit reference about the complaints-handling arrangements in the Member States was included. However, **Regulation (EU) No 1303/2013**, which sets the basic rules for the ESIF in the 2014-2020 programming period, includes such a requirement. **Article 74(3) of the Regulation** states that the Member States should ensure that effective arrangements for the examination of complaints are in place.

Regulation No 1303/2013 does not further specify how the complaints-handling systems should be established, nor the definition of a complaint. Based on the Regulation, the scope, rules and procedures of the complaints-handling are in the competence of the Member States, and should be in line with the national institutional and legal frameworks.

1.2 General approach to the study

During the Project, we collected information about the complaints-handling systems from across the EU Member States and then analysed the data to find out if effective arrangements are in place.

The **key parts of the Projects** consisted of the following activities, described further in the text.



At the beginning, we defined a basic terminology, such as:

- Complaint - a formal allegation against a party, expressing disagreement or objection against an action (or inaction) of the authority or person involved in the administration of the programme (i.e., a statement whereby dissatisfaction with something related to the programme is expressed).
- Complaints-handling system - a set of procedures used to address complaints and resolve disputes related to the programme directed towards institutions participating in the administration of the programme.

Further on, we set the scope of the collected data in order to have a unified approach towards the data collection. The data-collection activities are described below, in Part 1.2.1.

Based on the collected (consistent) data, we were able to compare and analyse the information at a later stage. The analytical activities are described below, in Part 1.2.2.

1.2.1 Data collection

The following types of key data linked to complaints-handling were collected during the Project's activities:

- Standardised procedures
- Level of complaints-documents
- Type of documents
- Availability of the documents
- Channels for lodging complaints
- Fees
- Appeal within the complaints system
- Independence of the complaints review
- Further appeal
- Deadlines for lodging and resolving complaints
- Languages
- Opportunities to present the position of the complainant
- Types of complaints.

The information was collected via different activities and during different phases. The main activities in the data collection of the Project include (details are described further in the text) the following:



Some of the above-mentioned activities of data collection were relevant for all phases of the Project, e.g., desk research, and some only for one phase, but were a crucial source of information, e.g., the questionnaire in the first phase.

Desk-research

It was essential to identify the information sources for the relevant documents and complaints-handling systems of the operational and national funding programmes. For each Member State, different administrative establishments and geographical locations had to be taken into account when examining the information.

The sources of information included:

- National laws, regulations, codes and charters
- Programme documents, manuals and guidelines
- Specific regulations about management and control of operational or national funding programmes
- Information about the ministries, agencies and other organisations responsible for the programme's implementation (from the web pages of the organisations).

After initial identification of the sources of information, further desk research of the programmes of the Member States followed. EY's knowledge of the local languages was a crucial benefit in collecting all of the necessary information about the complaints-handling systems for all of the relevant programmes in the Member States (especially in the case of the national funding programmes).

The collected information on the operational and national funding programmes was entered into a prepared, detailed template. Through the desk-research we aimed at collecting the maximum amount of information.

Questionnaire

The questionnaire was sent out during the first phase. The respondents to the questionnaire included the representatives of the Managing Authorities. The questionnaire aimed to collect the same type of the information as the desk-research.

We sent the questionnaire **directly to the representatives of individual Managing Authorities**. The questionnaire allowed us to effectively collect data about the high number of OPs (219) among the Member States.

The response rate for the OPs was slightly above 60 %. The collected data was compared with the desk-research so that the conformity of the gathered data was ensured. The missing information was then collected by other means.

Direct contact with the authorities

The collected data about the operational programmes (from desk-research and questionnaires) and the national funding programmes (from desk-research) was analysed to assess if any information was not consistent (different information collected via desk-research and questionnaire) or if any information was missing. If further explanation, information or confirmation was needed, the responsible authority was contacted directly via email or phone.

Direct contact with the responsible authorities was also intended to collect additional information, such as the context of changes in the arrangements, experience with the arrangements, etc. We contacted the authorities during the first and the second phase of the Project.

Lastly, the National Coordinating Authorities of the Member States were contacted (in the Member States where the Authorities are established) to verify the collected information about the complaints-handling arrangements in the operational programmes of the Member States and to further comment on it.

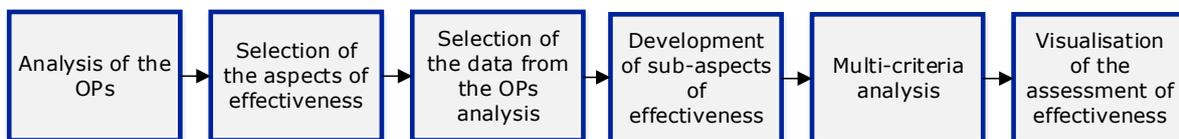
1.2.2 Analysis of the collected data

Firstly, the data about the programmes in the Member States was analysed to make sure all the necessary information was collected and to check whether the information collected from different sources was consistent.

Secondly, the data from the operational programmes was analysed to assess the effectiveness of the complaints-handling arrangements. Eight aspects of effectiveness (and also sub-aspects) were selected in order to evaluate the information about the programmes. Then, the data from the first phase was paired to the aspects of effectiveness in order to analyse the relevant information. A multi-criteria analysis was then designed for further evaluation of the data.

The following Chart 1 further illustrates the steps of the analysis.

Chart 1 Main steps of the analysis of effectiveness



The **aspects of effectiveness** are the following:

- Visibility
- Timeliness of the process
- Accessibility
- Responsiveness
- Objectivity and fairness
- Remedy / possible outcomes
- Review
- Fit for purpose.

The results of the effectiveness assessment were presented in the charts illustrating the score of the Member States with the relevant description (radar chart and box-plot chart).

Thirdly, data collected about the national funding programmes was compared with the arrangements of the operational programmes. The differences were then described for each Member State.

Lastly, the collected and assessed information was further analysed in order to highlight the good practices among the Member States.

1.3 Limitations of the study

The availability of the data was a crucial determinant for the purpose of the Project impacting both data collection and the analysis of the data. The specific details of the complaints-handling systems of the operational and national funding programmes might marginally differ from the information presented in the report. The whole report and individual country sheets serve only as a general overview of the arrangements of the complaints-handling systems and are based on information collected from public sources, the programme documents and responses from the relevant authorities.

The 2014-2020 programme documents and the national funding programme documents are to a certain extent living documents and might be subject to changes within time. Therefore, for any following action, a detailed overview of the most up-to-date version of specific operational or national funding programmes / other relevant documents and / or contact of relevant responsible authorities is recommended.

The country fact-sheets are an integral part of the whole report and should not be interpreted or used separately. Neither EY nor the European Commission assumes any responsibility for damage resulting from unauthorised use of the study, including its use by third parties.

The major challenge having an impact on most of the follow-up activities was the lack of publically available information about the complaint-handling systems within the operational programmes and national funding programmes. The following text summarises the limitations that occurred during the Project for some of the cases and is valid only for some of the OPs/national funding programmes. **In order to limit the risk of collecting incomplete information EY chose the above-described methodology and activities.** The triangulation method eliminates the possibility of the limitations affecting the quality of the data.

The following limitations were identified during the data collection for some of the programmes:

- In some cases, the information about the complaints-handling system of the **programming period 2014-2020** and its operational programmes was not accessible and the Managing Authorities were not available to provide the necessary information based on the following grounds:
 - No contact persons were listed on the official websites, nor did the staff of the Managing Authorities have information as to who handles the complaints.
 - Information about complaint lodging is not publically available (available only to the applicants and beneficiaries).
 - Some OPs (regions, countries) do not work with complaints on a regular basis as it is not common for them to receive a complaint. Although the general possibility to complaint is integrated into the basic rules, no actual experience of complaints exists and the staff was not able to provide us with complex information about the arrangements of the complaints-handling system in place.
- The information about the complaints-handling system of the **programming period 2007-2013** and its operational programmes on the programmes' websites is very limited and consists of only a basic summary of the programmes (based on the rules of the publicity, the websites have to be available even after the end of the programming period). Even if the websites exist, neither programme

documents, nor the previous contact persons of the Managing Authority are currently publically available. Several years have passed since the previous programming period ended and the knowledge of its operations is fading.

- The information about the arrangements in 2007 – 2013 that we received was often limited to information such as “it was less developed” / “it was the same” / “it was not developed at all” due to the fluctuation of the personnel of the MAs.
 - Because of the fluctuation of the staff mentioned above, in some cases, the contact points no longer exist.
 - Different MAs were responsible for the previous programming period and knowledge about complaints was neither transferred, nor communication established.
- In some countries, a territorial reform took place during the current programming period. Therefore, the organisational structure of the Managing Authorities changed and not all the information was transferred.
 - The response rate of the questionnaire was affected by the over-use and the overall quantity of questionnaires sent to the Managing Authorities (this information is based on direct contact with the MAs) by both internal and external subjects. The MAs are too busy to answer all requests for information from different authorities.
 - The information about the **national funding programmes** was collected in a similar way as the data linked to ESIF, thus, similar limitations as encountered during the OPs’ information collection occurred.
 - In some countries, different laws and acts exist that are relevant for complaints-handling, and in some cases, there is an unclear overlap of the documents with each other.

The limitations of the data collection impacted the following analysis of the data.

- The data collected in the first phase for the 2014-2020 period was used for the assessment of effectiveness, and thus if some of the information collected was not objective / completely accurate, it might also be reflected in the assessment.
 - However, the assessment should draw a general picture about the Member States’ complaints-handling systems.
- The assessment of the effectiveness of the OPs 2007-2013 is based on the information from a sample of OPs for each relevant Member State (only those with the differences compared to the 2014-2020 period) from which we were able to obtain information. The arrangements are compared with the 2014-2020 arrangements. The assessment was done in order to show the general trend in the changes between the programming periods, not to list all the differences in all of the OPs, as complete information for the 2007-2013 period is unavailable.
- Arrangements in some of the Member States are (were) very heterogeneous as the OPs vary significantly. Thus, it was difficult to generalise the information about the country’s arrangements. The exceptions were listed in the detailed outputs of the reports.

2 DESCRIPTION OF THE ARRANGEMENTS IN THE MEMBER STATES

The following chapter provides a general overview of the complaints-handling arrangements in the EU Member States in the ESIF and in the national funding programmes. The chapter summarises the general trends and describes the usual practices. Details of the individual Member States and exceptions are listed in the country sheets in Annex 1.

The information about the arrangements was collected through desk research, questionnaires and direct contact with the responsible authorities. The information was then analysed. The detailed methodology and activities conducted to gather the information are described in the previous chapter.

The chapter is divided into the following parts:

- Complaints-handling arrangements in the ESIF in the 2014-2020 programming period;
- Comparison of the complaints-handling arrangements in the ESIF of the 2007-2013 and 2014-2020 programming periods;
- Comparison of national funding programmes and ESIF (2014-2020).

Maps were used throughout the text to better illustrate the arrangements across the EU Member States.

2.1 Complaints-handling arrangements in ESIF in the 2014-2020 period

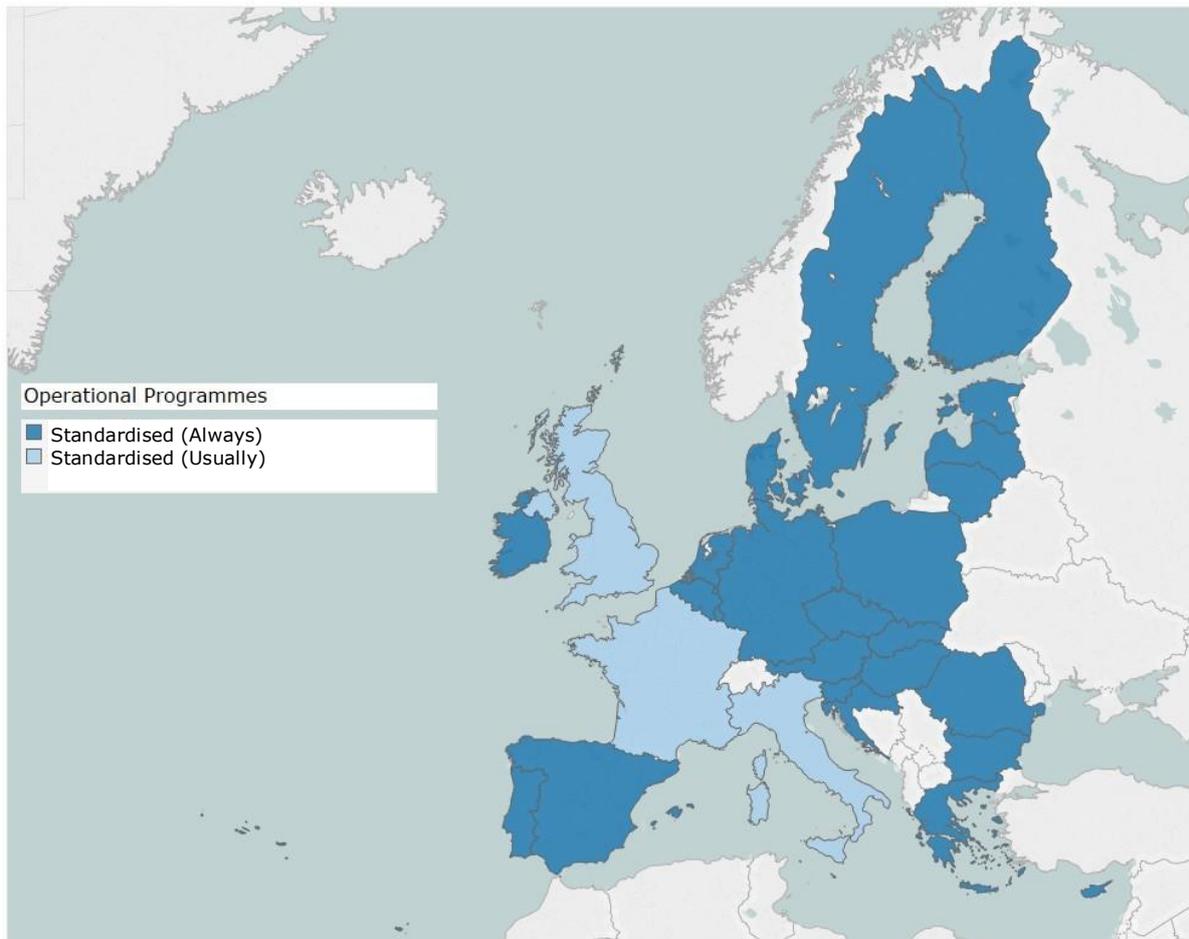
The arrangements of ESIF in the Member States were described in the First Interim Report. The assessment of effectiveness was then assessed and explained in the Second Interim Report. Similarly in this text, first the arrangements are described, then their effectiveness.

For each Member State, a sample of OPs was studied in order to find the necessary information about the country's arrangements. With regard to the same complaints-handling systems in some of the Member States, it was not necessary to include all the OPs in the detailed desk-research. Nevertheless, the desk research was carried out for more than 200 operational programmes.

2.1.1 Description of the arrangements

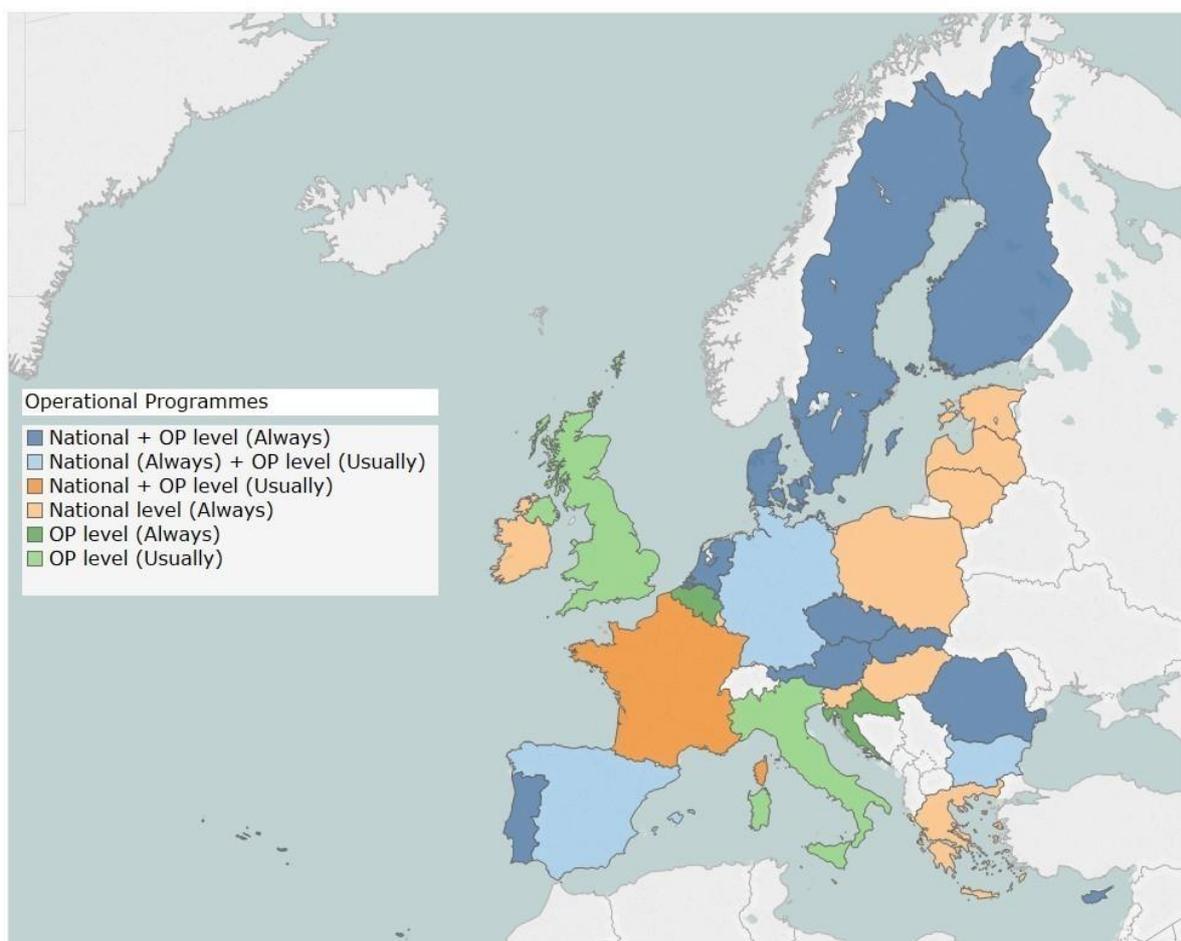
All of the Member States have to some extent standardised procedures and rules for the complaints processes in most of the OPs. However, in some countries, some of the OPs dealt with the complaints on an ad hoc basis (illustrated with light blue colour in Map 1 below - France, Italy and the UK), but OPs with the standardised procedures still prevail.

Map 1 Standardised procedures



Standardised complaints-handling **procedures are established at different levels** within the Member States. Based on the analysis, the Member States usually set rules about the complaints-handling at the national level, i.e., all operational programmes in one Member State should follow the same rules and procedures in the complaints-handling (presented with blue and orange colour in Map 2). In some of the Member States, the Managing Authorities establish specific programme rules that further develop the national rules (presented with blue and dark orange colour in Map 2). Moreover, a few of the Member States establish rules for the complaints-handling at the OP level (each OP can have different rules), these Member States are presented in green.

Map 2 Level of documents

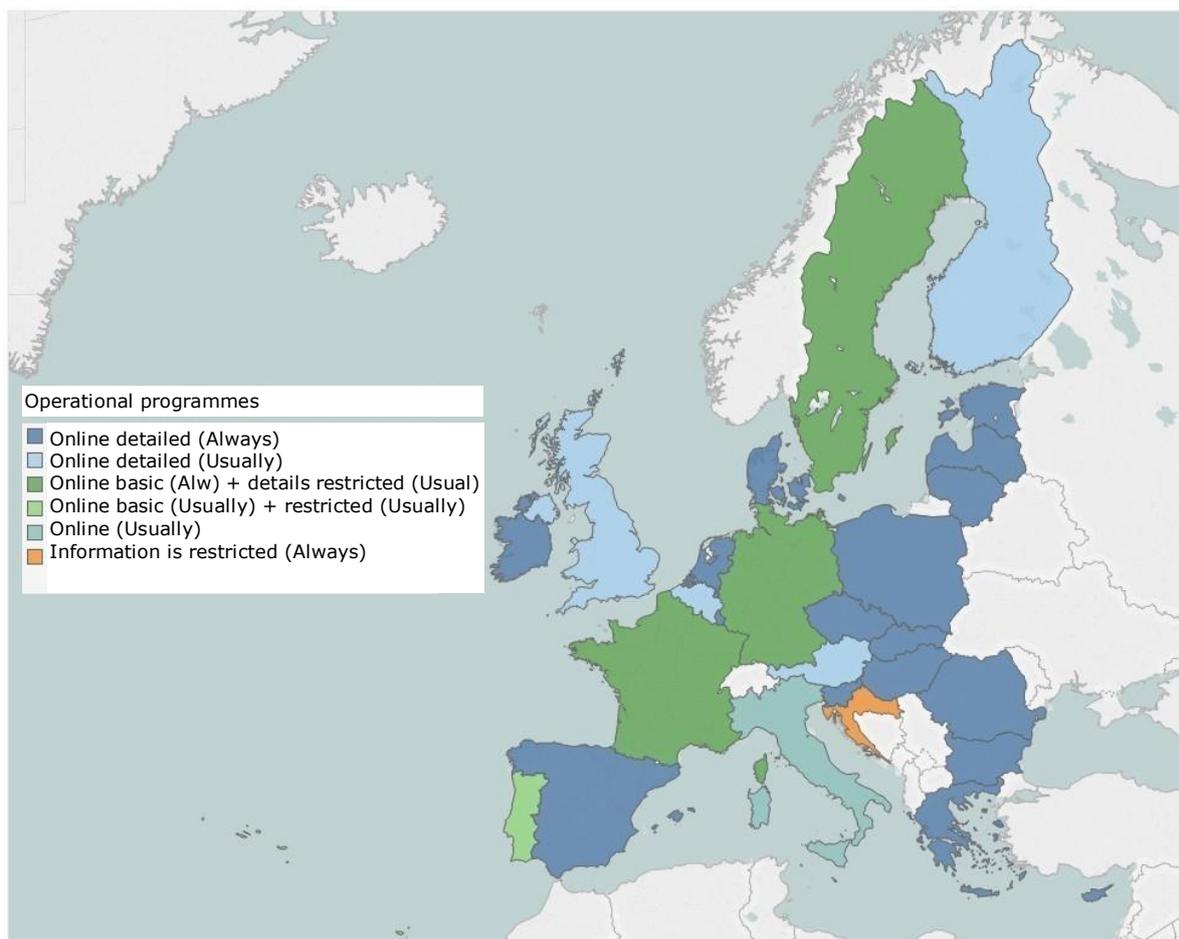


Based on the level of the documents, we can further classify the **form of the documents** that describes and establishes the procedures. For the sake of generalisation, various specific types of documents are clustered into (i) law / act and (ii) guidelines on the OP level.

More than three-quarters of the Member States (23) have a law that sets the rules for the complaints-handling procedures on a general level. The majority of these countries (15) further develop the rules for the existence of guidelines at the OP level. Malta, Ireland, Croatia, and some of the OPs in Italy and the United Kingdom have built the complaints system on the OP guidelines.

The documents describing the complaints **procedures can usually be found** online, i.e., on the website of the Managing Authority or in the Official Journal of the Member State. While most of the Member States provide all necessary information online, some Member States give only the basic information about the complaints-handling on the web and details are shared with the beneficiaries or applicants via email/post/guidelines. In Croatia, the information about complaints-handling is not publically available at all. The overview of the availability of documents is presented in Map 3.

Map 3 Availability of documents describing complaints-handling



Complainants can use various **channels for lodging complaints** across the EU Member States. The main channels include (i) standard channel (post, email, and phone), (ii) online gateway and (iii) submission in person. The most common method of lodging a complaint is to use a standard channel, which is available in almost all Member States. A common combination of different channels is the standard channel and an online gateway. In Latvia and Lithuania, all three channels (standard, online and in person) can be used to submit a complaint.

Almost none of the complaints within the framework of this study are **subject to a fee**. There is a fee only for specific types of complaints in Germany and some additional costs for investigation are also chargeable in the case of some OPs in Latvia, but the fees are linked to the specificities of the country's complaints arrangements. In general, fees may be a part of further judiciary processes.

In most of the Member States, complaints can be lodged in the national **language(s)** and only in few cases, the complaint can be lodged also in English (Cyprus, Denmark).

Complainants are usually only given an opportunity to **present their position** through written submission. This always applies in almost half of the countries (12). By contrast, complainants can also present their position in person (e.g., through a formal hearing process in Poland or in Germany).

The independence of the complaints review is usually somehow standardised by the rules of the organisation/programme/state ensuring that at least a different person than the one who issued the original decision is in charge of the complaint. In some Member States, a specific committee is even established for the complaints review (Austria, Croatia, Cyprus, Greece and Malta). Only in Denmark and Italy are such rules not in place in some of the OPs, thus, the review of the complaint is ascribed ad hoc.

An appeal within the same administrative system is not very common among the Member States (available only in 7 Member States). No further administrative appeal is available in 10 Member States, thus, the decision is final and the last option is only judicial review. In the remaining Member States, the information about a further administrative appeal was not available.

It is always possible to **further appeal** the decision in the judicial system when the complainant is not satisfied with the result of the complaint. In some Member States there is also a possibility to appeal to the national ombudsman in place of this.

In most Member States, **deadlines for lodging and resolving** complaints are set. More than a half of the Member States (18) have prescribed deadlines for lodging complaints. Other Member States have the deadlines set only in some of the OPs within the country or no deadlines are set at all (3). Deadlines for resolving complaints are set similarly, in 17 Member States deadlines are set in the rules of most OPs. No deadlines are applied in 4 Member States.

2.1.2 Assessment of effectiveness

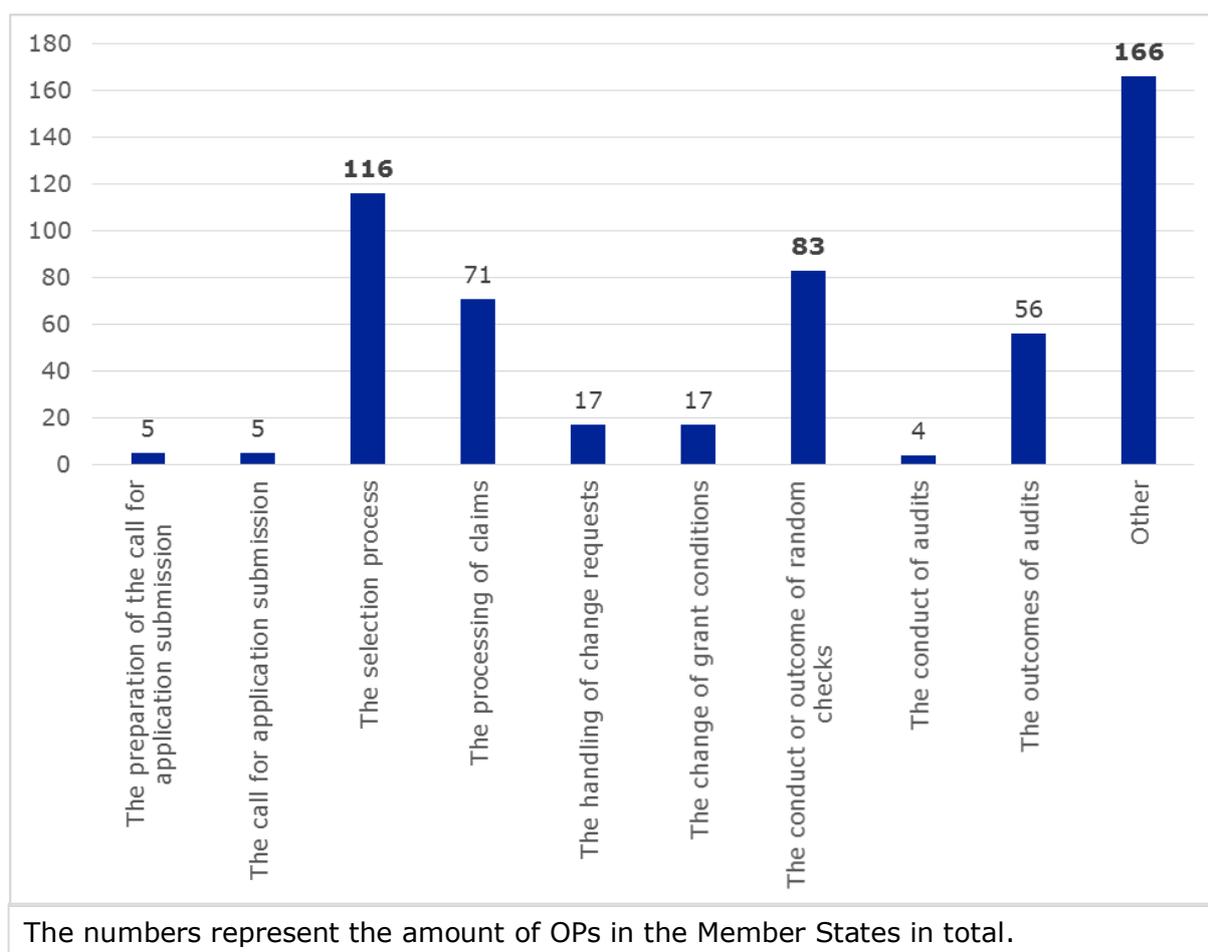
The effectiveness of the complaints-handling arrangements was then assessed based on the collected data and aspects of effectiveness (see Chapter 1.2.2). The assessment was done for each Member State as well as for the EU as a whole. In this part, the effectiveness of the EU as a whole is described to show the general trend. Further details for each Member State are listed in Annex 1.

The most common phases of lodging complaints

At first, we analysed in which phases of the implementation of a project the applicant/beneficiary can lodge a complaint. For this purpose, we considered all analysed OPs in the EU and did not differentiate between the Member States.

The most common phases in which complaints are lodged at most are (i) the selection process and (ii) the conduct or outcome of a random check. For many OPs it is not specified during which phase of the project implementation a complaint can be submitted; thus, a cumulative category "other/all phases" was created. This is the most common category of the analysed OPs.³ The distribution of the phases among the analysed OPs is displayed below, Chart 2 .

Chart 2 Phases of project implementation for lodging complaints



³ Number of OPs for which the most common phases are relevant is marked with bold.

The aspects of effectiveness across the Member States

Afterward, the data from all OPs were analysed in the context of the aspects of effectiveness. Overall, the EU scored acceptably in the assessment of the effectiveness.

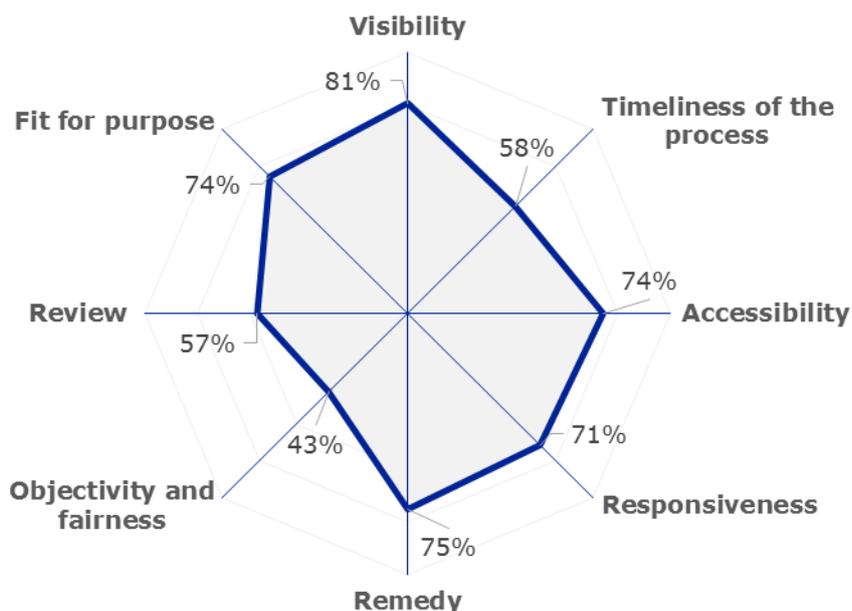
The following Table 1 provides explanation of the assessment of effectiveness and Chart 3 illustrates the assessment for each of the aspect.

Table 1 Explanation of the radar chart (Chart 3)

The **score of the effectiveness** was calculated based on the information on the complaints-handling arrangements about each OP. Each information was rated and assigned to a specific aspect. The final score for each aspect comprises the points (score) received out of the possible maximum points (the most effective arrangement).

Each spoke of the graph represents one of the aspects of effectiveness. The score for each aspect of effectiveness is displayed by the point in the graph (with percentage). The further from the centre the point is, the better the score of the effectiveness is (the highest point represents 100%, i.e., the aspect of effectiveness has the highest possible score).

Chart 3 Effectiveness of the complaints-handling systems in the EU



- The information about complaints-handling arrangements is in general available for the complainants in the OPs as well as for the front-line officers, who deal with the complaints. Thus, the rating that scored the best (very well)⁴ is **visibility**.

⁴ The scores for each of the aspect were classified into four groups to describe the received points for the Member States in a uniform terminology:

- 85-100% - Very well
- 70-84% - Well
- 50-69% - Acceptably
- 0-49% - Needs improvement.

- The **remedy aspect** also scored well in the overall assessment of effectiveness. The most common remedy provided to complainants is a correction of decision. The correction is usually based on structured procedures, i.e., it is guaranteed to the complainants that the remedy is consistent across the different topics and complainants.
- Further, the arrangements are usually **fit for purpose** (scored well), i.e., the channels for lodging complaints are usually the same or better (more channels) compared to the usual communication channels between the MAs and the beneficiaries. However, in the aspect fit for purpose, we found that in some of the Member States there was an insufficiency of data, thus the assessment is not very representative.
- Similarly, the aspect of **accessibility** scored well. The information about the complaints-handling is usually well described and no fees are applied to the complaints. The national languages are the most common language available for lodging complaints.
- The **responsiveness aspect** also received quite a good score (scored well) as the OPs inform the complainants about the status of their complaint usually at the beginning and end of the process or also throughout the process (when any change occurs). The complaints are in most cases not prioritised but handled as “first in – first out”.
- **Timeliness of the process** scored as overall acceptable. The aspect of timeliness assessed how the deadlines for lodging and resolving complaints are set. Many of the analysed OPs do not have any deadlines set, thus, did not score very well in the assessment. Moreover, some of the OPs had deadlines that were too short for lodging complaints (e.g., less than two weeks after receiving the decision) or too long for submission of the complaints (e.g. more than two months after receiving the decision).
- **Review** also scored acceptably. Only in a few OPs is further administrative appeal possible within the complaints-handling systems. However, further escalation of the complaints to the judicial system or national ombudsman is quite common and the information is usually provided to the complainants.
- **Objectivity and fairness** scored the lowest (needs improvement) compared to the other aspects of effectiveness. Usually, the objectivity is guaranteed by at least a different person handling the complaints from the person who made the original decision. However, complaints are often ascribed for resolution on an ad hoc basis and complainants do not have any further options for presenting their position or they can present their position only in writing. It is important to note that during the assessment, the criteria for scoring well in the aspect of objectivity were set rather high, in order to highlight the best practice. Thus, the overall low score for all Member States does not mean that the objectivity and fairness of the complaints resolution are not sufficient, however, for greater transparency, accessibility, and comprehensibility of the complaints process, the MAs should put a greater emphasis on this topic.

It is important to bear in mind that the above description of the effectiveness in the EU Member States is an overview consisting of an average score from all OPs. The description of the effectiveness should provide a general idea about the complaints-handling systems.

The data from which the average scores are calculated includes various values with extreme values that together produce the calculated average.

- The most heterogeneous data among the OPs can be found in the aspects of **timeliness, objectivity and remedy**.
- Overall, the complaints-handling procedures are usually accessible, i.e., the aspect **accessibility** has quite consistent data among the analysed OPs.
- The heterogeneity of the data among the OPs is illustrated with a boxplot chart for each Member State in Annex 1, where also further description of the chart is included.

Comparison of the scores of the effectiveness across the Member States

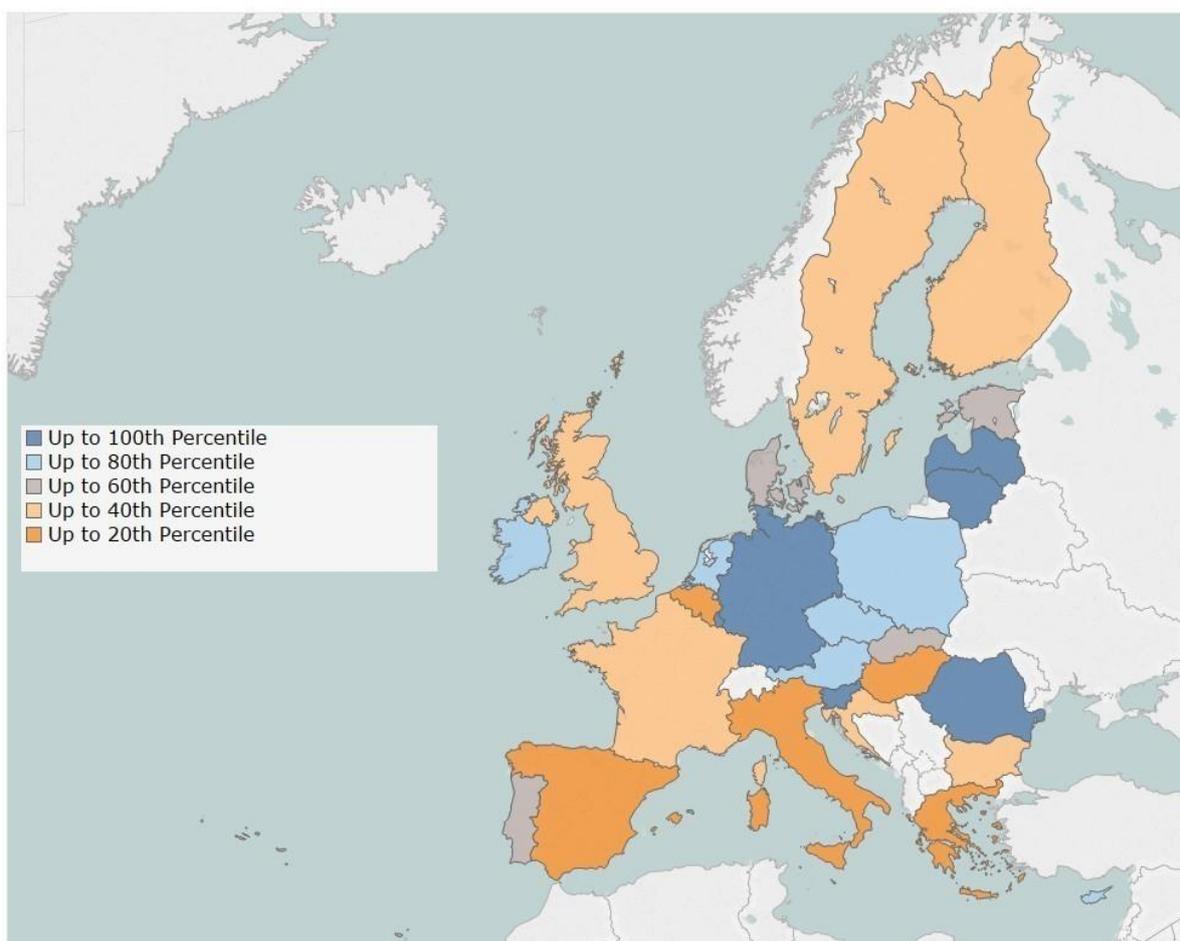
Lastly, the overall effectiveness of the complaints-handling arrangements of the Member States was compared. The Member States were categorised based on the principle of **percentiles** to show how well each of the Member State scored in the analysed aspects.

Table 2 Explanation of the percentile

The average score of effectiveness (for all aspects together, all of the aspects were calculated with the same weight for this purpose) for each Member State was compared with the other Member States and then categorised into the relevant percentile. Similar number of countries (5 or 6) was categorised into one percentile (in total 5 percentiles). For illustration,

Map 4 shows the Member States according to the main percentiles. The higher the percentile, the better the score.

Map 4 Assessment of effectivity



- The Member States in the **100th – 81st percentile** include (marked with dark blue): Latvia, Lithuania, Romania, Luxemburg, Slovenia and Germany. These Member States received a better score of effectiveness than the rest of the countries.
- The Member States in the **80th – 61st percentile** include (marked with light blue): the Netherlands, Austria, Ireland, Czech Republic, Poland and Cyprus. These

Member States received a better score of effectiveness than the 60% of the Member States (but worse than the countries in the top percentile).

- The Member States in the **60th – 41st percentile** include (marked with grey): Estonia, Portugal, Slovakia, Malta and Denmark. These Member States received a better score of effectiveness than 40% of the Member States.
- The Member States in the **40th – 21st percentile** include (marked with light orange): France, Bulgaria, Finland, United Kingdom, Sweden and Croatia. These Member States received a better score of effectiveness than the last 20% of the countries and 60% of the Member States received a better score than these countries.
- The Member States in the **20th – 1st percentile** include (marked with dark orange): Hungary, Belgium, Spain, Italy and Greece. These Member States received the lowest score of effectiveness compared to the other Member States. In general, it means only that Member States in this percentile have the complaints-handling arrangements less standardised in the specific aspects of effectiveness compared to other Member States.

For further information, the specific arrangements for each Member State are described in Annex 1 – country sheets.

2.2 Comparison of the complaints-handling arrangements in ESIF of the 2007-2013 and 2014-2020 programming periods

The complaints-handling arrangements in the programming period 2007-2013 were researched in the first phase of the Project and described in the First Interim Report. In the second phase, we assessed the effectiveness in the relevant Member States and described it in the Second interim report.

The following part describes the most significant changes in the complaints-handling arrangements in the Member States between the 2007-2013 programming period and the 2014-2020 programming period and how the differences affected the effectiveness of the arrangements.

The information is based on the research of the operational programmes and then generalised for the Member States. The scope of the information is limited due to the availability of the data. Details are listed in the country sheets in the Annex.

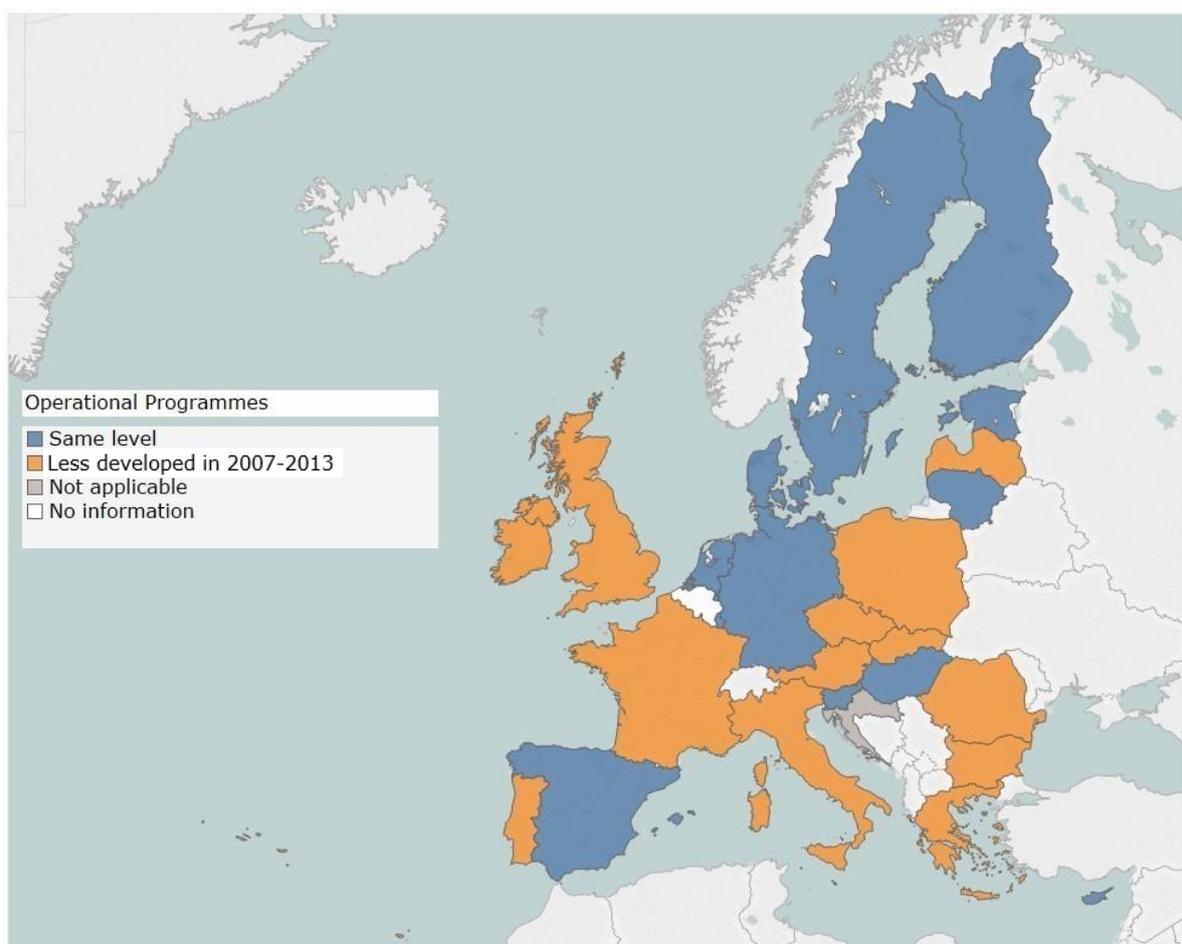
Research was primarily focused on the differences in the complaints-handling arrangements to describe the modifications and to illustrate the evolution of the complaints-handling systems. The evolution is mainly driven by Regulation (EU) No 1303/2013 and its Article 74 regarding complaints-handling as such requirement was not included in the Regulation for the 2007-2013 programming period.

The **change in the arrangements** of the OPs is further driven by the lower number of the OPs in the 2014-2020 period, different implementation structures and different mechanisms for the OP management, in particular, the monitoring systems and the systems for the application submission (e.g., computerisation of the system, web portals) in the 2014-2020 programming period.

2.2.1 Description of the arrangements and their effectivity

The complaints-handling systems have remained the same as in the 2007-2013 programming period in approximately half of the Member States (13). The other half of the Member States improved the complaints-handling systems in the 2014-2020 period compared to the 2007-2013 period (12). No case of deterioration was detected. The overview can be seen in Map 5. The Member States with differences between the two periods are marked with orange.

Map 5 Comparison with 2007-2013



The Member States with different complaints-handling system in 2014-2020 to those in 2007-2013 were further analysed and described. The main modifications of the system are linked to greater standardisation of the rules related to complaints-handling.

In some Member States, the 2014-2020 period brought completely new rules for complaints-handling as no such arrangements were in place in the 2007-2013 period and the complaints were dealt with ad hoc, for example in Austria and the Czech Republic. In other Member States, more detailed rules about the complaints and/or unification of the procedures among the operational programmes/state were developed in the 2014-2020, for example in Bulgaria, Greece or Romania.

The changes were usually within the following documents:

- **Laws (setting the rules for the complaints-handling on national level)**
 - New laws (acts or decrees) were adopted further specifying the relationship between the public service and public (on a general level) that include remarks about the complaints procedures.
 - New laws about the ESIF implementation were passed for the 2014-2020 programming period that contain information about the complaints procedures.
- **Specific MA / OP documents (setting the rules for the complaints-handling on the regional/OP level)**
 - New programme documents / documents of the Managing Authority were created and the complaints-handling processes were explained in greater detail.

In general, the complaints-handling procedures in the 2007-2013 programming period were less standardised and available for complainants. Thus, the arrangements were less effective compared to the 2014-2020 period.

2.3 Comparison of national funding programmes and ESIF (2014-2020)

During the second phase of the Project, information about the complaints-handling systems in the Member States within the national funding programmes was collected. The analysed national funding programmes were selected to be similar in subject to the ESIF programmes (ERDF and CF) analysed in the first phase.

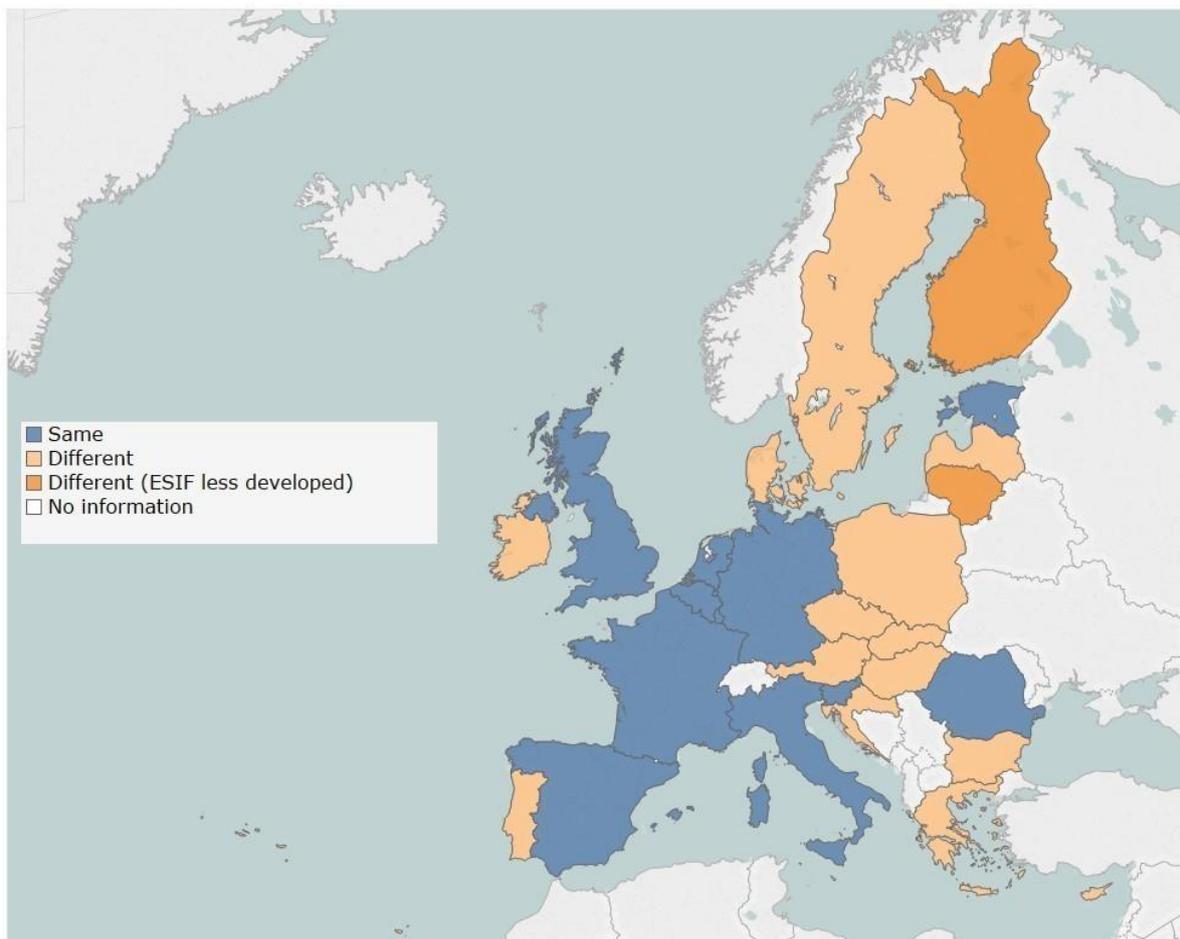
The national funding programmes were analysed in all Member States except from Malta, where relevant national programmes were not identified. In the remaining 27 Member States, a sample of the national funding programmes was analysed. The sample varies between one to five programmes for each Member State. The more OPs analysed in the first phase for the particular country, the bigger the sample selected in the second phase of the Project.

The standardisation of the rules about complaints-handling is in the national funding programmes generally less developed compared to the arrangements in ESIF. Based on the comparison, the Member States were divided into three categories regarding the complaints-handling arrangements:

- The Member States have the **same arrangements for national funding programmes and ESIF** ("same"), approximately half of the Member States - Belgium, Germany, Estonia, Spain, France, Italy, Luxemburg, The Netherlands, Romania, Slovenia, United Kingdom.
- The Member States **have less developed arrangements for national funding programmes compared to ESIF** ("different") - Austria, Bulgaria, Cyprus, Czech Republic, Denmark, Greece, Croatia, Hungary, Ireland, Latvia, Poland, Portugal, Sweden and Slovakia.
- The Member States **have more developed arrangements for the national funding programmes** compared to ESIF ("different (ESIF less developed)") - Finland, Lithuania.

An overview of the arrangements of the Member States is shown in Map 6 below.

Map 6 Comparison of arrangements of national funding programmes and ESIF



The Member States with less developed procedures about complaints-handling compared to ESIF have the procedures less standardised or in some cases the procedures are not codified in any formal documents and are dealt with ad hoc. On the contrary, standardised procedures appear among all Member States in ESIF in the 2014-2020 programming period. **Thus, in general, the complaints-handling procedures in ESIF are more effective as the rules are in place.** In two cases (Finland, Lithuania), the complaints-handling system in the national programmes is more developed than for the ESIF.

If the complaints for the national programmes are somehow standardised, the types of complaints are usually (i) **less described**, i.e., in the documents a very brief, or no description is included about who and about what kind of decision can be complained about, or (ii) the types of procedures are specified, however, there are **not as many possibilities to complain** compared to ESIF. Thus, overall, the ESIF procedures are more favourable to the complainants.

The submission of complaints is usually similar for national programmes and ESIF. However, **in ESIF, an additional channel for complaints submission is sometimes available, i.e., an online gateway** that is common for some/all operational programmes in the respective Member States. An online gateway provides the complainants a flexible way for submitting and tracking the status of a complaint. Thus, the online gateway is a sign of a more effective approach to the complainants.

Deadlines for the submission of complaints and resolving the issues are different and, in general, they cannot be assessed as to whether the national programmes or ESIF are more effective.

No fees for complaints submission are to be paid in both the national programmes and ESIF. The common remedy is a correction of a decision, applicable for both national programmes and ESIF. Similarly, further appeal is usually codified by a superordinate law/code applicable nationally, and thus no differences typically occur.

3 GOOD PRACTICES IN THE COMPLAINTS-HANDLING ARRANGEMENTS

This chapter aims to present examples of good practices in the complaints-handling arrangements. The examples provide inspiration for how the specific aspects of the complaints-handling processes can be established and developed.

Firstly, the general principles of an effective complaints-handling system are described below to set the standards for complaints-handling. The standards were set based on the experiences gained during the Project, analysis of different international systems and further EY experience with other projects in similar areas. An overview of the standards (exemplary and preferred procedures in the complaints-handling system) is summarised on one page.

Secondly, each standard is further explained with examples of good practices from the operational programmes and national funding programmes. These were mainly analysed and identified in the first and second phase of the Project.

Lastly, an analysis of the complaints-handling arrangements among the international organisations was conducted. The complaints mechanisms among two important international organisations, i.e., the European Investment Bank and the United Nations Development Programme were assessed as well developed. Thus, the complaints-handling arrangements are described, following the principles set in the first part of this chapter (3.1).

3.1 Exemplary and preferred procedures in the complaints-handling system

The following chart presents key aspects of effectiveness in the complaints-handling systems. For each aspect, a description of its specific applications is included.

Chart 4 Exemplary procedures in complaints-handling system



1. Visibility

The potential complainants (beneficiary, applicant, any other party) have access to clear and complex information about the complaints-handling.

The relevant personnel of the MAs know how the complaints-handling process works.



2. Timeliness of the process

The deadlines for lodging and resolving the complaints are set reasonably and enable the potential complainants to submit a complaint and to resolve the issue in a timely manner.

The complaints timeframe does not interfere with the timeframe of the OPs implementation.



3. Accessibility

Access to the procedures is inclusive to different stakeholders.

Admission of complaints is in line with the modern technology and free of charge.



4. Responsiveness

The complainants have up-to-date information about the status of the submitted complaints.

The complaints are prioritized in case of major or sensitive issues.



5. Objectivity and fairness

The independence of the decision-making body from the original decision-maker is ensured.

The complainants have a variety of possibilities to present their position about the submitted complain.



6. Remedy

The appropriate remedy is guaranteed if the complaint is relevant.

Standardized procedures are followed.



7. Review

Further appeal possibilities are in place and the complainants are informed about the mechanisms.



8. Fit for purpose / replicability

The complaints-handling procedures are in line with the common procedures in the responsible organization.

3.2 ESIF and national programmes

Based on the described exemplary procedures for the complaints-handling systems, the principles are further examined in the context of the analysed operational programmes and the national funding programmes. The analysis lists examples of good practices among the programmes.

Examples of good practices are assigned to each of the aspects that were described in Part 3.1 above. For each aspect, the following structure is followed:

- The meaning and purpose of the aspect is presented at the beginning of the page.
- The key principles of the aspects are then further described.
- Afterwards, the examples of the OPs / Member States are listed with a brief explanation of the practice.



3.2.1 Visibility

Visibility means that the information about complaints-handling systems is easily available to the potential complainants.

The high visibility ensures that the potential complainants are encouraged to lodge a complaint based on having sufficient information about it. Transparent process increases the trust between the responsible authorities and the complainants and ensures that no misconducts occur.

1. The information about the complaints process is publically available, easy to find and understandable

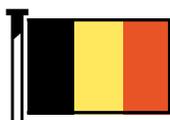
The information is clearly visible on the website of the OP/MA so that the potential complainants can find the relevant information easily and decide about lodging the complaint. The transparent provision of information promotes the trustworthiness of the programme and increases the interest of the potential applicants to apply for the programme. Moreover, the transparent information lowers the potential for conflicts arising from a lack of information.

If the complainants want to ask the MA directly for information about the complaints process, the relevant and informed person is easy to identify (through a website, front-desk) and easy to contact (email and phone are available).

2. The frontline officers are well informed as to how to deal with the complaints

When communicating with the representative of the MA, the front-line officers are well-informed about the process and are available for further explanation and details.

Well-informed officers can help to ensure that common and unified processes are followed within the organisation, making the activities of the public sector more consistent.



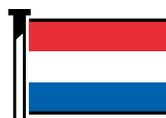
In Belgium OP (**OP Flanders**) a link to the complaints information site is included on the [main webpage of the MA](#) (Flemish government). The complaints are described in a well-structured text including key information and details. Moreover, the webpage includes an “FAQ” and links to other possible means of complaints.



In **Sweden**, web page of the Managing Authority (Swedish Agency for Growth) provides detailed contact information about the responsible personnel, who are well informed about complaints.



In **Spanish OPs**, learning is mandatory for the front-line officers so that (i) the potential complainants can be well informed about the processes and (ii) the process is clear to those who handles the complaints.



In **the Netherlands**, training of frontline officers of the complaints handling procedures is usually provided, but it is not mandatory.



3.2.2 Timeliness of the process

The complainants and the responsible MAs have clear and defined periods of time to lodge and resolve complaints.

The timeliness of the complaints-handling process plays a significant role within the system of complaints-handling as the stakeholders need to have a clear understanding of the possible length of the process. Secondly, the deadlines reflect the timeframe of the OPs, thus, corrections and changes to the decisions do not interfere with the OP timeframe. Moreover, the MAs have enough time to change the OPs implementation if any deficiencies are discovered during the complaints process.

- 1. The deadlines for lodging the complaints and resolving the complaints are set and are reasonably long so that the topic of the complaint is still relevant, the issue can be resolved and appropriate remedy can be sought.**

The deadlines for lodging complaints are set as flexibly for the complainants as possible, however, with a reasonable limit. In this case, the complainants have sufficient time to decide about lodging the complaint and fulfill all the formal requirements for submitting it.

On the other hand, the deadlines for resolving complaints should be set as short as possible in order to keep the process responsive and remain the timeframe of the OP's implementation.

Moreover, the process should be flexible. The MAs should be able to categorise the complaints and set longer deadlines for resolving the complaint if the issue needs further investigation. Such prolongation needs to be justified and announced in advance.

- 2. Significant issues regarding the OP's implementation do not interfere with the timeframe of the OPs**

The timeline of the OP implementation process is taken into account in the rules for handling complaints and potential conflicts of collision of the deadlines for resolving the complaints and the OP implementation time frame are avoided. If the complaint is received and the deadlines for its resolution conflict with the time frame of the OP's implementation, the complaints are prioritised and resolved before the deadline so as to avoid conflict.

 In **Hungarian and UK OPs**, the time for resolving complaints can be extended when further verification is needed (HU) or due to complexity of the issue (UK). In the UK, the complainant is always informed in case more time is needed.

 In **Ireland national programme**, if a complainant sends a complaint (they consider all the complaint as queries/inquiries) about the Regional Enterprise Development Fund (responsible authority), the Client Charter ensures that all written communications from clients are acknowledged within 24 hours. All these queries (complaints) are reacted to within 5 working days of receipt. If it is not possible to reply conclusively, the Enterprise Ireland will send an interim answer.



3.2.3 Accessibility

A clear procedure without unreasonable barriers is available for the potential complainants.

The complaints system is accessible for complaints from the different stakeholders, including disadvantaged persons, involved in/by the OP's implementation. Different needs and views of various stakeholders and deficiencies are communicated to the responsible MAs and can be reflected in the OPs' implementation afterwards.

1. The complaints-procedures are easily accessible for different stakeholders

The programme documents or documents setting rules to the complaints-handling are available in the appropriate languages and information is easily accessible and understandable on the website of the relevant OP.

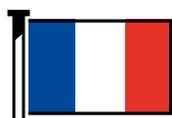
The information about the complaints-handling process is presented clearly so that it is comprehensible to a wide range of the potential complainants.

2. The complaints can be submitted via common communication mean

The responsible MAs reflect different needs of the complainants and try to encourage dialogue using modern tools for informing about the complaints process and for submission of the complaints.

3. The complaints-procedures are free of charge

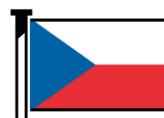
No fees are charged for lodging the complaints. In general, all Member States provide the service free of charge.



The complaints-process of the **OP of French Guyana** (Regional programme Guyane Conseil Régional 2014-2020) is accessible on its [website](#) and understandable, including the reference to the EU Regulation 1303/2013 and the relevant Administrative Code valid in France. The procedure is clearly explained, including a chart of the whole process for better understanding of the system. Furthermore, it is possible to lodge a complaint via an online form or to download a template of the complaint and send it via post, enabling the complainants to use the channels that are the most suitable for them.



In **Romania**, the [common website for the EU funds](#) enables lodging a complaint through an online tool. The tool enables selecting the appropriate OP when submitting the complaint. Thus making it easy for the complainants to find the information and to lodge a complaint via a user-friendly platform.



In the **Czech Republic OPs**, the most of the communication regarding the projects application and implementation is done via an online gateway MS2014+, including lodging complaints.



3.2.4 Responsiveness

The complaints-handling process is responsive when the complainant has an overview of the status of the complaint during key phases of the complaints process.

High responsiveness improves the transparency of the complaints-handling, increases the credibility of the system and supports the complainants to understand the process. Furthermore, transparency allows the complainants to monitor if the procedures are correct (and raise a complaint if not) and be appropriately involved in the process.

1. The complainant has continuous information on the stage and status of its complaint

The result of the complaint process can significantly impact the progress of a project, thus, providing regular information about any change to the status of the complaint is crucial.

Regardless of the channel through which the complaint is lodged, it is important to acknowledge that the query was successfully delivered to the competent person and should be resolved in the relevant amount of time.

2. The complainants have an opportunity to intervene during the complaints process if they do not agree with the process/results

The complainants are informed about the complaints process and if they want to disagree with some procedure, they have an opportunity and right to do so. It is more effective to solve the issues during the process than at the end of the complaints process when the issue is closed.



All MAs in the UK confirm reception of a complaint within a fixed time period (usually 3 – 5 days depending on the MA). The MA of OPs in Wales also informs the complainant on how the complaint is intended to be handled.



In **Austria** and **Denmark** OPs, the Managing Authorities confirmed that their received complaints are prioritised and not handled according to the common “first in first out” principle.



In **Portugal**, an interesting feature of complaints handling **both in ESIF and nationally funded programmes** is the opportunity to rebut an unfavourable draft decision. Applicants are informed about the content of the planned decision and have a final possibility to influence it and turn it into a favourable decision; this procedure is called “the right of prior hearing”.



3.2.5 Objectivity and fairness

The complaint is decided on by someone independent of the original decision to ensure the objectivity of the new decision.

The objectivity is a crucial determinant for the trustworthiness of the complaint-handling system for the complainants. In addition, it is essential to demonstrate to the public that the independence is guaranteed as the credibility of the programme can increase the willingness and interest of potential applicants to apply for support from the programme.

1. The independence of the decision-maker from the original decision is ensured

The person who decides about the complaint should be institutionally independent from the person who issued the decision in the first place.

Establishing an independent committee composed of the different stakeholders appear as appropriate option to guarantee the objectivity. In case the committee consists of the representatives of different departments of the responsible authority, the complaints-handling process also helps the committee members to take various aspects into consideration when deciding about the issue and further incorporate the experience into their usual practices.



In the **Cyprus OP**, independence is ensured by establishing a Complaints Committee, initiated by the Chief Officer of the MA.



In **Malta OP**, the complaints are usually handled by the Project Selection Appeals Board, independent of the Project Selection Committee and the Managing Authority.



In **Lithuania**, the independence of the complaints-handling in the national programme is established by the General rules. The examination of the

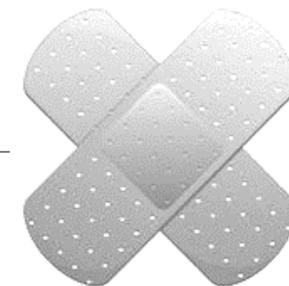
2. The complainants have a wide-range of possibilities to present their position after submitting the complaint

Apart from lodging the complaint via post/email etc., the complainants should have an opportunity to further explain the issue (their position) to the relevant MA.

complaints is made by an Appeal Board. The board consists of seven members who are approved by the Chair of the Council. The decision of the Board is then presented to the Chair of the Council, who can amend the primary decision and notify the appellant of the change.



In **Germany**, in **both OPs and national funding programmes**, the complainant is given an opportunity to present their position through a formal hearing process (according to §28 of VwVfG) or a written submission.



3.2.6 Remedy/range of possible outcomes of complaints handling

The complainants submit complaints in order to change a situation they faced and were not satisfied with.

It is important to rectify the possible irregularities and mistakes to improve the credibility of the relevant MAs (in case irregularities occurred) and remain the legal liability. Furthermore, appropriate remedy options improve the trustworthiness of the programmes among the public and potential applicants.

1. The remedy should be guaranteed in case the irregularity occurred

The complainants should have a guarantee that if their complaint is relevant they will receive a remedy. If the irregularity is connected to higher costs compared to the standard situation, the reimbursements should also be part of the remedy.

2. The remedy is guaranteed equally to the complainants based on structured procedures

All complaints are treated equally when reviewing the issues and it should be guaranteed that similar complaints receive similar remedies. Thus, the remedy procedures should be codified.



In **Denmark OP**, correction of decision or reimbursement are provided as a remedy.



In **Ireland OP**, correction of a decision is provided as a remedy and any other options of remedy would be discussed on a case by case basis.



In **Lithuania OP**, correction of a decision is provided as a remedy, and in case of positive response, a beneficiary shall be entitled to recover costs incurred.



3.2.7 Review

The complainants can disagree with the final decision of the responsible MA about their complaint. Thus, further review possibilities should be in place to reconsider the case.

The aim of the further review is to resolve the complaint in an unbiased manner so that the complainant has a clear understanding that the result is valid and legitimate. The better the review mechanism is advertised, the more transparent the whole process is. The review mechanism increases the credibility and trustworthiness of the programme among the public. Moreover, it is a useful mechanism for the responsible organisations to take into consideration for an independent view of its process.

1. The possibilities of further appeal are in place

If complainants want to further appeal the complaint's decision, the appropriate procedures should be in place to enable the appeal. The further appeal should further examine the issue and confirm/disprove the previous decision. An independent authority should be in charge of the appeal procedure, in the last instance the judicial review and/or ombudsman should be included in the review, based on the national law.

2. Complainants have a clear understanding of the process and are informed about the further appeal possibilities

The information about the possibilities and rules are clear and well publicised and responsible MAs communicate the options to the complainants.



In **Portugal OPs**, the complaints can be lodged with the [Beneficiary's Curator](#) (Curador do Beneficiário), who receives and solves complaints presented by the beneficiaries of programs co-financed by any of the ESIF. The curator will either solve the problem, or redirect the complainant to a corresponding institution/body.



In the **UK – OPs East/West Wales** or in the **Belgium – OP Flanders**, ombudsmen for the public service were established. The ombudsmen are not directly established for ESIF, but deal with different topics. However, the complaints-handling system in these particular OPs is based on the general administrative procedures.



In the case of the **UK national programme** "Analysis for innovators round 2: brokerage", the complaints process enables escalation of the complaint within the organisation before it is submitted for an independent review by the national Ombudsman, i.e., if the complainant is not satisfied with the decision of the Complaints Officer (formal complaints procedure), the complaint can be referred to a relevant Innovate UK director.



3.2.8 Fit for purpose

The complaints-handling procedures are in line with the common procedures in the responsible organisation.

The procedures for lodging complaints should follow the common procedures of the responsible organisation. The wider the possibilities for lodging complaints, the better for the accessibility of the process and trustworthiness of the responsible organisation and the programme.

The aspect "fit for purpose" is significantly dependent on the particular Member State and its common public procedures. The following aspects are examples of the possible solutions.

1. Common approach towards the complaints in the Member State

The complaints-handling arrangements are the same or similar for all relevant programmes in the Member State. The potential complainants then do not have to know different complaints systems when operating in one Member State.

2. The channels used for communication with the beneficiaries are also used for lodging complaints

The responsible organisations should enable submitting of the complaints via at least the same communication channels as the usual communication is conducted. In order to lower any barriers for lodging complaints for the potential complainants, the MAs should provide the widest possible options for submission of complaints.



In **Hungary** in the **national and ESIF programmes**, the complaint handling procedure is based on national legislation - the documents for the national programmes are based on the legislation, which is different to the law codifying the ESIF. However, the principles of both laws are similar (i.e. same deadlines, no fees, way how to submit the complaint, remedy in form of the correction of decision).



In **Greek national funding programmes**, the complaints procedures are not standardised in contrast to the ESIF. However, the national authorities are developing new management and control system, based on the ESIF System. The new procedures should guarantee the common approach across the Greek programmes.



In **Germany**, **both national and ESIF** programmes are based on the same national law, enabling the complainants to follow the common procedures of the Member State.

3.3 International organisations

The focus on the accountability and transparency is clearly observable among the biggest international organisations that fund different programmes and provide aid (financial, material, etc.) in the different countries of the world, such as the European Investment Bank, United Nations Development Programme, European Bank for Reconstruction and Development and Asian Development Bank. As the international organisations give a lot of attention to the accountability, its procedures and mechanisms can be a good example for some of the Member States and ESIF. The following chapter provides an overview of the identified good practice in the international organisations' complaints-handling systems.

International organisations focus on the accountability of the funded projects and promote complaints among the influenced stakeholders and communities. On the contrary, ESIF focuses on the applicants and beneficiaries that directly participate in the programmes. However, the principles remain the same. Moreover, the amount of funding from some of the international organisations is significantly higher compared than the amounts from the ESIF given to the individual beneficiaries.

In the following overview, we focus on the aspects of good practice that could be relevant for the ESIF programmes and the Member States. Based on the desk-research of the complaints-handling processes of the international organisations, we further describe two organisations (European Investment Bank, United Nations Development Programme) that based on the research have well developed procedures. Other international organisations, such as the European Bank for Reconstruction and Development or Asian Development Bank have very similar complaints-handling procedures in place.

The following part follows a similar structure to the sheets in the previous part (3.2). If the examples lead to inspiration, different sizes and ranges of international organisations need to be taken into consideration. Moreover, it should be noted that both organisations with the exemplary complaints-procedures deal with the complaints as the donor organisation (directly redistribute and manage the funds and the projects), in contrast to the Managing Authorities of ESIF that redistribute the funding from the European Union.

3.3.1 European Investment Bank

The complaints mechanism in the European Investment Bank (further also “EIB”) has been well developed since 2008 when a Memorandum on the complaints processes was signed between the EIB and the European Ombudsman. Since then, the EIB encourages the individuals, organisations or communities affected by the EIB activities to submit a complaint if any EIB activity affects them negatively. Innovative and inclusive tools are presented online as well as offline. Furthermore, the EIB regularly reports on the activities in their annual [Complaints Mechanism Activity Report](#).

Table 3 EIB complaints procedures

| Aspect of effectivity | Description |
|---|---|
| <p>Visibility</p>  | <ul style="list-style-type: none"> The potential complainants can find all necessary information on the EIB website. The information includes a general overview of the process, main principles and important information about complaints-lodging, relevant documentation, FAQs, etc. The information can be easily found on the website of the EIB (who we are/accountability). |
| <p>Timeliness</p>  | <ul style="list-style-type: none"> The deadlines are set reasonably for the complainants to be able to lodge the complaints and resolve them in a timely manner. The information about the deadlines is available on the website. <ul style="list-style-type: none"> The deadlines for lodging complaints are set at 20 days/1 year after the situation occurred, depending on the subject of the complaint. The deadline for resolving complaints is 40 days. There is a possibility of the extension of the deadline up to 140 days, should the complaint prove difficult to resolve. |
| <p>Accessibility</p>  | <ul style="list-style-type: none"> The complaints are accessible to different stakeholders through the website, where clear information is presented. A video presenting the importance of the accountability and the complaints mechanisms is clearly visible and easily accessible for the potential complainants. Moreover, the EIB engages with the local civil society organisations in the countries affected by the EIB activities to promote the accountability and importance of the complaints mechanism among them (workshops). The complaints can be lodged in all European official languages (23) as well as in the non-European languages of those affected by the EIB. |

| | |
|--|---|
| <p>Responsiveness</p>  | <ul style="list-style-type: none"> • The complainants are informed within 10 days after submitting the complaint if it is admissible. • A simple list of Cases of complaints is available showing the current status of any submitted complaint. |
| <p>Objectivity</p>  | <ul style="list-style-type: none"> • The complaints are first assessed as to whether the primary requirements for admissibility were met (within 10 days of submission). In this process, no judgment on merits of the complaints is made and the complaint is objectively assessed only based on the formal requirements. • The Complaints Mechanism Division (EIB-CM) is operationally independent of the EIB's other departments, thus providing necessary independence in the complaints-handling process. |
| <p>Remedy</p>  | <ul style="list-style-type: none"> • Complainants need to clearly state what they expect to achieve. The outcome of a complaint may be: (i) no problem found, (ii) the problem has been solved during the complaint handling process, (iii) no further action is required, iv) corrective action of existing EIB policies or procedures is recommended. |
| <p>Review</p>  | <ul style="list-style-type: none"> • Two options of the review are available for the complainants, i.e. internal and external and both are well explained on the website of the EIB. <ul style="list-style-type: none"> - Internal – in case the complainants are not satisfied with the result of the Complaints Mechanism, a confirmatory complaint can be lodged to review the decision. - External – the complainants can turn to the European Ombudsman, which is explicitly presented on the website of the EIB (this option is also available in case of ESIF but not that well-advertised). |

3.3.2 United Nations Development Programme

The complaints-handling system of the United Nations Development Programme (further also “UNDP”) is focused on the [Social and Environmental Standards](#), which can be challenged by the stakeholders affected by the UNDP programmes. The Standards are effective since 2015.

The process includes two main components: (i) Compliance Review, conducted by the Social and Environments Compliance Unit (SECU) that investigates the received complaints and (ii) Stakeholder Response Mechanism (SRM) that connects different stakeholders affected by the particular projects for addressing the project-related complaints and discussion.

Moreover, the appeals can also be lodged regarding the information being made available to the public. The procedure is based on the [Programme and Operations Policies and Procedures](#) and its [policy about the availability of the information](#).

Table 4 UNDP complaints procedures

| Aspect of effectivity | Description |
|---|---|
| <p>Visibility</p>  | <ul style="list-style-type: none"> The relevant information about the complaints can be found on the UNDP website and is easily accessible from the main webpage (accountability/audit). The information provides necessary details, documents and contacts for the potential complainants to be able to find out all information and decide about the further steps. Description of the appeal procedure concerning the availability of the information is not easy to find. However, once found, the website includes all necessary information. |
| <p>Timeliness</p>  | <ul style="list-style-type: none"> The deadlines for lodging complaints about the Social and Environmental issues are not set. Deadlines for resolving the issues are set for each of the phases of the process, i.e., confirmations of receiving the complaint (5 days), determination of eligibility of the complaint (20 days), developing Terms of Reference for the compliance process (20 days), etc. The process is strongly complainants-oriented as only the reaction of the UNDP is restricted by time limits. |
| <p>Accessibility</p>  | <ul style="list-style-type: none"> The information about the Social and Environment Principles are well presented in different formats, such as video, brochure or detailed guidelines. The procedures are well accessible to different stakeholders as the issue can be raised through various channels in all relevant languages (phone – toll-free line, email, post). The only exception is a web form that has only 3 languages available. |

| | |
|--|--|
| | <ul style="list-style-type: none"> • The accessibility of the appeal process regarding the information availability is lower, only post/email is listed as the channel for submitting complaints. Moreover, the information is only included in the Policy document, no further innovative tools were developed. |
| <p>Responsiveness</p>  | <ul style="list-style-type: none"> • The Social and Environment Principles developed a tool for tracking the raised complaints throughout the process. <ul style="list-style-type: none"> - The Case registry includes detailed information about each complaint, e.g. project description, synopsis of the complaint, at which phase the complaints process is at and drafts of the reports for each phase. The Case registry is a well detailed tool for complaint tracking, both for the public and the complainant. - A public comment period exists during the complaints process so that different stakeholders can comment on the draft report of the SECU. |
| <p>Objectivity</p>  | <ul style="list-style-type: none"> • The SECU falls under a department independent from all UNDP bureaus or agencies. Independence of the department is ensured by set policy indicating that independence and objectivity of the unit is a significant topic in the UNDP. • The SRP is objective from its nature as the process includes a discussion with other stakeholders of the particular projects. |
| <p>Remedy</p>  | <ul style="list-style-type: none"> • The result of the SECU process can lead to recommendations to adjust the project in line with the UNDP Principles and prevent any breach of the UNDP Principles, if any occurred. The UNDP Administrator has ultimate authority to rule on the remedy. |
| <p>Review</p>  | <ul style="list-style-type: none"> • In case the complainants are not satisfied with the result of the complaint regarding the availability of the information, a further request to the Information Disclosure Oversight Panel can be lodged to review the decision. |

ANNEX 1 – COMPLAINTS-HANDLING ARRANGEMENTS IN THE MEMBER STATES

The complaints-handling arrangements in the Member States are described in Annex 1. For each Member State, a separate sheet is included. The sheets consist of the following:

1. Summary of the complaints-handling arrangements (first page)
2. Detailed description of the arrangements.

The summary provides basic information about the particular complaint-handling arrangements of ESIF in both 2014-2020 and 2007-2013 programming periods and about the national funding programmes.

The detailed description of the arrangements further develops the information about the complaints-handling arrangements into three parts:

- Complaints-handling procedures of the ESIF in the 2014-2020 period:
 - Description of the arrangements;
 - Assessment of the effectiveness of the arrangements;
- Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF;
- Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020.

The description of the complaints-handling arrangements in the 2014-2020 period includes general and detailed information about the arrangements. Then, the assessment of the effectiveness includes description and visualisation of the effectiveness. The methodology is listed below:

- For each Member State, the **average score of effectiveness for all aspects together** was calculated (all aspects were calculated with the same weight). The average scores of the Member States were compared with each other and then categorised into percentiles. The percentile is listed for each Member State at the beginning of the part Assessment of the effectiveness.
- **The visualisation consists of two charts** for each Member State depicting (i) the score for the eight selected aspects of effectiveness and how the scores compare between the individual aspects and (ii) how the rules about the complaints-handling are homogenous within the particular Member State.
- **The first chart is in form of a radar chart** and for illustration it is always included in the first part – Summary of the complaints-handling arrangements. Each spoke of the graph represents one of the aspects of effectiveness. The score (value) for each aspect of effectiveness is displayed by the line/point in the graph. The further from the centre the line/point is, the better the score of the effectiveness is (the highest point represents 100%, i.e., the aspect of effectiveness is at the highest possible score). The missing values in some of the charts are marked as N/A (not available) and show what kind of data was not possible to collect in the particular Member State.

- **The second chart is in a form of boxplot** and listed in the second part – Detailed description of the arrangements, Assessment of effectiveness. The chart shows how the information and rules of the operational programmes are homogenous or differentiated within the Member State(s). Thus, it informs how the data included in the first chart is general and applicable for all OPs in the Member State.
 - The boxplot represents the distribution of the observed data (the scores of OPs on the scale from 0 to 1 – the scores are in %; 100% meaning the OP scored maximal possible points it could receive).
 - The boxplot displays the arithmetic mean, the range of values covered by the data and the location of outcomes.
 - The blue rectangle represents the **central 50%** of the data. The remaining 50% of the data are represented by the grey rectangle (i.e. the lower 25% and the upper 25% of the data) - these values are extreme (outlying).
 - The **blue rectangles** have two characteristics - location and spread:
 - The location of the blue rectangle shows where the central 50% of values lie, i.e. it enables us to see whether the aspect scores low (rectangle is placed lower in the graph) or high (rectangle is placed in the upper part of the graph).
 - The spread shows the variation of the central 50% of values, i.e. it enables us to see whether the variation/distribution among observed values is low (short rectangle) or high (tall rectangle). The taller is the boxplot, the higher is the variation of observed data for each aspect (i.e. the higher is the spread among data, and the less it is applicable to other OPs or Member States). The smaller the boxplot, the more consistent the data is (the data is more condensed / more close together, more general).
 - The **cross** represents the arithmetic mean of all observed data for each aspect (visibility, timeliness, accessibility...), i.e., it is the average score. This point is pictured as a spoke in the radar chart described above.
 - The blue box is **divided by a line representing median** („the middle value“). The median is the value separating the higher half of data from the lower half (it may be thought of as the "middle" value). In some cases, it might not be visually divided, if the median lies on an edge of the box. This occurs when 25% of data or more including the median itself reach the very same value.
 - When there is **no boxplot but only the cross**, this means there is either only one observation, or all the observations have the exact same value (i.e. there is no spread in data, the complaints handling procedures are the same).
 - The graphics might look seemingly different, if there is a limited amount of information or if the distribution is significantly compressed. For example, if there is only a single observation, the sole component depicted is the cross standing for the arithmetic mean which equals to the single observed value. Furthermore, if 50% of observations or more including the median reach the very same value, the blue box does not appear as it is comprised into a single point on the vertical axis.

- Further details about the Methodology were described in the Second Interim Report.

The next part provides details about the key differences of the complaints-handling arrangements between the two programming periods 2007-2013 and 2014-2020 (Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF).

The last part describes the main differences between the national funding programmes and ESIF complaints-handling procedures.

The information about the Member States was collected during the course of the Project and the individual country sheets presented in the First and Second Interim Reports.

The country sheets are listed alphabetically, based on the abbreviations of the country names.

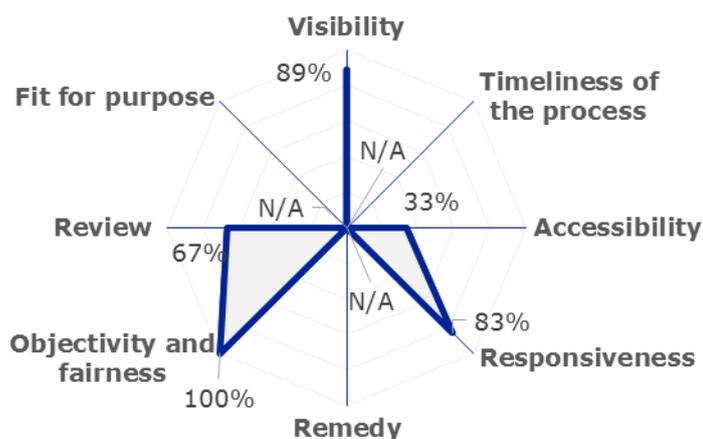
1 AUSTRIA (AT)

1.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, **codified procedures are established** and publically available. The complaints system is based on the ***National agreement on management and control systems in ESIF***. For the only Austrian OP, the complaints-handling procedure is not further described in any programme document.

Overall, Austrian OP **scored well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The country arrangements differ significantly for the OPs in the 2007-2013 and 2014-2020 programming period. No standardised procedure for complaints handling was in place in the 2007-2013 period and the complaints were handled on an ad hoc basis. In 2014-2020, the **complaints procedures are codified**.

3. Comparison of the national and ESIF complaints-handling procedures

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programme and codified in the rules of the responsible organisation. Unlike the ESIF, where complaints procedures are defined by the *National agreement*, **the national programme has the procedures codified only in internal rules**. The complaints-handling **procedures for ESIF are better publically available** than the procedures of the national programme. However, within the national programme, more specific types of complaints are defined by the rules.

1.2 Detailed description of the arrangements

1.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|---|
| Investments in Growth and Employment Austria 2014-2020 - Operational Programme for the use of the ERDF funds | Geschäftsstelle der Österreichischen Raumordnungskonferenz |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available.</p> <p>The complaints system based in the National agreement on management and control systems in ESIF.⁵ This document describes the complaints procedure in general. Article 12 of the agreement states that Managing Authorities shall further announce specific complaints-handling procedures.</p> <p>The agreement can be found on the Federal Legal Information System (Rechtsinformationssystem des Bundes – RIS) website.</p> <p>For the only Austrian OP, the complaints-handling procedure is not further described in any programme document. A web article is available to provide details for beneficiaries and applicants on lodging complaints (Einspruchsmöglichkeit und Beschwerdeverfahren).</p> |
| Level of the complaints-handling systems in place | National and OP specific |
| Description of the types of procedure | <p>Based on information from the OP website, complaints can refer to all processes of the project cycle (application, approval, project implementation, billing, and subsequent duties) and tasks of the agencies responsible for the programme implementation.</p> <p>However, it is not possible to lodge a complaint on decisions based on qualitative content criteria (e.g., project selection) and basic stipulations of the Managing Authority (e.g., for eligibility).</p> |

⁵ In original: [Vereinbarung zwischen dem Bund und den Ländern gemäß Art. 15a B-VG über das Verwaltungs- und Kontrollsystem in Österreich für die Durchführung der operationellen Programme im Rahmen des Ziels „Investitionen in Wachstum und Beschäftigung“ und des Ziels „Europäische Territoriale Zusammenarbeit“ für die Periode 2014 – 2020.](#)

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints** Complaints are generally submitted via **email**.
- 2. Deadlines for lodging and resolving complaints** There are **no deadlines** for lodging or resolving complaints.
- 3. Fees** **No fees are charged** for lodging complaints.
- 4. Languages** No information available.
- 5. Opportunities to present the position of the complainant** No information available.
- 6. Appeal within the complaints system** No information available.
- 7. Independence of the complaints review** The independence of the institution handling the complaint is ensured by having a **separate institution – Complaints Board** to decide on the issue.

 Further appeal is possible. According to the above mentioned web page (Einspruchsmöglichkeit und Beschwerdeverfahren), the applicant or beneficiary may further appeal the decision of the selection process to the **district court or Court of First Instance** (based on the Charter of Fundamental Rights). Moreover, the administrative process can be appealed to the **Ombudsman** for an independent review.

 Lodging complaints is **restricted to an applicant and a beneficiary**.

 Received complaints are prioritised (not handled according to the “first in, first out” principle). Based on the information provided by the MA, frontline officers get information about the complaints-handling procedures for their self-study.
- 8. Further appeal**
- 9. Other details** According to the MA, information from complaints received is usually further analysed in an **informal internal review**.

Assessment of effectiveness of the Member State

In Austria, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, Austrian OP scored in between the 61st and the 80th percentile (i.e. about 61-80% of countries scored worse in analysed characteristics than Austria). However, it should be noted that the aspects for which data was not available were not included in the overall assessment. The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “objectivity and fairness”. Similarly, a high score can be observed in “visibility” and “responsiveness”.

Objectivity and fairness is assessed as the best aspect and scored very well. A complaint is handled by a different institution than that which produced the act against which the complaint is lodged, indicating a tier 4 separation of the process from the original act. However, no information about the opportunity of the complainant to present his/her position is available.

Another aspect that scored very well in Austria is **visibility**. The possibility of complaining is communicated to the applicant through the information permanently available online at the OP’s website, and for some types of complaints also each time a decision is made that could elicit a complaint. Information is provided for self-study to disseminate up-to-date knowledge of the complaints procedures among frontline officers.

The complainant is informed of the status of his/her complaint at the start and end of the complaints process only. Furthermore, the complaints are prioritised, e.g. they are not dealt with as they come. Therefore, the aspect of **responsiveness** scored well.

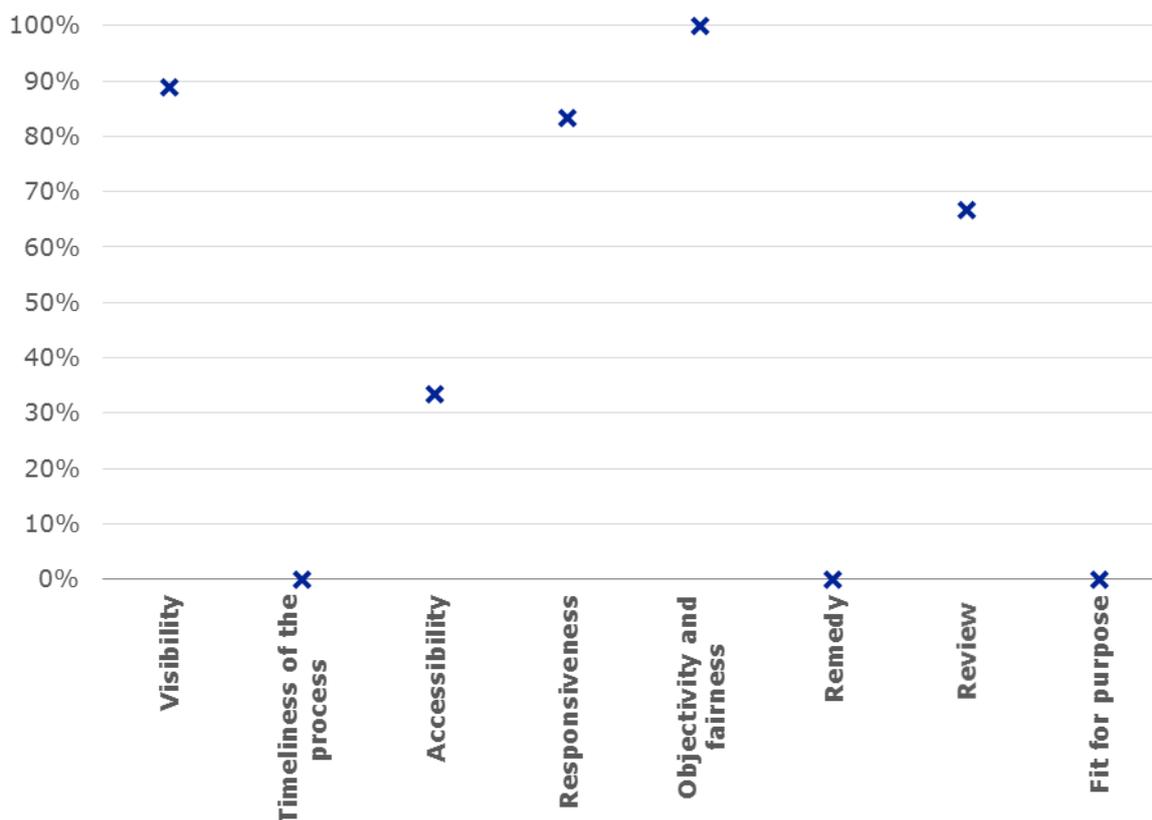
The aspect of **review** scored acceptably. Appeals can be lodged with a court for judicial review, and with the Ombudsman for independent administrative review. Information on the possibility of appeal is not available.

The aspect that scored the lowest and needs improvement is **accessibility**, as the workflow of the complaints procedure in the documents is not described in details. Also, no information about language of the complaints is available. Complaints can be lodged only by the applicant/beneficiary, they cannot be lodged by a third party. No fees are required when submitting a complaint.

No data is available for the aspects **fit for purpose**, **timeliness** and **remedy**.

The following boxplot (**Chart 5**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be noted that, as there is only one analysed OP in Austria and values are completely missing for some of the aspects, the information is not applicable to other OPs.

Chart 5 Distribution of scores among aspects



1.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The country arrangements differ significantly for the OPs in the 2007-2013 and 2014-2020 programming periods. In 2014-2020, the complaints procedures are codified by the National Agreement and further based on the programme documents. On the contrary, no standardised procedure for complaints handling was in place in the 2007-2013 programming period and the complaints were handled on an ad hoc basis.

The complaints were dealt with ad hoc based on the information from different MAs. Moreover, further information valid for all OPs is based on an interview with one of the Managing Authorities (OP Regional competitiveness Vorarlberg 2007-2013).

As the complaints were dealt with ad hoc, no documents with specific information about complaints were available for the potential complainants and it was not specified who can lodge a complaint. The deadlines or remedies were also not specified in any document relating to the programme implementation.

Moreover, the number of complaints received during the whole programming period was very low (for OP Vorarlberg, approximately 2-3 complaints). Thus, no pressure was put on the Managing Authorities to standardise the procedure during the 2007-2013 programming period.

The complaints-handling procedures were codified in the 2014-2020 programming period as a result of the assessment of the 2007-2013 programming period and further discussion with the representatives of the Managing Authorities and other responsible bodies (ministries). The discussions followed the trend of further codification of various procedures and met with the requirement of the European Commission in Regulation no. 1303/2013 to have effective arrangements for examination of complaints.

As no codified procedures were in place, the assessment of the effectiveness is not relevant in this case. However, some aspects of the effectiveness were improved when the complaints-handling system was codified in relevant documentation, e.g. accessibility – the complainants and front-officers are informed on how to complain/how to deal with complaints; timeliness – deadlines are set; visibility – the information on how to lodge a complaint is available in 2014-2020 for the potential complainants.

1.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programme⁶ and codified in the rules of the responsible organisation. Unlike the ESIF, where complaints procedures are defined by a National agreement, **the national programme has the procedures codified only in internal rules.** The complaints-handling procedures for ESIF are better publically available than the procedures of the national programme. However, within the national programme, more specific types of complaints are defined by the rules. The other differences between ESIF and the national programme are further described in the text.

Chart 6 The comparison between national programmes and ESIF - Austria

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|---|---|---|---|--|--------|---|
|  |  |  |  |  | |  |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

⁶ One national programme were analysed in the case of Austria as also only one ESIF operational programme was analysed in the first phase.

The following programme was analysed:

- **Förderung der Kommunalen Siedlungswasserwirtschaft**, managed by the Kommunalkredit Public Consulting GmbH (hereinafter “**the KPC**”) on behalf of the Federal Ministry for Sustainability and Tourism (hereinafter the “Ministry”)
 - The programme focuses on the funding of facilities for drinking water supply as well as wastewater collection and treatment (both new construction and reconstruction), sludge treatment plants or benchmarking with the overall aim of supplying the population with drinking water and improving the surface and ground water quality.

Documents codifying the procedures

Regarding the national funding programme, the essential documents are the *Environmental Support Act*⁷ and *Funding Guidelines for Urban Water Management*⁸. The information in the documents is only very general and no details about complaints-handling included. Specific complaints-handling procedures are further described in the internal documents of the KPC.

Information about the complaints-handling procedure for the analysed national programme is less publically available compared to ESIF. In ESIF, complaints are codified in the National Agreement.

Types of procedures

There is a possibility of lodging a complaint against the selection process, the processing of claims, the handling of change requests, a change of grant conditions, the conduct or outcome of random checks, the conduct of audits and the outcomes of audits in the national programme.

Furthermore, the complainant has the possibility to contact **the Ombudsman of the KPC** ([Ombudsstelle](#)) if their request is not handled as expected.

Compared to ESIF, where complaints against decisions based on quantitative content criteria can't be lodged, the national funding programme offers more opportunities to lodge a complaint.

Submission of complaints

Complaints can be lodged via various channels (postal services, e-mail or a telephone) with e-mail being the most predominant channel. In ESIF, the complaints are generally submitted via e-mail. The channel for lodging complaints is the same for ESIF and the analysed national programme.

Deadlines

The complainant must lodge their complaint within **10 calendar days** after they are informed by the KPC about the result of the application and the funding rate.

In general, there is no deadline for resolving complaints but if the complainant turns to the Ombudsman of the KPC, there is a short deadline (next working day) for the Ombudsman

⁷ In original: [Bundesgesetz über die Förderung von Maßnahmen in den Bereichen Wasserwirtschaft, der Umwelt, der Altlastensanierung, zum Schutz der Umwelt im Ausland und über das österreichische JI/CDM-Programm für den Klimaschutz \(Umweltförderungsgesetz - UFG\)](#).

⁸ In original: [Förderungsrichtlinien für die Siedlungswasserwirtschaft](#).

to inform the complainant that the issue is being handled and another deadline to resolve the issue (maximum 14 days).

Compared to ESIF, where **no deadlines** for lodging or resolving complaints exist, the national programme procedure is more codified regarding deadlines.

Fees

No fees are applicable for the national programme or ESIF.

Remedy

If the complaint is considered as justified, only a **correction of the decision** is provided as a remedy.

Further appeal

The same possibility to further appeal the decision is in place for both national programmes and ESIF, i.e. a **judicial review** is possible. Moreover, the administrative process can be appealed to the **Ombudsman** for an independent review.

Other comments

As the KPC is managing the subsidy scheme on behalf of the Federal Ministry for Sustainability and Tourism, systemic issues are discussed with the Ministry. Minor issues are dealt with during regular meetings and more significant issues are dealt during a formal meeting with the Ministry and representatives of the particular Austrian state (*Bundesländer*).

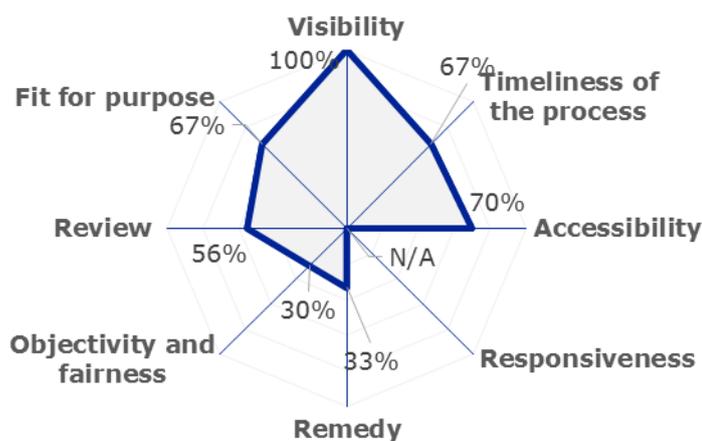
2 BELGIUM (BE)

2.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Codified complaints-handling procedures exist in all of the Belgian regions. Complaints can be lodged against the Public Service (where the OPs belong) in all of the three regions, and the information on presenting complaints is available online.

Overall, Belgian OPs **need improvement** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are unified for the analysed national programmes of Belgium (the Flemish region). The complaints-handling procedure is the **same for the national programmes and for the ESIF programmes**. It is based on a *Complaints decree* from the Flemish government.

2.2 Detailed description of the arrangements

2.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| OP Brussels Capital Region | Ministry of the Brussels-Capital Region |
| OP Flanders | Flemish Managing Authority for European Structural Funds - Enterprise Agency, Europe Economy Department |
| OP Wallonia ⁹ | Wallonia Government, Minister-President of Wallonia |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Codified complaints-handling procedures exist in all of the Belgian regions. Complaints can be lodged against the Public Service (where the OPs belong) in all of the three regions, and the information on presenting complaints is available online.</p> <p>In the Flemish government, the complaint-handling procedure is codified in the Complaints decree, Regulations of the Flemish Ombudsman Service and on the website of the regional government.</p> <p>In the Wallonia government, the complaint-handling procedure is codified in the Programme guide for 2014-2020. The Wallonia region then only has a general web page for a beneficiary to address a complaint.</p> <p>The website of the Brussels regional Public Service provides general information about admissible complaints and deadlines for answers.</p> <p>It is specified that the complaints in the Flemish and Brussels region have to concern the administration and not the legislation of the Public service.</p> |
| Level of the complaints-handling systems in place | Regional |
| Description of the types of procedure | <p>Complaints can be lodged in the following phases in the specific regions:</p> <p>In Brussels, complaints concern:</p> <ul style="list-style-type: none"> • Services of the Brussels Regional Public Service and its administration (not the legislation), • Recent incidents (6 months maximum). |

⁹ MA of **OP Wallonia** did not answer any of our requests to collect information about complaints-handling (direct calls, emails with questionnaire).

| | |
|--|---|
| | <p><i>Based on the website of the Brussels region.</i></p> <p>In Flanders, complaints must relate to:</p> <ul style="list-style-type: none"> • Particular course of action of an administrative institution in a given affair, • Particular application of existing regulations. <p>The complaints procedure does not apply to:</p> <ul style="list-style-type: none"> • General complaints about regulations, • General complaints about whether or not the policy has been pursued, • Complaints about policy intentions or statements. <p><i>Based on the circular letter to the Complaints Decree.</i></p> <p>In Wallonia, complaints can concern:</p> <ul style="list-style-type: none"> • Information (incomplete, erroneous, incomprehensible) • Front-desk (via phone, at the counter) • Efficiency (speed, availability, follow-up) <p>Complaint can be lodged against <u>the selection process</u>.</p> <p><i>Based on the website of the Wallonia region and on the Programmation 2014-2020.</i></p> |
|--|---|

Detailed description of the complaints-handling system:

| | |
|--|---|
| 1. Channels for lodging complaints | The usual communication methods include postal services, e-mail, telephone or an online gateway . |
| 2. Deadlines for lodging and resolving complaints | Deadlines vary for different OPs. For OP Brussels, a complaint must be lodged in 6 months after a decision is communicated to the stakeholder. The complaint must be resolved in 60 days. For OP Flanders and Wallonia, no deadlines are set for lodging complaints. |
| 3. Fees | No fees are charged for lodging complaints. |
| 4. Languages | The complaints can be lodged in the national languages. |
| 5. Opportunities to present the position of the complainant | The complainant is given an opportunity to present their position usually through written submission. |
| 6. Appeal within the complaints system | No information is available on appeals for OP Wallonia and Brussels, administrative appeal is available for Flanders. |
| 7. Independence of the complaints review | Complaints are ascribed for resolution to specific departments . |

8. Further appeal

According to the national legislation the matter may be submitted to the judiciary or ombudsman for an independent review.

9. Other details

Complaints can be lodged by any party affected by the subject matter of the complaint

Assessment of effectiveness of the Member State

In Belgium, 3 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Belgian OPs scored in between the 1st and the 20th percentile (i.e. about 1-20% of countries scored worse in analysed characteristics than Belgium). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “visibility”. Similarly, a high score can be observed in “accessibility”, and only slightly lower for “timeliness” and “fit for purpose”.

The best score is in the aspect of **visibility**. The possibility of complaining is communicated to the applicant through the information permanently available online. Mandatory training and information for self-study are provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers.

The aspect of **accessibility** also scored well compared to other analysed aspects in Belgium. The workflow of the complaints procedure in the documents is not described in detail, only basic information is provided to the complainants. No fees are required when submitting a complaint. Complaints can usually be lodged in all relevant national languages and it is not possible to submit a complaint in English.

The aspect of **fit for purpose** scored acceptably. For Belgian OPs, the possibilities for a complaint’s submission are the same as the channels through which regular communication takes place. Statistics on numbers of received or addressed complaints are not available.

Timeliness of the process also scored acceptably. The deadlines for lodging complaints differ considerably among regions and types of complaints. Usually no deadlines are placed for lodging a complaint, deadlines for resolving complaints range from 20 to 60 days from the reception of complaint.

Appeals can usually be lodged with a court for judicial review, or with the Ombudsman for independent administrative review. Information on the possibility of appeal is provided in writing to the applicants or beneficiaries. Further administrative review is usually not possible. Therefore, the aspect of **review** scored acceptably.

The aspects that scored the lowest and need improvement are “objectivity and fairness” and “remedy”.

In Belgium, independence is ensured by having, at a minimum, different unit than the unit which produced the act against which the complaint is lodged. The complainant’s position can usually be presented in written form only. Therefore, the aspect of **objectivity and fairness** needs improvement.

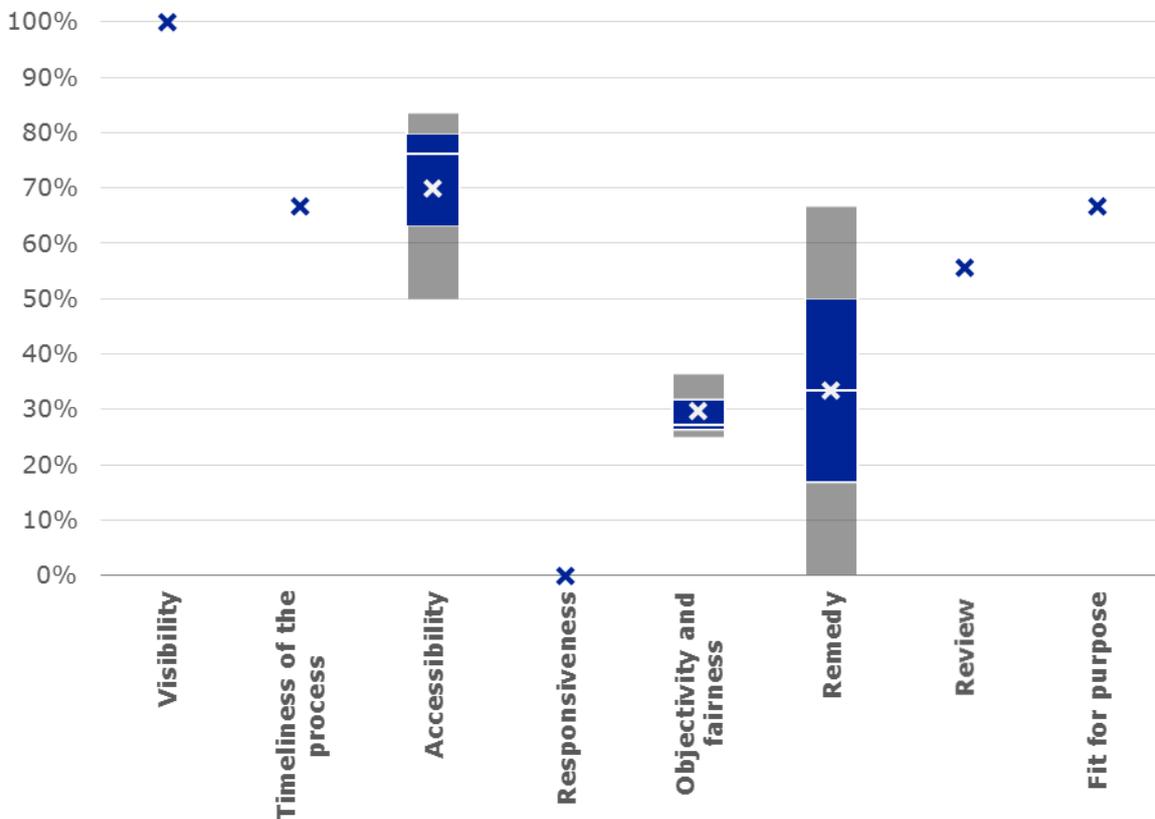
If the complaint is found substantive, correction of decision is provided as remedy. The way the decision to provide the remedy is made is not specified. Therefore, the score for the aspect of **remedy** also needs improvement.

No information is available on the aspect of **responsiveness**.

The following boxplot (**Chart 7**) shows the distribution of each of the aspects of effectiveness among the analysed OPs and how the information for the OPs differ. As information about some of the aspects was missing, the distribution appears as a cross instead of a rectangle. Due to completely missing data, responsiveness's score is 0.

On the other hand, data for the aspect of remedy was complete and quite variable (depicted by a taller boxplot), suggesting differences among analysed OPs. Overall, due to missing data the above description should not be applicable to all OPs in general.

Chart 7 Distribution of scores among aspects



2.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The same rules apply to the previous programming period for the OP Flanders. The mentioned Flemish decree has granted the right of complaint since 2001, amended by the Decrees of 2004, 2011 and 2013. However, the amendments do not concern the area of complaints-handling.

The Brussels and Wallonia regions do not have a codified decree, only a website briefly mentioning the complaint-handling procedure, and it is therefore not possible to determine whether the information was available in the previous programming period.

2.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are unified for the analysed national programmes of Belgium (the Flemish region).¹⁰ **The complaints-handling procedure is the same as for the national programmes and for the ESIF programmes.** It is based on a [Complaints decree](#) from the Flemish government. This decree is permanently available online and is available only in Dutch.

Chart 8 The comparison between national programmes and ESIF - Belgium

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **Ecologypremium+**, managed by the Agentschap Innoveren & Ondernemen and Flemish Government
 - The aim of the programme is to support companies in organising their production processes in an environmentally friendly and energy-efficient way. The ecology premium programme is only relevant for companies that invest in the Flemish region.
- **SME portfolio for service providers**, managed by the Agentschap Innoveren & Ondernemen

¹⁰ Two national programmes were analysed in the case of Belgium. The programmes were only from the Flemish region as responsible organisations from other regions did not provide any information about the complaints-handling.

- The programme is designed as financial support. This support is available for entrepreneurs who want to improve the quality of their company via training or advisory services. The programme should be accessible to as many companies as possible.

For both ESIF and national programmes the following arrangements are applicable. The subject of a complaint is not limited. The deadline for lodging complaints is one year. The deadline for resolving complaints is 45 days. Complaints are usually submitted via postal services or e-mail. No fees are charged during the complaints-handling process. The only remedy provided is the correction of the decision.

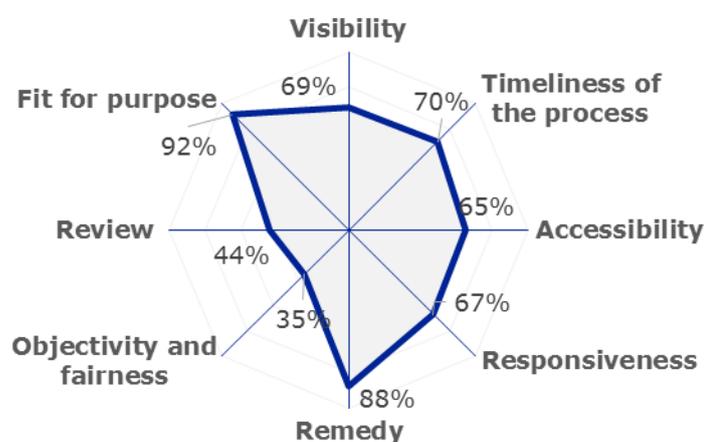
3 BULGARIA (BG)

3.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs in Bulgaria. The complaints system is established on the **basis of national laws and decrees** including *law on the Management of ESIF*, which only cover some types of complaints. For some OPs, the system is further developed by **handbooks/guidelines** for applicants/beneficiaries issued by the department in charge of the OP.

Overall, Bulgarian OPs **scored acceptably** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The country arrangements **significantly differ** for the OPs in the 2007-2013 and 2014-2020 programming periods. In 2014-2020, the system is **codified to a larger extent and it is more centralised** compared to 2007-2013. Complainants can lodge different types of complaints through broader variety of channels, and appeals at court are free of charge. The effectivity of the complaints-handling system in Bulgaria **significantly improved** between the two programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

For both national and ESIF programmes **the general Code of Administrative Procedure applies**. In addition, specific decrees, laws and OP documents are applicable for the ESIF programmes. **The codification of the complaints-handling system is therefore more developed for ESIF.**

3.2 Detailed description of the arrangements

3.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|---|
| OP Transport and transport infrastructure | Ministry of Transport, Information Technology and Communications - Programme and Project Coordination Directorate |
| OP Environment | Ministry of environment and water of Bulgaria - Directorate General "Operational Programme Environment" |
| OP Regions in Growth | Ministry of Regional Development and Public Works |
| OP Innovations and Competitiveness | Ministry of Economy - European Funds for Competitiveness Directorate General |
| OP under the SME Initiative | Minister of Economy - Directorate-General European Funds for Competitiveness – <i>done by EIS</i> |
| OP Science and Education for Smart Growth | Ministry of Science and Education - General Directorate Structural Funds and International Educational Programmes |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all OPs in Bulgaria. The complaints system is established on the basis of national laws and decrees (decree no. 107, the Public procurement act, decree No. 243, law on the Management of ESIF), which are rather general, and only cover some types of complaints (against the selection process, processing of claims and conduct or outcome of random checks).</p> <p>For some OPs (e.g., OP Innovations and Competitiveness, OP Science and Education for Smart Growth), the system is further developed by the existence of a handbook/guidelines for applicants/beneficiaries issued by the department in charge of the OP. The OP specific documents generally adapt complaints procedures found in relevant national laws to the context of the Operational Programme, and add more specific information.</p> <p>National laws in Bulgaria are published in the Derzhaven Vestnik of the Republic of Bulgaria and may also be found transcribed on third-party websites. Other documents related to complaints can be found on the websites of particular OPs, usually in the sections with documents related to the OPs.</p> <p>For some types of complaints (against the selection process and the conduct or outcome of random checks) the information on handling complaints is available from</p> |

| | |
|---|--|
| | <p>more than one source (e.g., it is mentioned in different laws).</p> <p>The complaints procedures are not further developed for some OPs where beneficiaries are only municipalities or public institutions (e.g., OP Transport and transport infrastructure, OP Environment). In these cases, if the submitted documentation does not satisfy the requirements of the MA, the beneficiaries are usually informed about the deficiencies and are allowed to add missing documents or correct some documents until these are accepted.</p> <p>Applicants and beneficiaries can lodge their complaints regarding the selection process or controls through the information system for Bulgarian beneficiaries (EU MIS 2020).</p> |
| <p>Level of the complaints-handling systems in place</p> | <p>National and OP specific</p> |
| <p>Description of the types of procedure</p> | <p>Complaints can be lodged in the following. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u></p> <p><i>The Council of Ministers' decree No. 107/10.05.2014 on laying down the procedure for financial grant award under programmes financed by the ERDF, ESF, CF and EMFF for the period of 2014-2020, Art. 20.</i></p> <p>For some OPs (e.g. OP Innovations and Competitiveness, OP Science and Education for Smart Growth) the information is also mentioned in the <i>handbook/guidelines</i> of the OP.</p> <p><u>The public procurement act from 15.04.2016</u> (as in some OPs beneficiaries are public bodies and they award contracts to other public entities).</p> <p><u>The processing of claims</u></p> <p><i>Decree No. 243/20.9.2016 for the adoption of an Ordinance laying down the conditions, procedures and mechanism for functioning of the IS for management and monitoring of the funds from the European Structural and Cohesion Funds, Chapter 5.</i></p> <p><u>The conduct or outcome of random checks</u></p> <p><i>Law on the Management of ESIF (guidance No. 275), Section III, Art. 73.</i></p> <p>Complaints against the conduct or outcome of random checks are also mentioned in <i>decree No. 243/20.9.2016 for the adoption of an Ordinance laying down the conditions, procedures and mechanism for the functioning of the IS for management and monitoring of the funds</i></p> |

from the *European Structural and Cohesion Funds*, Chapter 5.

Other

For some OPs (e.g. Innovation and Competitiveness and OP under the SME Initiative) any complaints related to the application and implementation of projects can be lodged via the [online gateway](#) on the webpage of the OP.

Detailed description of the complaints-handling system:

- | | |
|--|---|
| 1. Channels for lodging complaints | Complaints are generally submitted via postal services and/or e-mail. |
| 2. Deadlines for lodging and resolving complaints | Deadlines for lodging and resolving complaints vary by type of complaint, seven to twenty days to file a complaint after the receiving the decision and up to one month to resolve the complaint. |
| 3. Fees | No fees are charged for lodging complaints. |
| 4. Languages | Complaints can usually be filled in Bulgarian language. |
| 5. Opportunities to present the position of the complainant | The complainant is given an opportunity to present their position through written submission only. |
| 6. Appeal within the complaints system | In all cases, no further administrative appeal is possible. |
| 7. Independence of the complaints review | Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint. |
| 8. Further appeal | The matter may be submitted to the national administrative court for an independent review. |
| 9. Other details | <p>In general, the lodging of complaints is restricted to an applicant/beneficiary.</p> <p>Only correction of decision is provided as a remedy. Decisions on remedy are made according to structured procedures.</p> <p>According to the MAs, information from complaints is further analysed by informal internal reviews.</p> |

Assessment of effectiveness of the Member State

In Bulgaria, 5 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Bulgarian OPs scored in between the 21st and the 40th percentile (i.e. about 21-40% of countries scored worse in analysed characteristics than Bulgaria). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “remedy” and “timeliness of the process”.

Fit for purpose is assessed to be the best aspect, as in the Bulgarian OPs, the possibilities for a complaint’s submission (post, online gateway), are wider compared to the channels through which regular communication takes place (online gateway). On average, the MAs handle 20-50 complaints per year. According to the MAs, the percentage of relevant complaints varies significantly from 5% to 50%.

A correction of the decision is usually provided as a remedy, in some cases compensation is also provided. Decisions on remedy are made according to standardised procedures (included in the complaints-handling procedures). Therefore, the **remedy** aspect scored very well.

Timeliness of the process scored well. The deadlines for lodging complaints are rather short (up to 2 weeks), but the deadline for the response of the MAs are quite effective (up to one month for resolving the received complaints). In case a conflict with the timeframe of the OP administrative process might occur based on the received complaint, the complaint would be usually prioritised to avoid the conflict, which is the preferable procedure.

The information about the complaints-handling arrangements is permanently available online (national laws and some OP specific manuals for beneficiaries). Furthermore, the information on how and where to complain is rather well publicised on the webpages of OPs. Non-mandatory training or information provided for self-study is provided to frontline officers to disseminate up-to-date knowledge of the complaints procedures. The aspect of **visibility** scored acceptably.

The complainant is informed of the status of his/her complaint at the start and end or at the end of the complaints process only, depending on the OP. Complaints are mostly solved on the “first-in, first-out” basis, e.g. they are not prioritised. Therefore, the aspect of **responsiveness** scored acceptably.

The aspect of **accessibility** also scored acceptably in Bulgaria. The workflow of the complaints procedure in the documents is not described in detail, only basic information is provided to the complainants. Usually no fees are required when submitting a complaint, or fees are required only for some operations. Complaints can usually be lodged in all relevant national languages and it is not possible to submit a complaint in English.

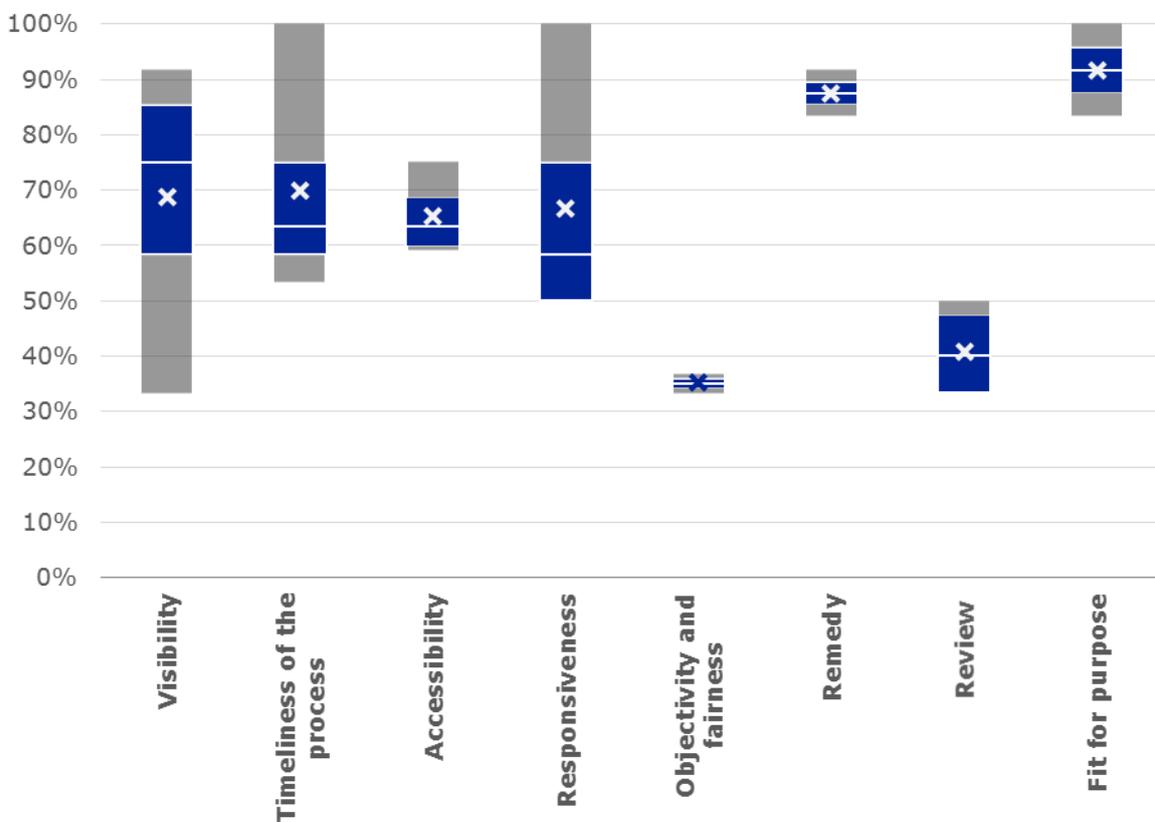
Appeals can be lodged with a court for judicial review only. Information on the possibility of appeal is provided to stakeholders in the communication of the final administrative decision. In some OPs, no further administrative appeal is possible. Therefore, the aspect of **review** scored acceptably.

The aspect that scored the lowest and needs improvement is **objectivity and fairness**. In Bulgaria, complaints are ascribed for resolution to specific departments. The complainant’s position can only be presented in written form.

The following boxplot (**Chart 9**) shows the distribution of each of the aspects of effectiveness among the analysed OPs and how the information for the OPs differ.

For Bulgaria, the above information is rather consistent and the OPs have quite similar rules and procedures. The most differentiated data is related to the visibility, timeliness and responsiveness. Relatively short boxplots suggest that overall, the information about the OPs were similar. The assessment of effectiveness described above is applicable in general.

Chart 9 Distribution of scores among aspects



3.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The country arrangements significantly differ for the OPs in the 2007-2013 and 2014-2020 programming periods. According to requested MAs, in the 2007-2013 programming period, complaints-handling procedures were based on sub-delegated legislation at national level, however, the desk research identified only very limited options for lodging complaints. On the other hand, in 2014-2020, the complaints-handling procedures are codified by the law on the Management of ESIF (guidance no. 275) and decrees no. 107/2014 and 243/2016, and further based on the programme documents.

In 2007-2013, complaints were handled by the MAs following the national regulations (e.g. Public procurement act), and most of the complaints were handled by the Bulgarian civil court. If the MAs had some special requirements, they were published online, or they informed the beneficiaries by e-mail or post. Documents from the 2007-2013 programming period are not available anymore, not even on request. However, according to the requested MAs, no deadlines were pointed. According to one of the requested MAs, beneficiaries or applicants were able to lodge a complaint on decisions made by the MAs (without further specification). The usual channels for lodging complaints were e-mail or post services.

According to one MA, if the beneficiaries decided to bring an action against the MA at court in the 2007-2013, they were obliged to pay part of the claim (4 %). After adoption of the Act on management of ESIF (2014-2020), the complaints at court are free of charge.

The effectivity of the complaints-handling system in Bulgaria significantly improved between the two programming periods. In 2014-2020, the system is codified to a larger extent and it is more centralised compared to 2007-2013. Complainants can lodge different types of complaints through broader variety of channels, and appeals at court are free of charge.

3.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

For both national and operational programmes (ESIF) the general [Code of Administrative Procedure](#) applies. In addition, specific decrees, laws and OP documents are applicable for the operational programmes. **The codification of the complaints-handling system is therefore more developed for ESIF.**

The complaints-handling procedures for the national programmes¹¹ described by the Code of Administrative Procedure are general.¹²

Chart 10 The comparison between national programmes and ESIF - Bulgaria.

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↓ | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The following programmes were analysed:

- **Energy Efficiency of Multi-Family Residential Buildings National Programme**, managed by the Ministry of Regional Development and Public Works
 - The main objective of the programme is to secure better living conditions for the residents in multi-family residential buildings, better heat comfort and a higher quality of living environment through implementation of energy efficiency measures. Participating parties include the Ministry of Finance Bulgarian development bank, Municipalities and Governors.
- **Investment Climate Programme**, managed by the National Trust Ecofund
 - The objective of the Investment Climate Programme is to encourage initiatives that lead to direct or indirect reduction of the greenhouse gas emissions.

Representatives of both programmes described that complaints are, in general, handled on a case by case basis. If the applicant or beneficiary wants to lodge a complaint, s/he can reach a responsible person from the webpage of the programme in any way (e.g. by phone call or e-mail), and further proceedings are arranged individually.

¹¹ Two national programmes were analysed in the case of Bulgaria.

¹² Structured interviews revealed that in both examined cases of the national programmes the responsible authorities did not know about the applicability of such laws to the complaints-handling procedures.

Documents codifying the procedures

Both analysed national programmes have their own programme documentation and rules. However, this documentation does not contain complaints-handling procedures. The Code of Administrative Procedure is applicable to all complaints against any public administration decision in Bulgaria, including national programmes and ESIF.

Types of procedures

For both national programmes and ESIF, complaints against administrative procedures can be lodged any time during a project's implementation (the phase is not specified).

In addition, for ESIF programmes, specific procedures on which complaints can be lodged are further specified (the selection process, the conduct or outcome of random checks), and complaints can also be lodged on any other unspecified matter.

Submission of complaints

Similar channels are used to lodge complaints against administrative procedures and other complaints for both the OPs and national programmes. The Code of Administrative Procedure specifies that complaints can be lodged in written form only, without further specification.

For types of complaints other than those against administrative acts (i.e. ESIF) it is specified that complaints should be submitted via postal services or e-mail, and for some OPs online gateways are available.

Deadlines

For complaints against administrative procedures (both national programmes and ESIF), deadlines should be lodged within 14 days after the announcement of the administrative decision to the interested persons or organisations. Deadlines for resolving complaints are 14 days for individual complaints and 1 month for collective complaints.

For types of complaints other than those against administrative acts (ESIF), deadlines for lodging and resolving complaints vary by the type of complaint, but do not distinctly differ from the deadlines for complaints against administrative procedures.

Fees

No fees are to be paid when lodging complaints, i.e. the same rules are applicable to all types of complaints (e.g. for both national programmes and OPs).

Remedy

The same rules are applied to both national programmes and ESIF. If the complaint is accepted, the subsidy provider corrects the decision.

Further appeal

For both national programmes and ESIF the decision can be appealed to the administrative court.

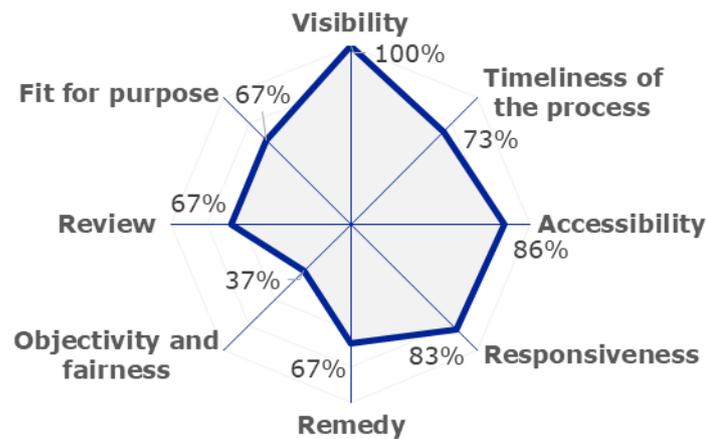
4 CYPRUS (CY)

4.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

A **formal, codified procedure** is established and publically available for the only OP in Cyprus. The procedure is codified in the national legislation, circulars on administrative procedures and further specified in the OP's guidelines.

Overall, the Cypriot OP **scored well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are not unified for the analysed national programmes, in contrast to the unified procedures in ESIF. **The codification of the complaints-handling system is more developed for ESIF.**

4.2 Detailed description of the arrangements

4.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| Competitiveness and sustainable development | Directorate-General for European Programs, Coordination and Development |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>A formal codified procedure is established and publically available for the only OP in Cyprus. The procedure is codified in the national legislation, circulars on administrative procedures and further specified in the OP's guidelines. The information is provided in the documents Description of the Tasks and Procedures of the MA and Guidelines on Award Procedures (Circular 9).</p> <p>The specific complaints procedures are codified particularly for complaints and appeals raised during the evaluation of project application and selection process. Complaints and appeals raised during the other stages of the project implementation process are handled according to the Constitution of Cyprus and Law on the Ombudsman 1991 – 2014.</p> <p>The OP's guidelines are available on the MA's website. The related national legislation is available online on the website of the Cyprus Bar Association, i.e., Cypriot lawyers association, which serves as a public source of national legislation.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>A complaint can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u></p> <ol style="list-style-type: none"> 1) <i>Description of the tasks and procedures of the MA</i> 2) <i>Circular on Award and Management of Grant Schemes (Circular 9)</i> <p><u>Other</u></p> <p>Complaints can be lodged against administrative acts in general by reference to:</p> <ol style="list-style-type: none"> 1) <i>Art 29 of the Constitution of Cyprus</i> 2) <i>Law on the Ombudsman</i> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints**

Complaints are generally submitted via postal services.
- 2. Deadlines for lodging and resolving complaints**

The deadline for lodging complaints against the selection procedure is **always specified in the respective call for proposals, but should not exceed 30 working days** after the official decision was acknowledged.

The complaint should be resolved within **30 working days** after the lodging of the complaint

In the case of a general complaint against any other administrative act, no deadline is specified for lodging the complaint. In the aforementioned cases, the complaint should be **resolved within 30 days** from its submission.
- 3. Fees**

No fees are charged for lodging complaints.
- 4. Languages**

The complaints can be lodged in the national languages and English.
- 5. Opportunities to present the position of the complainant**

The complainant is given an opportunity to present their position through written submission only.
- 6. Appeal within the complaints system**

In most cases, no further **administrative appeal** is possible.
- 7. Independence of the complaints review**

Independence is ensured by establishing a **Complaints Committee for examining the complaint**, consisting of persons other than those originally involved in the selection procedure. The Complaints Committee is established by the Chief Officer of the MA.
- 8. Further appeal**

According to the national legislation (Constitution of Cyprus and Law on the Ombudsman) the matter may be submitted to the judiciary and the ombudsman for an independent review.

In general, lodging complaints is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims only with the explicit authorisation of the eligible complainant.
- 9. Other details**

Only correction of decision is provided as a remedy.

According to the MA, information from received complaints is further analysed in a formal internal review.

Assessment of effectiveness of the Member State

In Cyprus, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, the Cypriote OP scored in between the 61st and the 80th percentile (i.e. about 61-80% of countries scored worse in analysed characteristics than Cyprus). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “visibility”. Similarly, a high score can be observed in “accessibility” and “responsiveness”.

Visibility scored very well and is assessed as the best aspect, since the information about the complaints-handling arrangements is permanently available online. Mandatory training and information for self-study are provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers.

The workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in both the national language and English. Therefore, the aspect of **accessibility** scored very well as well.

Responsiveness scored well as the MA usually informs the complainants throughout the complaints-handling process about any changes. Furthermore, complaints are addressed based on their priority (as opposed to first-in first-out principle).

The deadlines for lodging and resolving complaints are set reasonably (complaints should usually be lodged within one month after receiving the decision and should be resolved within one month after the reception of the complaint). When the timeframe of complaints conflicts with the timeline of the OP administration process, complaints are resolved on the basis of their priority. Therefore, the aspect of **timeliness** scored well.

Another aspect which scored acceptably is the **fit for purpose**, since in the Cypriote OP, the possibilities for a complaint’s submission are wider (post, online gateway, email) compared to the channels through which regular communication takes place (post). On average, the MA handles less than 10 complaints per year, out of which 50% are considered relevant.

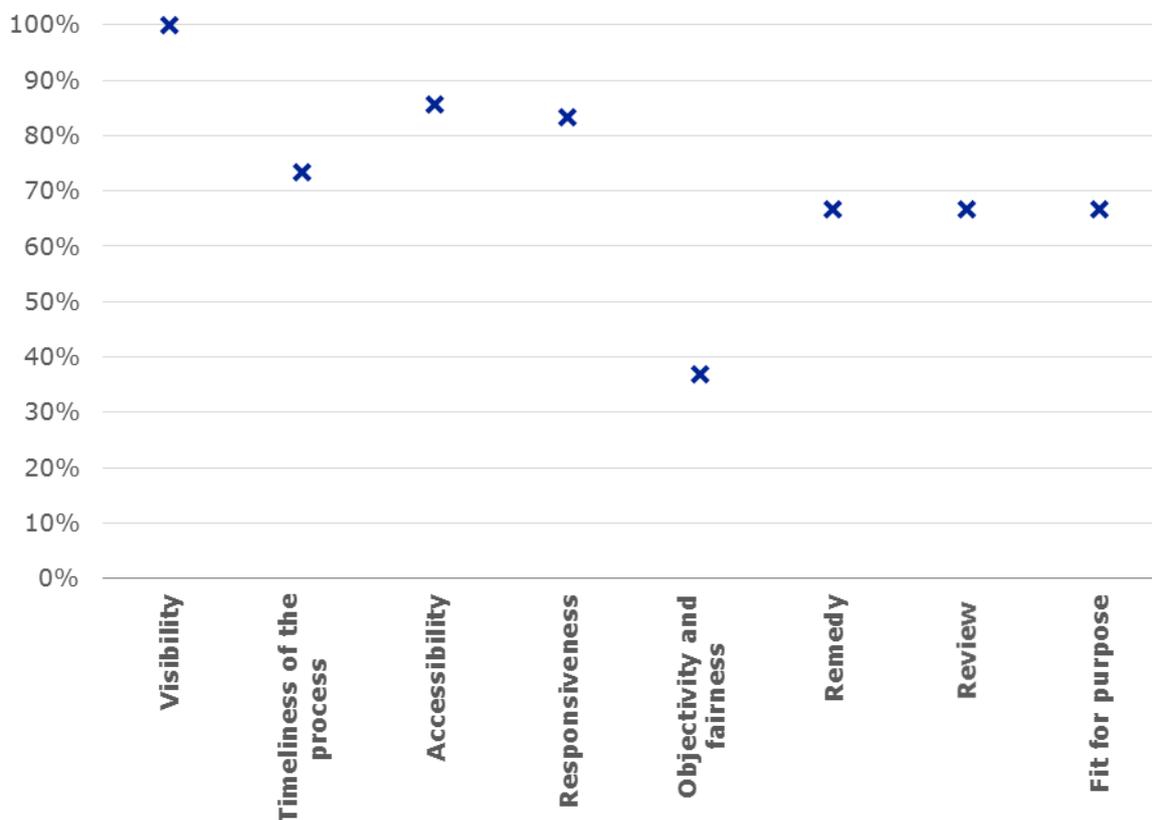
Review scored acceptably. Appeals can be lodged with the Ombudsman for independent administrative review. Information on the appeals procedure is provided to the stakeholders in the communication of the final administrative decision. No further administrative appeal is possible.

Only a correction of the decision is provided as a remedy, however, decisions on remedy are made either ad hoc or according to standardised procedures, depending on the type of complaint. Therefore, the **remedy** aspect scored acceptably.

The aspect that scored the lowest and needs improvement is **objectivity and fairness**. In Cyprus, independence is ensured by having a different institution than the institution which produced the act against which the complaint is lodged. However, complaints are ascribed for resolution ad hoc and by a different institution, depending on the type of complaint. The complainant’s position can only be presented in written form.

The following boxplot (**Chart 11**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be noted that, as there is only one OP in Cyprus, the values of each analysed parameter apply to this OP only.

Chart 11 Distribution of scores among aspects



4.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling procedures in the 2007 – 2013 programming period **were standardised and codified in a similar way** as in the current programming period. The complaints procedure related to the selection process was specified in detail in the [Guidelines for the Award of Projects](#) (Chapter 5.3). The deadline for lodging complaints at this stage was ten working days, whereas in the current programming period it is set individually for each call for proposals.

Procedures related to other complaints within the OP were codified by the aforementioned national legislation already in force at that time.

4.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are not unified for the analysed national programmes,¹³ however, unified procedures are in place for ESIF. **The codification of the complaints-handling system is more developed for ESIF.**

Chart 12 The comparison between national programmes and ESIF - Cyprus.

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ● | ↓ | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following national programmes were analysed:

- **Creation, upgrading and/or supplementation of specialised equipment and infrastructure for the hospitality and service of people with disabilities in Hotels and Entertainment Establishments** (further as "Programme 1"), managed by the Cyprus Tourism Organisation
 - The programme aims at encouraging the improvement and upgrading of the existing hotel premises to accommodate people with disabilities.
- **Scheme for Promoting Saving and Upgrading of Households located in Sovereign Base Areas** (further as "Programme 2"), managed by the Ministry of Energy, Commerce, Industry and Tourism
 - The Scheme aims to support energy renovation of existing households located in Sovereign Base Areas (Cyprus). This purpose would be achieved by providing non-repayable financial aid.

Complaints are handled according to the individual rules of every national programme.

Documents codifying the procedures

No formal document is applicable for Programme 1, i.e., complaints are managed ad hoc. Complaints within Programme 2 are handled according to the programme manual. Such arrangement is significantly different to the arrangements of ESIF where the procedures are based on ESIF Guidelines applicable to all OPs.

¹³ Two national programmes were analysed in the case of Cyprus.

Types of procedures

The subject matter of complaints is not limited for Programme 1 as there are no formal rules set. The manual for Programme 2 specifies procedures for complaints raised **against the selection procedure**, complaints **regarding the approved amount of grant** at the stage of evaluation and **regarding the final payment** received.

The system is different to ESIF, where the arrangements are unified and the same procedures are in place for all OPs. On the other hand, only procedure for complaints against the selection process is specified for ESIF which means that the rules of Programme 2 are more developed compared with ESIF.

Submission of complaints

Similar channels are used to lodge complaints about the analysed national and European programmes, i.e. submission should be made in writing by post.

Deadlines

The system is different to ESIF where the deadlines are unified. Programme 2 has its own rules for deadlines, established in the programme manual, i.e. **20 working days** for submission of complaints **against the selection procedure** and **30 working days** to complain **regarding the amount of grant**. Deadlines for resolving complaints are not specified.

With reference to ESIF, the deadline for both lodging and resolving complaints is 30 days. Thus, the ESIF rules are more effective for the complainants as the deadlines for submitting complaints are in general longer and the deadlines for resolving complaints are set.

Fees

No fees are required to be paid when lodging complaints, i.e., the same rules are applicable to both national programmes and ESIF.

Remedy

The same rules are applied to national programmes and ESIF. If the complaint is accepted, the subsidy provider corrects their decision. No further remedy is possible.

Further appeal

No further administrative appeal is possible with regard to the complaints within the national programmes. However, according to the programme manual, the matter may be submitted to the judiciary and the ombudsman for an independent review. The rules are the same for national programmes and ESIF.

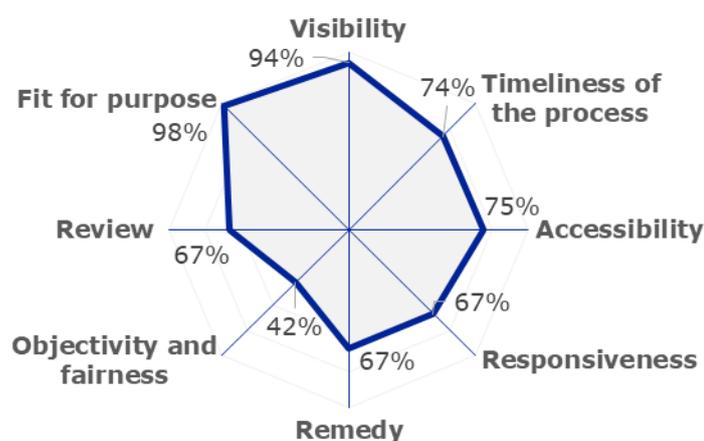
5 CZECH REPUBLIC (CZ)

5.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs. Most of the information is provided in the document *Guidelines for Applicants/Beneficiaries*. The document generally adapts complaints procedures found in relevant national laws to the context of the Operational Programme.

Overall, Czech OPs **scored well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

In the 2007-2013 programming period, the complaints handling was unique for each of the OPs, and no centralised arrangements or documents were in place, in contrast to the 2014 – 2020 programming period, the **united complaints-handling system is codified**. The effectiveness of the complaints-handling system evolved significantly as the system is uniform for all OPs in 2014-2020, based on the codified rules, and is clear for the applicants/beneficiaries.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are **not unified for the analysed national programmes** compared to ESIF arrangements. However, for some of the phases of the project's implementation (audit, controls), the same national laws apply for both ESIF and national programmes. Other procedures and possibilities for complaint differ for the specific national programmes and in some cases there is no possibility to complain. On the other hand, the operational programmes (ESIF) have unified procedures. The codification of the complaints-handling system is **more developed for ESIF**.

5.2 Detailed description of the arrangements

5.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MAs) |
|---|---|
| Enterprise and Innovation for Competitiveness | Ministry of Industry and Trade |
| Environment | Ministry of the Environment of the Czech Republic |
| Integrated Regional Operational Programme | Ministry for Regional Development of the Czech Republic |
| Prague – Growth Pole | Prague City Hall |
| Research, Development and Education | Ministry of Education, Youth and Sports |
| Technical Assistance | Ministry for Regional Development of the Czech Republic |
| Transport | Ministry of Transport of the Czech Republic |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all OPs of the Member State. Most of the information is provided in the document <i>Guidelines for Applicants/Beneficiaries</i>. The document generally adapts complaints procedures found in relevant national laws to the context of the Operational Programme.</p> <p>The complaints system is therefore established on the basis of national laws, and is further developed by the existence of a Uniform Methodological Environment (UME) - a set of guidelines for MAs issued by the National Coordination Authority (NCA). The guidelines include a definition of the minimum requirements for complaints handling systems.</p> <p>The UME applies to all OPs, with some minor exceptions applicable to specific provisions of the particular OP. Specific procedures sometimes exist at the level of the MA, covering any remaining gaps in the system.</p> <p>UME documents may be found on the NCA website, national laws are published in the Official Journal and may also be found transcribed on third-party websites. Relevant MA-level procedures have been published in the <i>Guidelines for Applicants/Beneficiaries</i> document mentioned above. The guidelines can be found on the</p> |

| | |
|--|--|
| | websites of Operational Programmes (OPs), or on the websites of MAs. |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>Complaints can be lodged in the following phases. The documents for presenting and establishing a complaint are indicated in italics under each individual phase.</p> <p><u>The selection process</u> <i>Guidelines for Applicants/Beneficiaries, source: UME</i></p> <p><u>The processing of claims</u> <i>Act no. 218/2000 Coll., on Budgetary Rules</i></p> <p><u>The conduct or outcome of random checks</u> <i>Guidelines for Applicants/Beneficiaries, source: UME & Act no. 255/2012 Coll., Inspection Code</i></p> <p><u>The outcomes of audits</u> <i>Act no. 320/2001 Coll., on Financial Control</i></p> <p><u>Other</u> Complaints can also be lodged against administrative acts by reference to <i>Code no. 500/2004 Coll, Administrative Procedures</i>.</p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints** Complaints are generally submitted via postal services and/or a proprietary online gateway.
- 2. Deadlines for lodging and resolving complaints** Deadlines for lodging and resolving complaints vary by a type of complaint.
- 3. Fees** **No fees are charged** for lodging complaints.
- 4. Languages** Complaints can be filled only in Czech language.
- 5. Opportunities to present the position of the complainant** The complainant is given an opportunity to present their position through written submission only.
- 6. Appeal within the complaints system** In most cases, no further **administrative appeal** is possible.
- 7. Independence of the complaints review** Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint.

8. Further appeal

The matter may be submitted to the judiciary and the ombudsman for an independent review.

In general, the lodging of complaints is **restricted to an applicant/beneficiary**, with a third party entitled to make claims only with explicit authorisation of the eligible complainant.

9. Other details

According to the MAs, information from complaints received is further analysed in an informal internal review only, i.e., no formal review processes exist to revise the ESIF system based on the complaints received.

Only the correction of a decision is provided as a remedy.

Assessment of effectiveness of the Member State

In The Czech Republic, 7 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Czech OPs scored in between the 61st and the 80th percentile (i.e. about 61-80% of countries scored worse in analysed characteristics than the Czech Republic). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “visibility”, and then for the aspect of “accessibility”.

Fit for purpose is assessed as the best aspect, since in Czech OPs, the possibilities for a complaint’s submission are wider compared to the channels through which regular communication takes place. Statistics on the average number of complaints handled per year differ substantially among MAs; two MAs indicated hundreds of received complaints per year, others indicated less than 10 complaints per year. Out of all received complaints, about 10-30% of complaints were considered relevant.

The information about the complaints-handling arrangements is permanently available online. Non-mandatory training or information provided for self-study are provided to frontline officers to disseminate up-to-date knowledge of the complaints procedures. Therefore, the aspect of **visibility** scored very well.

The workflow of the complaints procedure in the documents is described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in the national language only (Czech). Therefore, the aspect of **accessibility** scored well.

The deadlines for lodging complaints vary between types of complaints (usually up to 15 days from the reception of the decision, but for some types no deadlines are set), and the deadlines for the response of the MAs are quite long, depending on the type of complaint (one or two months for resolving the received complaints). When the timeframe of complaints conflicts with the timeline of the OP administration process, complaints are resolved on the basis of their priority. Therefore, the aspect of **timeliness** scored well.

Responsiveness scored acceptably as the MA usually informs the complainants only at the end of the process about any changes, and only in some cases at the start of the process as well. Complaints are addressed based on the first-in first-out basis, as opposed to being prioritized.

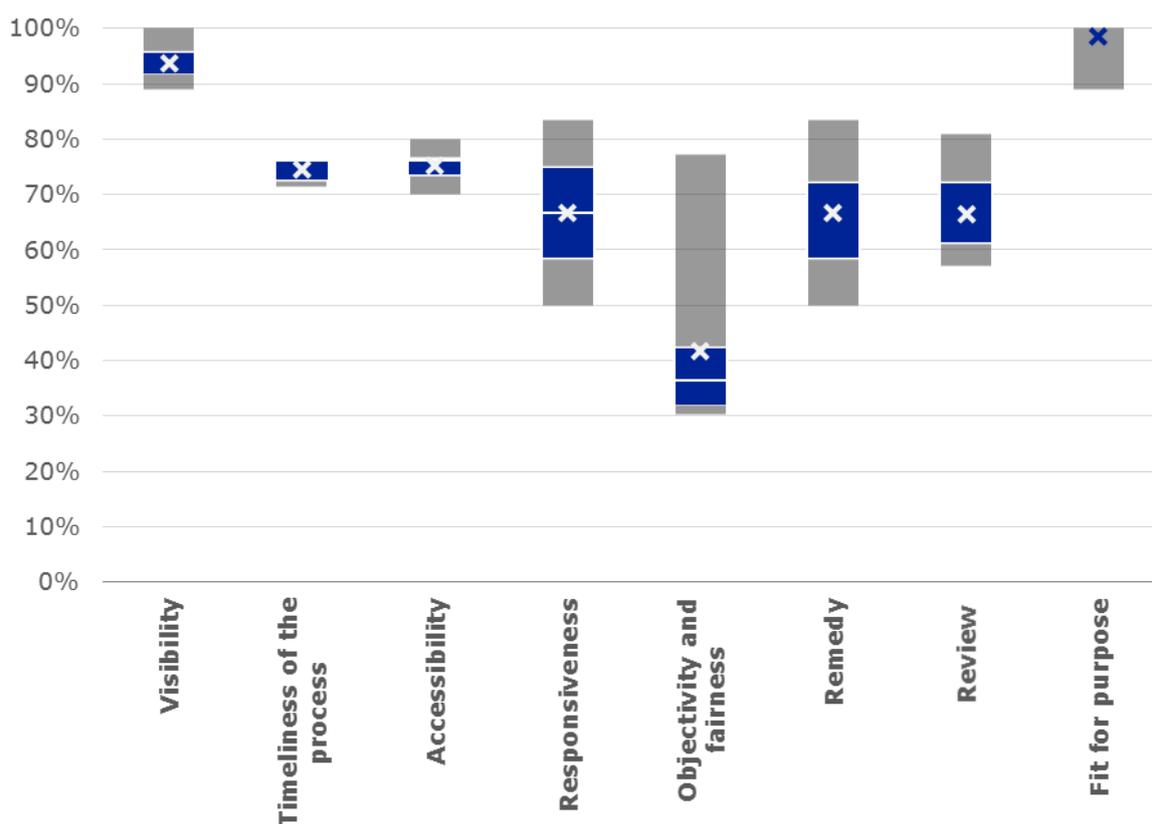
The only remedy provided is a correction of decision. The decision to provide remedy is made according to structured procedures in some cases, but ad hoc for other types of complaints. Therefore, the **remedy** aspect also scored acceptably.

Review scored acceptably. Further administrative appeal is usually not possible. Appeals can be lodged with the court or the Ombudsman for independent administrative review. Information on the appeals procedure is provided to the stakeholders in the communication of the final administrative decision.

The aspect that scored the lowest and needs improvement is the **objectivity and fairness**. In the Czech Republic, independence is ensured by having, at a minimum, a different person than the person which produced the act against which the complaint is lodged. The complainant's position can only be presented in written form only.

For the Czech Republic, the above information is reasonably consistent and the OPs have quite similar rules and procedures, as depicted in the boxplot, **Chart 13**. Relatively short boxplots suggest that overall, the OPs have quite similar rules and procedures. The assessment of effectiveness described above is applicable in general.

Chart 13 Distribution of scores among aspects



5.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling system differed significantly in the 2007-2013 programming period compared to the 2014-2020 programming period. The complaints handling was unique for each of the OPs, and no centralised arrangements or documents were in place as in the 2014-2020 period.

In some of the OPs (OP Enterprises and Innovations, OP Research and Development for Innovations and OP Environment), documents codifying the complaints handling were available either as internal or publically available (directive) documents. The documents described the possibilities to complain about the selection process only. Other complaints were handled ad hoc. Based on the information from the MAs, at the beginning of the programming period, no rules or procedures were in place and the procedures evolved during the period as a high number of complaints were received throughout the programming period.

The complainant had no information about his complaint during the review process and only received a final decision about his complaint.

Based on the experiences gained with the complaints handling collected in 2007-2013, the system developed significantly in the 2014-2020 period. In the 2014 – 2020 programming period, the united complaints-handling system is codified. The IT system MS2014+ was developed in order to facilitate most of the communication, including complaints, in one place for all OPs, between the applicants/beneficiaries and the Managing Authority and other relevant bodies.

The effectiveness of the complaints-handling system evolved significantly between the 2007-2013 and 2014-2020 programming periods, especially as the system is uniform for all OPs in 2014-2020, based on the codified rules, and is clear for the applicants/beneficiaries.

5.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are not unified for the analysed national programmes compared to ESIF arrangements. However, for some of the phases of the project's implementation (audit, controls), the same national laws apply for both ESIF and national programmes,¹⁴ i.e., [The Inspection Code](#), [the National law on budgetary rules](#) and the [Code of Administration Procedure](#). Other procedures and possibilities for complaint differ for the specific national programmes and in some cases there is no possibility to complain. On the other hand, the operational programmes (ESIF) have unified procedures. **The codification of the complaints-handling system is more developed for ESIF.**

Chart 14 The comparison between national programmes and ESIF - the Czech Republic.

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↓ | ↓ | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The following programmes were analysed:

- **EFEKT**, managed by the Ministry of Industry and Trade
 - The aim of the programme is to fulfill the State energy policy and to increase energy savings in the Czech Republic. The programme is designed as a complementary programme to the energy OPs and national programmes.
- **National programme Environment**, managed by the Ministry of Environment
 - The programme is designed as a complementary programme to the OPs in order to support municipalities in implementing the ESIF programmes. The programme is funded from the payments that compensate for environmental harm.
- **EPSILON**, managed by the Technological Agency of the Czech Republic
 - The programme supports applied research and experimental development in order to improve the position of the Czech Republic in the global industry.

Documents codifying the procedures

Documentation about complaints differs significantly within the national programmes and is not unified as for ESIF. **Each of the analysed national programmes has specific programme documentation/laws that are applied.**

The EPSILON programme codifies the complaints-handling procedures in the [Directive](#) of the responsible agency. The Directive includes the necessary details about complaints-handling.

¹⁴ Three national programmes were analysed in the case of the Czech Republic.

On the other hand, no specific documents are valid for the other two analysed programmes. In these programmes, only the Inspection Code can be applied, any other complaint cannot be lodged based on any other formal document. Such arrangement is significantly different to the arrangements of ESIF.

Types of procedures

For both the national programmes and ESIF it is possible to complain about the outcome of the audit according to the Inspection Code. For other phases, different rules apply for each of the analysed national programmes. **The system is different to ESIF, where the arrangements are unified and the same procedures are in place for all OPs.**

- In the EPSILON programme, complaints can be lodged against the selection process based on the Directive of the responsible organisation. The other possibilities for complaint are based on the National law on budgetary rules or the Control Code Act, which are also relevant for ESIF.
- On the other hand, the Environmental fund and EFEKT programme do not allow any other types of complaint (except those regarding the outcome of audits based on the national law) based on formal documentation.

Submission of complaints

Similar channels are used to lodge complaints about the national and European programmes. The options are dependent on the technical facilities of the relevant organisations. Only some of the programmes can use the online gateway, which is available for all of the operational programmes.

Deadlines

The system is different to ESIF where the deadlines are unified. The analysed national programmes have their rules for deadlines, established in the programme documents/applicable laws.

In the EPSILON programme the deadlines are similar for lodging complaints as for ESIF (up to 15 days). The deadline for resolving complaints is significantly longer in the case of the national programme EPSILON (60-90 days), resulting in a lower responsiveness compared to ESIF.

Fees

No fees are to be paid when lodging complaints, i.e. the same rules are applicable to both national and European programmes.

Remedy

The same rules are applied to national programmes and ESIF. If the complaint is accepted, the subsidy provider corrects the decision. No further remedy is possible.

Further appeal

The decision on financial control (according to the Inspection Code) can be appealed at the administrative court. These rules are the same for the national and European programmes.

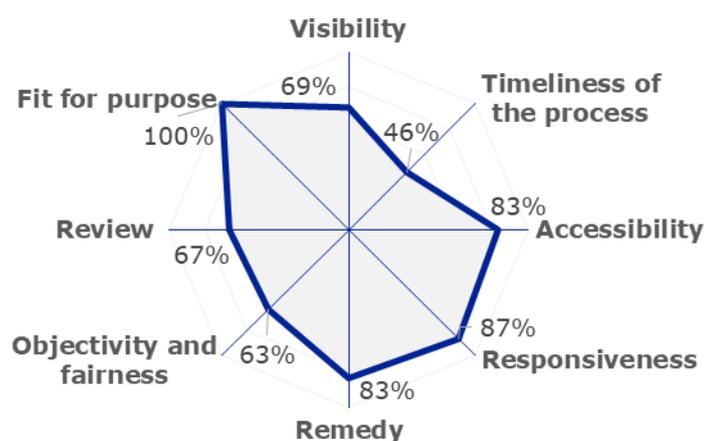
6 GERMANY (DE)

6.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs of the Member State. The general complaints system is established on the **basis of national laws** (federal laws and laws of the particular states of Germany) and for some OPs further developed by **specific procedures**.

Overall, German OPs **scored very well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Formal, codified procedures are established and publically available for the analysed national funding programmes. The **general complaints-handling procedure is the same for the national programmes and for the ESIF programmes** established on the basis of national laws (federal laws and laws of particular states of Germany).

6.2 Detailed description of the arrangements

6.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|---|
| OP Baden-Württemberg ERDF 2014-2020 | Ministry for the Rural Area and Consumer Protection of Baden-Wuerttemberg |
| OP Bayern ERDF 2014-2020 | Bavarian Ministry of Economic Affairs and Media, Energy and Technology |
| OP Berlin ERDF 2014-2020 | Senate Department for Economics, Energy and Public Enterprises |
| OP Brandenburg ERDF 2014-2020 | Ministry of Economic Affairs and Energy of the State of Brandenburg |
| OP Bremen ERDF 2014-2020 | The Senator for Economics, Labor and Ports of the Free Hanseatic City of Bremen |
| OP Hamburg ERDF 2014-2020 | Free and Hanseatic City of Hamburg - Department of Economy, Transport and Innovation |
| OP Hessen ERDF 2014-2020 | Hessian Ministry of Economic Affairs, Energy, Transport and Regional Development |
| OP Mecklenburg-Vorpommern ERDF 2014-2020 | Ministry for Economic Affairs, Construction and Tourism of Mecklenburg-West Pomerania |
| OP Niedersachsen ERDF/ESF 2014-2020 | Lower Saxony State Chancellery |
| OP Nordrhein-Westfalen ERDF 2014-2020 | Ministry of Economic Affairs, Energy and Industry of the State of North Rhine-Westphalia |
| OP Rheinland-Pfalz ERDF 2014-2020 | Ministry of Economic Affairs, Transport, Agriculture and Viniculture of the State of Rhineland-Palatinate |
| OP Saarland ERDF 2014-2020 | State Ministry of Saarland for Economic Affairs, Labour, Energy and Traffic |
| OP Sachsen ERDF 2014-2020 | State Ministry of Economic Affairs, Labour and Transport |
| OP Sachsen-Anhalt ERDF 2014-2020 | Saxony-Anhalt Ministry of Finance |
| OP Schleswig-Holstein ERDF 2014-2020 | Ministry of Economic Affairs, Employment, Transport and Technology |
| OP Thüringen ERDF 2014-2020 | Thuringian Ministry for Economic Affairs, Science and Digital Society |

| Structure of complaints-handling systems | Description |
|---|---|
| <p>General description of country arrangements</p> | <p>Formal, codified procedures are established and publically available for all Operational Programmes (OPs) of the Member State. The general complaints system is established on the basis of national laws (federal laws and laws of the particular states of Germany) and for some OPs further developed by specific procedures.</p> <p>According to the national laws (Basic Law - Grundgesetz, GG; Administrative Procedure Act of a particular state of Germany - Verwaltungsverfahrensgesetz, VwVfG; Code of Administrative Court Procedure - Verwaltungsgerichtsordnung, VwGO) complaints against administrative acts can be lodged. Specific procedures for particular OPs describe the complaints process in greater detail (such as the type of complaint that can be lodged, and which authority handles them).</p> <p>In general, based on the OP documents, there are two types of complaints:</p> <ul style="list-style-type: none"> • Simple complaints (<i>einfache Beschwerden</i>) <ul style="list-style-type: none"> - Simple complaints are not directly related to a specific decision of the authority, but more generally relate to the implementation of the particular OP (e.g., complaints that the application procedure is too complicated). - Simple complaints include informal remedies (<i>formlose Rechtsbehelfe</i>) as well as general negative statements (<i>allgemeine negative Äußerungen</i>). - Informal remedies can be lodged through different ways, such as the complaint (<i>die Gegenvorstellung</i>), the supervisory complaint (<i>die Aufsichtsbeschwerde</i>) or the service supervisory complaint (<i>die Dienstaufsichtsbeschwerde</i>). - Managing Authorities are usually in charge of simple complaints • Formal remedies (<i>förmliche Rechtsbehelfe</i>). <ul style="list-style-type: none"> - Formal remedies concern complaints against the decisions of the authority (e.g. complaints against the selection process). - Formal remedies are usually handled by intermediary bodies (zwischen geschaltete Stellen). <p>National laws are published in the Federal Law Gazette (das Bundesgesetzblatt) and in Law Gazettes of particular states of Germany. Specific documents of the OPs are rarely available on the OPs websites, as they are usually internal.</p> |

| | |
|--|--|
| Level of the complaints-handling systems in place | National and OP specific |
| Description of the types of procedure | <p><u>Any type of complaint</u> can be lodged against the administrative acts according to German national laws (see above).</p> <p>The legal basis for lodging informal remedies is Article 17 of the Basic Law, which states that every person should have the right to address written requests or complaints to competent authorities and to the administration.</p> <p>Before an administrative act is issued, the person concerned must be able to comment on the facts relevant to the decision (§ 28 of VwVfG).</p> <p>Formal remedies are used to complain against administrative decisions. They are divided into objections (<i>der Widerspruch</i>) in preliminary proceedings and legal actions (§ 79 of VwVfG; § 68 of VwGO and following).</p> <p>Prior to lodging a complaint, the lawfulness and expedience of the administrative act shall be reviewed in preliminary proceedings (<i>Vorverfahren</i>). In the preliminary proceedings, the complainant may present their arguments against the decision of the authority which issued the administrative act. According to § 68 of VwGO there are some cases in which a preliminary proceedings are not required (such as when the administrative act was handed down by a supreme federal authority or by a supreme <i>Land</i> authority). In such cases the legal protection is ensured by the possibility of a legal action.</p> <p>If the authority considers the objection to be well-founded, it shall provide remedy and rule on the costs according to § 72 of VwGO. If the authority does not accept the objection, a ruling on the objection shall be handed down to the next higher authority according to § 73 of VwGO. This authority can also cancel, modify or confirm the administrative act with a notice of opposition.</p> <p>Sometimes the specific procedures for the OP are further developed by the particular Managing Authority. The documents are usually internal, for OP Hamburg ERDF 2014-2020 the document is available online on the MA's website (Effective Complaints Management; Wirksames Beschwerdemanagement).</p> <p>The matter of complaints may be submitted to the judiciary as an ordinary legal remedy (<i>ordentliche Rechtsmittel</i>). These ordinary legal remedies are not classified as complaints but rather as appeals.</p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints**

The complaint as a **formal remedy** shall be lodged in written form, alternatively electronically or orally recorded within one month of the issued notification of the administrative act.

Simple complaints are usually submitted through e-mail, postal services or on-line gateways.
- 2. Deadlines for lodging and resolving complaints**

Both formal and informal remedies, depending on the scope of the work, will be handled by either the intermediary bodies or the Managing Authorities within a reasonable period of time.

In general, no fees are charged for lodging complaints but follow the relevant national legislation. In some cases, fees can occur according to the provision § 80 of VwVfG (reimbursement of costs in preliminary proceedings) and provisions § 72 and 73 of VwGO. Fees for appeals procedure follow the relevant national legislation.
- 3. Fees**
- 4. Languages**

The language of the administrative procedure is German.
- 5. Opportunities to present the position of the complainant**

The complainant is given an opportunity to present their position through a formal hearing process (according to § 28 of VwVfG) or a written submission.
- 6. Appeal within the complaints system**

No further administrative appeal is usually possible.
- 7. Independence of the complaints review**

The rules for independence vary between the OPs. At least a different person within the institution handles the complaint (or different unit or institution.)
- 8. Further appeal**

The matter may be submitted to the judiciary for an independent review.

Based on the information from the MAs, the authorities try to prevent complaints in the first phase of the application process by providing intensive support to the applicants. Such procedures at least reduce the frequency of complaints.

If the complaint is lodged with an authority, which does not handle the particular type of complaint, the authority provides the correct contact or directly forwards the complaint to the relevant authority.
- 9. Other details**

In general, lodging formal remedies is **restricted to an applicant and a beneficiary** with a third party entitled to make claims on behalf of the complainant. There are no bureaucratic hurdles or rules for formulating a **simple complaint** so it can be lodged by any party affected by the subject matter of the complaint.

Most often, the only remedy provided is a correction of the decision. According to § 23 of VwVfG.

Managing Authorities follow the relevant laws to ensure the access for disabled/disadvantaged groups. General data protection procedures according to the relevant legislation are applied to keep personal information of complainants confidential.

Assessment of effectiveness of the Member State

In Germany, 16 operational programmes (national) were analysed during the assessment of effectiveness. Overall, German OPs scored in between the 81st and the 99th percentile (i.e. about 81-99% of countries scored worse in analysed characteristics than Germany). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “responsiveness”, “accessibility” and “remedy”.

Fit for purpose is assessed as the best aspect, as in the German OPs, the possibilities for the submission of a complaint (post, email and in person) are wider than for the regular communication taking place (email). On average, the MAs handle less than 10 complaints per year, most of which are considered relevant. The aspect of fit for purpose scored very well.

Responsiveness scored very well as the MAs usually inform the complainants throughout the complaints process about any changes. The complaints are dealt with as they come, i.e. first in and first out, which is a standard process how to handle any received queries.

The workflow of the complaints procedure in documents is described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in the national language (German). Therefore, the aspect **accessibility** scored well.

The only remedy provided is a correction of decision, however, the decision to provide remedy is made according to structured procedures (based on the Administrative procedure acts), and therefore, the **remedy** aspect also scored well.

An interesting aspect in Germany is **visibility**, the score of which was acceptable. The general information about the complaints-handling arrangements is the national laws and the laws are available online. Specific arrangements are described in some of the OP specific documents that are usually only internal and not available publically. Furthermore, the front-line officers dealing with the complaints have the information available for self-study, no mandatory or optional training is usually available for them in order to improve their knowledge about the complaints-handling.

Review scored acceptably. Appeals can usually be lodged with the court or the Ombudsman for independent administrative review. Information on the appeals procedure is provided to the stakeholders in the communication of the final administrative decision. Further administrative appeal is usually not possible.

Objectivity and fairness also scored acceptably. In Germany, independence is ensured by having, at a minimum, a different person than the person which produced the act

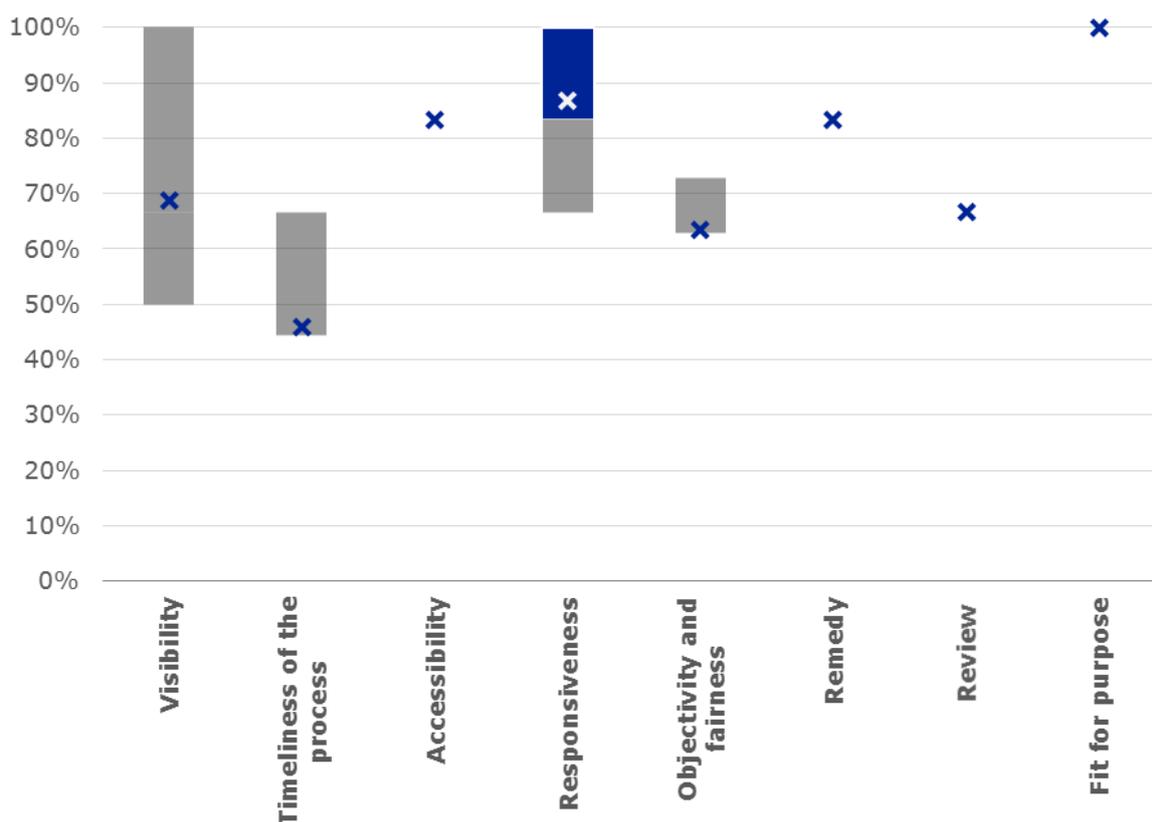
against which the complaint is lodged. The complainant's position can only be presented in written form only.

The aspect that scored the lowest is **timeliness**. In German OPs the deadlines for lodging complaints are set reasonably (one month after receiving the decision), however, the deadlines for resolving the complaints are not set. Thus, the timeliness scored poorly, compared to other analysed aspects.

The following boxplot (**Chart 15**) shows the distribution of each of the aspects of effectiveness among the analysed OPs and how the information for the OPs differ. For Germany, it is clear that the above information is reasonably consistent and the OPs have very similar rules and procedures.

The highest variability in analysed values can be observed for the aspects of responsiveness and visibility, however, this variability is still acceptable given the high number of analysed OPs. For other observed aspects (accessibility, remedy, review and fit for purpose), collected data was uniform for all observed OPs. Thus, the assessment of effectiveness described above is applicable in general.

Chart 15 Distribution of scores among aspects



6.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

Based on the information from the Managing Authorities the procedures were similar. Little information is available on the complaint handling systems of the previous programming period. Moreover, similar procedures can be assumed as the relevant legislation mentioned above was already effective.

6.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Formal, codified procedures are established and publically available for the analysed national funding programmes.¹⁵ **The general complaints-handling procedure is the same for the national programmes and for the ESIF programmes established on the basis of national laws** (federal laws and laws of particular states of Germany).

According to the national laws (Basic Law - [Grundgesetz](#), GG; Administrative Procedure Act of a particular state of Germany - [Verwaltungsverfahrensgesetz](#), VwVfG; Code of Administrative Court Procedure - [Verwaltungsgerichtsordnung](#), VwGO), **complaints against administrative acts can be lodged.**

Chart 16 The comparison between national programmes and ESIF - Germany.

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|---|---|---|---|---|---|---|
|  |  |  |  |  |  |  |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The following programmes were analysed:

- **Digitalisierung kommunaler Verkehrssysteme**, managed by the VDI/VDE Innovation + Technik GmbH
 - The programme supports projects for digitizing municipal transport systems which contribute to the emission reduction of air pollutants (in particular nitrogen dioxide).
- **Entwicklung digitaler Technologien (Fachprogramm)**, managed by the DLR Projektträger
 - Programme "Development of digital technologies" aims to support pre-competitive research and development projects in the field of ICT (new technologies for the Internet of Services, the Internet of Things and the Internet of Energy).
- **Forschung für Innovationen in der Agrarwirtschaft**, managed by the Landwirtschaftlichen Rentenbank
 - This programme supports research institutions and companies, in particular, small and medium-sized enterprises, by financing research projects promoting innovations in agriculture.

Regarding ESIF and national programmes, applicants are informed about the possibility of lodging complaints in the decisions. Responsible authorities of the analysed national funding programmes have not handled many complaints within the programmes. They try

¹⁵ Three national programmes were analysed in the case of Germany.

to prevent complaints by providing assistance and discussing any issues with applicants. Such an approach by the responsible authorities was also identified within the ESIF.

In general, a complainant can lodge two types of complaints: **simple complaints** (*einfache Beschwerden*) and **formal remedies** (*förmliche Rechtsbehelfe*). The complaint as a formal remedy shall be lodged in a written form, electronically or orally recorded within one month of the issued notification of the administrative act. There are no bureaucratic hurdles or rules for formulating the simple complaint. There is no deadline for resolving complaints. In general, no fees are charged for lodging complaints which follow the relevant national legislation. In some cases, fees can occur according to the relevant provisions of the Administrative Procedure Act and the Code of Administrative Court Procedure. Most often, the only remedy provided is a correction of the decision.

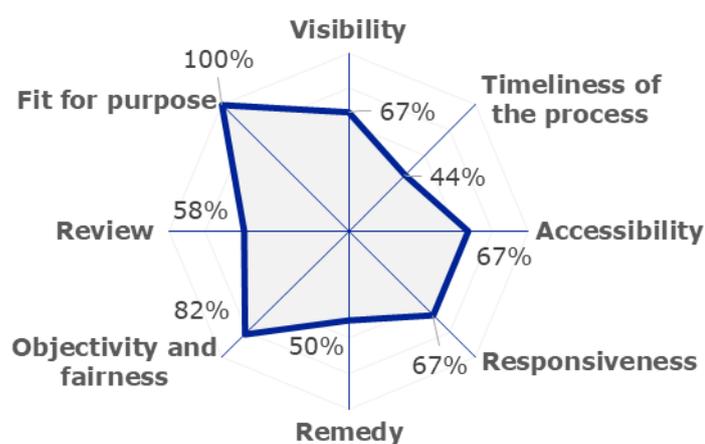
7 DENMARK (DK)

7.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for the only OP in Denmark. The complaints system is generally established **on the basis of national laws** (*Act on the Administration of Grants from European Regional Fund and European Social Fund and Executive Order No.144*). The complaints system is **further developed by internal documents** issued by the *Danish Business Authority (MA)*.

Overall, the Danish OP **scored adequately** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are **not unified** for the analysed national programmes. Also, the **legislation for the ESIF arrangements is different** compared to the laws regulating national programmes. The national programmes are based on their own acts, whereas the ESIF complaint-handling system is based on national laws that regulate the administration of grants from ERDF and ESF.

7.2 Detailed description of the arrangements

7.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| Innovation and Sustainable Growth in Businesses | Danish Business Authority - Regional Development Unit, Danish Ministry of Business and Growth |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for the only OP in Denmark. The complaints system is generally established on the basis of national laws (Act on the Administration of Grants from European Regional Fund and European Social Fund and Executive Order No.144). Both laws state that the main authority for lodging complaints is the Danish Business Authority. The complaints system is further developed by internal documents issued by the Danish Business Authority (MA).</p> <p>The internal documents can be found on the website of the MA; all national laws are published in the Official Gazette of Denmark and may also be found transcribed on third-party websites.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedures | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under the phases.</p> <ul style="list-style-type: none"> • The selection process • The processing of claims • The handling of change requests • The change of grant conditions and • The outcomes of audits <p><i>Executive Order No. 144 concerning the assignment</i></p> |

Details about the procedures for complaints-handling:

- 1. Channels for lodging complaints** There are no formal requirements, so complaints can be submitted via postal services, email, telephone and proprietary online gateway.
- 2. Deadlines for lodging and resolving complaints** No formal deadlines for lodging or resolving complaints were set.
- 3. Fees** **No fees are charged** for lodging complaints.
- 4. Languages** Complaints can be lodged in the national language.
- 5. Opportunities to present the position of the complainant** The complainant is given the opportunity to present his/her position through a formal hearing process, an informal hearing process and initial written submission.
- 6. Appeal within the complaints system** Based on the information from the MA, if the complaint is rejected, a justification for the rejection is provided. No further administrative appeal is possible.
- 7. Independence of the complaints review** All the complaints are handled by the Danish Business Authority.
- 8. Further appeal** The matter may be submitted to the judiciary and the ombudsman for an independent review.

In general, lodging complaints is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims only with the explicit authorisation of the eligible complainant.

Correction of decision or reimbursement are provided as a remedy. Decisions on remedy are made **according to structured procedures**.
- 9. Other details** According to the MA, the complaints are not handled according to the "first in first out" principles, they are prioritised.

No formal registration of the complaints exists, thus no exact number on how many complaints have already been handled is available.

Assessment of effectiveness of the Member State

In Denmark, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, the Danish OP scored in between the 41st and the 60th percentile (i.e. about 41-60% of countries scored worse in analysed characteristics than Denmark). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “objectivity and fairness”.

Fit for purpose is assessed as the best aspect, since in the Danish OP, the possibilities for a complaint’s submission (post, online gateway, email, phone or in person) are wider compared to the channels through which regular communication takes place (email). The MA does not keep statistics on number of complaints received.

In Denmark, independence is ensured by having, at a minimum, different department than the department which produced the act against which the complaint is lodged. The complainant is given the opportunity to present his/her position through a formal hearing process, an informal hearing process and initial written submission. Therefore, the aspect of **objectivity and fairness** scored well.

The scores of the aspects of “visibility”, “responsiveness” and “accessibility” are the same, and these aspects score is acceptable.

For the aspect of **visibility**, the possibility of complaining is communicated to the applicant each time a decision is made that could elicit a complaint. Non-mandatory training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers.

Responsiveness scored acceptably as the complainant is informed of the status of his/her complaint at the end of the complaints process only. However, the complaints are prioritised (as opposed to being dealt with on the first-in and first-out basis).

Information on the whether the workflow of the complaints procedure is described in relevant details is not available. No fees are required when submitting a complaint. The complaints can be lodged in Danish language only. Therefore, the aspect of **accessibility** scored also acceptably compared to other analysed aspects.

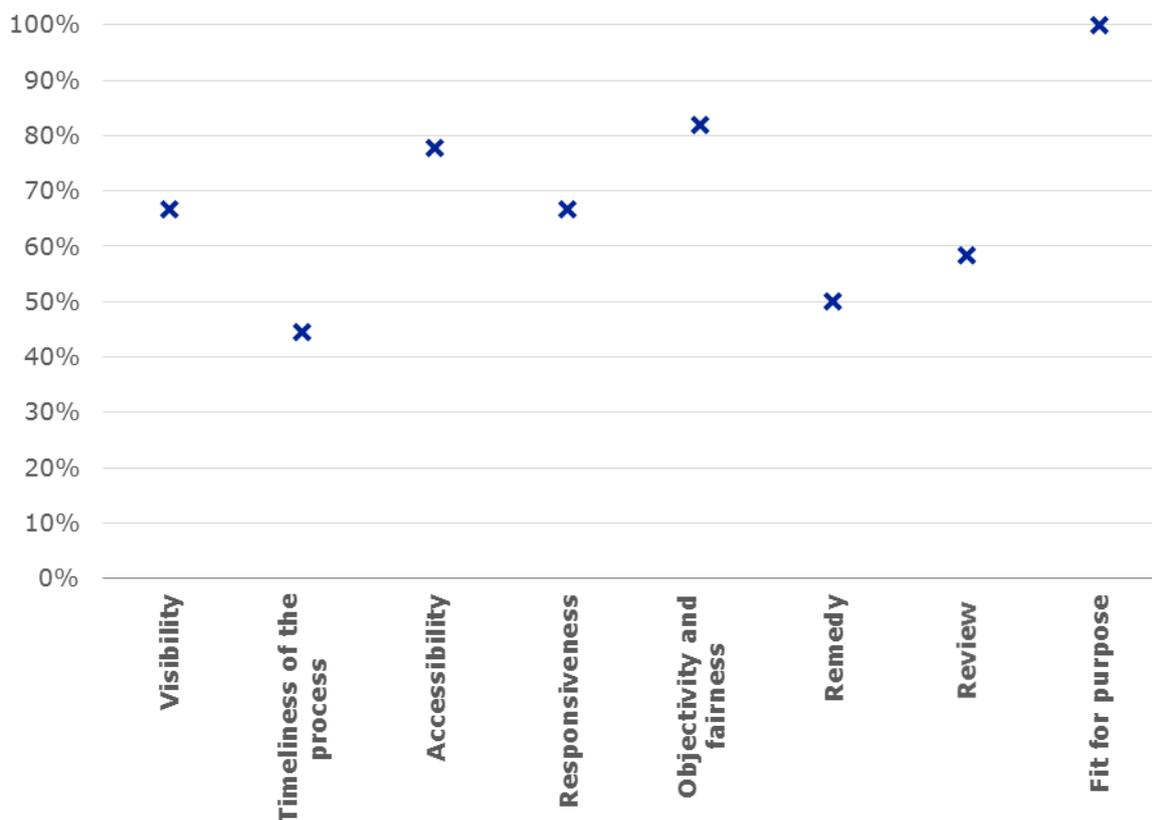
Review scored acceptably. Appeals can usually be lodged with the court or the Ombudsman for independent administrative review. Information on the appeals procedure is provided to the stakeholders in the communication of the final administrative decision. Further administrative appeal is usually not possible.

The only remedy provided is a correction of decision. The decision to provide remedy is made according to structured procedures in approximately 50% of cases, for the rest complaints are handled ad hoc. Therefore, the **remedy** aspect also scored acceptably.

The aspect that scored the lowest and needs improvement is the **timeliness of the process** as no formal deadlines for lodging or resolving complaints are set for the Danish OP. The OP administration process continues as usual and the complaints procedure continues as usual if the timeframe of complaints conflicts with the timeline of the OP administration process.

The following boxplot (**Chart 17**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be noted that, as there is only one OP in Denmark, the values of each analysed parameter apply to this OP only.

Chart 17 Distribution of scores among aspects



7.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

No information about the complaints-handling system in the previous programming period is available online. Based on the information from the MA, the system for complaints-handling was the same as in the current OP.

For the period of 2007-2013 the managing authority had a different name (the Danish Authority for Enterprise and Construction), but no substantial organisational changes have been made for the current programming period.

7.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are not unified for the analysed national programmes.

¹⁶ Also, the legislation for the ESIF arrangements is different compared to the laws regulating national programmes. The national programmes are based on their own acts, whereas the ESIF complaint-handling system is based on [national laws that regulate the administration of grants from ERDF and ESF](#).

Chart 18 The comparison between national programmes and ESIF - Denmark

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| | ↓ | ● | | ● | ↓ | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **The Danish Growth Fund**, managed by the Danish Growth Fund board of directors
 - The Danish Growth Fund helps to promote growth and renewal for small and medium-sized enterprises in order to achieve a greater socio-economic return. The Danish Growth Fund contributes to the creation of new companies by providing capital and expertise.
- **Innovation Fund Denmark**, managed by the board of directors of Innovation Fund
 - The aim of Innovation Fund Denmark is to support the development of knowledge and technology, including advanced technology, in order to strengthen research and innovative solutions that may benefit growth and employment in Denmark.

Documents codifying the procedures

The complaint-handling systems of the analysed national programmes are based on its own acts. In the case of the Danish Growth Fund, laws which codify the complaint system are "[Act of Danish Growth Fund](#)" and "[Danish Public Information Act](#)". The arrangements of the Innovation Fund Denmark are regulated by the "Act of Innovation Fund Denmark". The appeal procedure is further developed by the Executive Order no. 846 of June 23, 2017.

¹⁶ Two national programmes were analysed in the case of Denmark.

Types of procedures

In the case of Innovation Fund Denmark, the applicant can complain against legal decisions made by the responsible organisation.

Compared to ESIF, where the selection process could also be a subject of complaint, the possibilities to lodge a complaint are less in the national programme.

This information for the Danish Growth Fund was not provided.

Submission of complaints

In both national programmes, the complaints must be submitted in writing, i.e., via email or postal service. In ESIF the complaints could also be submitted via telephone and proprietary online gateway.

Fees

No fees are to be paid when lodging complaints, i.e. the same rules are applicable to both national and European programmes.

Remedy

In the case of Innovation Fund Denmark, the possible remedy is the correction of decision. In ESIF also reimbursement was provided as a remedy.

Further appeal

For Innovation Fund Denmark the appeal body is The Danish Agency for Institutions and Educational Grants. The matter may be submitted to the judiciary review for both the Danish Growth Fund and ESIF.

Other comments

For the Innovation Fund Denmark, about five formal complaints were registered so far. The Danish Growth Fund does not have any system that registers the complaints, which is similar to ESIF, where no formal registration system for complaints exists.

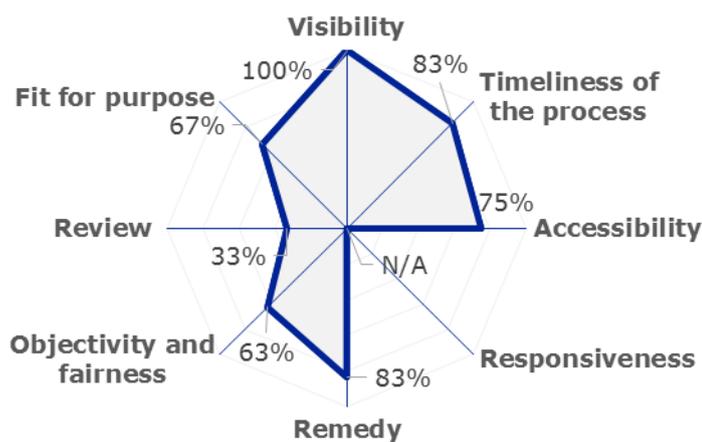
8 ESTONIA (EE)

8.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for the only OP in Estonia. Most of the information is provided in national laws.

Overall, the Estonian OP **scored adequately** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are unified for the analysed national programme of Estonia. The complaints-handling procedure is the **same for the national programmes and for the ESIF** programmes. It is based on the *Administrative procedure act*. This act is permanently available online in English and Estonian.

8.2 Detailed description of the arrangements

8.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MA) |
|---|--|
| Operational Programme for Cohesion Policy Funding 2014-2020 | Estonian Ministry of Finance |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for the only OP in Estonia. Most of the information is provided in <i>national laws</i>.</p> <p>The management of complaints is established in Division 13 - § 51 of Challenge proceeding of 2014-2020 Structural Assistance Act. The text contains general information about the type of complaints which can be lodged, and details about the deadlines for resolving such complaints. Moreover, complaints shall proceed in accordance with Estonian Administrative Procedure Act. Paragraphs §71-§87 describe complaints proceedings.</p> <p>Acts are permanently available online and they are available in English and Estonian.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedures | <p>A complaint can be lodged in the following phases. The document, and its section, relevant to the complaint-system procedures are indicated in italics under those phases.</p> <p>The object of the complaints is not strictly limited.</p> <ul style="list-style-type: none"> • The preparation of the call for application submission • The call for application submission • The selection process • The processing of claims • The handling of change requests • The change of grant conditions • The conduct or outcome of random checks • The conduct of audits • The outcomes of audits |

Paragraphs §71-§87 of Estonian Administrative Procedure Act and Division 13 - § 51 of Challenge proceeding of 2014-2020 Structural Assistance Act describe complaints proceedings.

Further appeal is possible based on the §87 (1) of Administrative Procedure Act of the Republic of Estonia: "a person whose challenge is dismissed or whose rights are violated in challenge proceedings has the right to file an appeal with an administrative court under the conditions and pursuant to the procedure provided by the Code of Administrative Court Procedure."

Detailed description of the complaints-handling system:

- | | |
|--|--|
| 1. Channels for lodging complaints | Complaints are generally submitted via postal services or in person . If a complaint is filed orally, minutes shall be taken of the appeal in the administrative authority and the challenge shall be signed by the person filing it. |
| 2. Deadlines for lodging and resolving complaints | The complaint shall be lodged and addressed within 30 days . |
| 3. Fees | No fees are charged for lodging complaints. |
| 4. Languages | The language of administrative proceedings shall be Estonian. |
| 5. Opportunities to present the position of the complainant | The complainant is given an opportunity to present their position through written submission and formal hearing process . |
| 6. Appeal within the complaints system | No information available. |
| 7. Independence of the complaints review | No information available. |
| 8. Further appeal | The matter may be submitted to the judiciary for an independent review. The appeal must include a detailed justification and give the reasons why the applicant finds the decision taken by a programme authority to be unsatisfactory, including a list of all of the elements subject to the complaint and any failures in adherence with the procedures or measures taken. |
| 9. Other details | In general, lodging complaints is restricted to an applicant and a beneficiary , with a third party entitled to make claims only with explicit authorisation of the eligible complainant. When the appeal is signed by the third party, the appeal must contain the authorisation document of the third party. The only remedy provided is a correction of the decision. |

Assessment of effectiveness of the Member State

In Estonia, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, the Estonian OP scored in between the 41st and the 60th percentile (i.e. about 41-60% of countries scored worse in analysed characteristics than Estonia). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “visibility”. Similarly, a high score can be observed in “timeliness” and “remedy”.

The aspect of **visibility** is assessed as the best (very well), since the information about the complaints-handling arrangements is permanently available online. However, no information is available on dissemination of up-to-date knowledge of the complaints procedures among frontline officers.

Another aspect that scored well is **timeliness**. For the Estonian OP the deadlines for lodging and addressing complaints are set reasonably, both equalling one month (after receiving the decision/complaint).

If the complaint is found substantive, correction of decision is provided as a remedy. The decision to provide the remedy is made according to structured procedures (set in the relevant law). Therefore, the score for the **remedy** aspect is scored well.

Another aspect that scored well is the **accessibility**. Complaints can be filled in all relevant national languages, and no fees are needed to lodge a complaint. The workflow of complaints procedure is in the documents described in relevant details.

Another aspect which scored acceptably is the **fit for purpose**, since in the Estonian OP, the possibilities for a complaint’s submission are wider (post, in person) compared to the channels through which regular communication takes place (post). Information on number of complaints handled per year is not relevant.

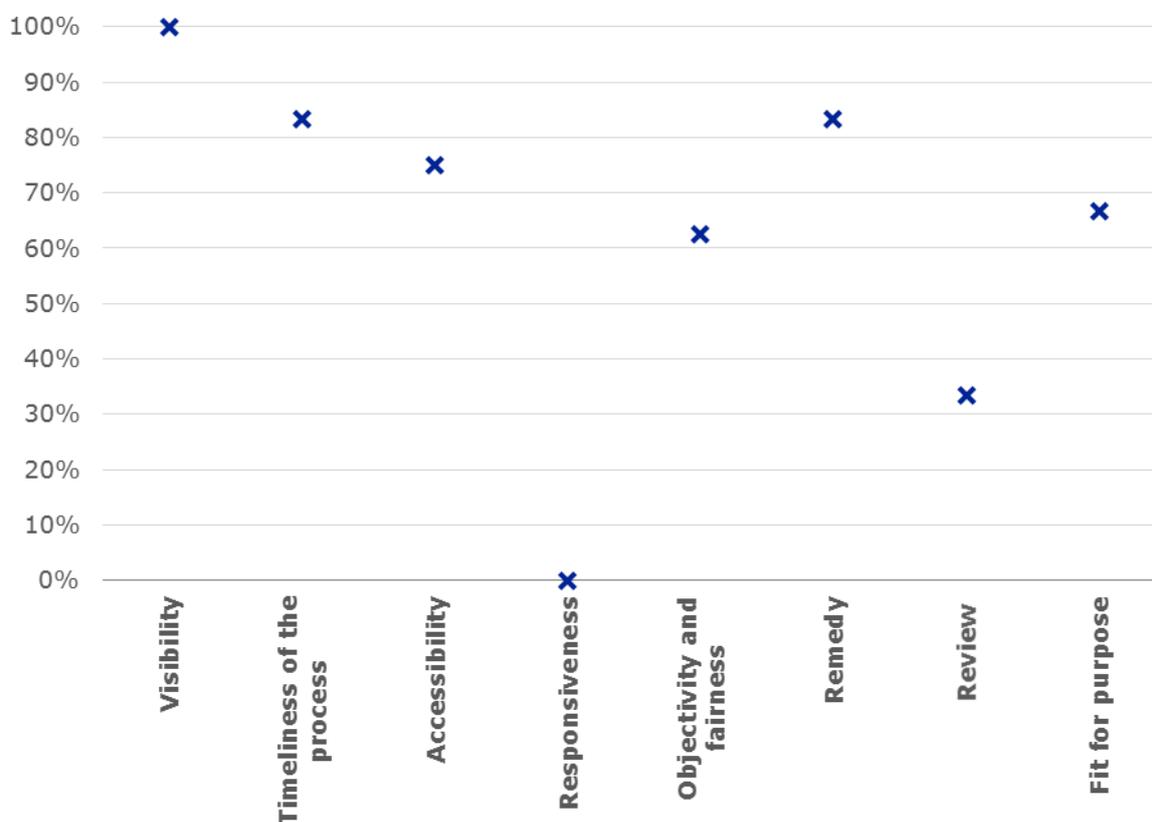
The complainant’s position can be presented in written form or during a formal hearing. However, as no information is available on ensuring independence, the aspect of **objectivity and fairness** scored acceptably in Estonia.

The aspect that scored the lowest and needs improvement is **review**, as further administrative appeal is not possible for the analysed OP. However, the matter may be submitted to the judiciary for an independent review.

No information is available on the aspect of **responsiveness**.

The following boxplot (**Chart 19**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be borne in mind that, as there is only one OP in Estonia, the values of each analysed parameter apply to this OP only and no further explanation is needed.

Chart 19 Distribution of scores among aspects



8.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

According to publicly available information, the complaints handling system was the same. For the previous programming period, the management of complaints is described in law, which adapts the management system of the EU funds.

[Chapter 7 - §34 of the Structural Assistance Act](#) for the period 2007-2013 describes challenge procedure. Part (1) of the §34 says: " *Before a complaint to an administrative court is filed, a challenge procedure shall be conducted under the conditions and pursuant to the procedure provided for in the Administrative Procedure Act.*"

The Administrative procedure Act has already been in force, thus, the basic procedures for appeal were in place. The law was firstly published in 2002 and the last novelisation took place in 2016.

8.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are unified for the analysed national programme of Estonia.¹⁷ **The complaints-handling procedure is the same for the national programmes and for the ESIF programmes.** It is based on the [Administrative procedure act](#). This act is permanently available online in English and Estonian. Paragraphs §71-§87 describe complaints proceedings.

Chart 20 The comparison between national programmes and ESIF - Estonia

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|---|---|---|---|--|---|---|
|  |  |  |  |  |  |  |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The following programme was analysed:

- **Large investor support scheme**, managed by the Ministry of Economic Affairs and Communications
 - The aim of the programme is to involve large investors in the economy of Estonia. This involvement should be managed through technology investments. It is expected that those investments will contribute to the growth of productivity and the added value of products, etc.

The subject of a complaint is not limited. Deadline for lodging complaints is one month. Deadline for resolving complaints is 30 + 10 days. Complaints can be lodged only in Estonian. Complaints are usually submitted via postal services. No fees are charged during the complaints-handling process. The only remedy provided is the correction of the decision.

¹⁷ One national programme was analysed in the case of Estonia.

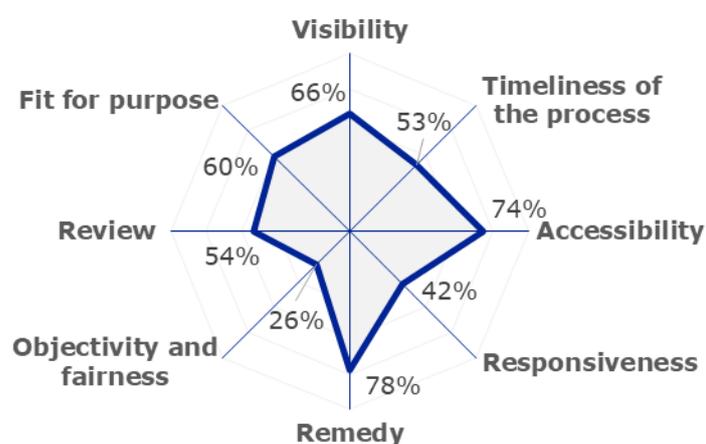
9 GREECE (EL)

9.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

A formal codified procedure is established and publically available for all of the OPs of Greece. The procedure is codified in the national legislation. The system is further developed by the *Management and Control System (MCS)* and the information is provided in the document *Management and Control System Manual*, which refers to complaints procedures found in relevant national laws related to OPs.

Overall, Greek OPs **need an improvement** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The system of complaints-handling procedures of the previous programming period 2007 – 2013 was less developed. Although national legislation defining the management and control system of ESIF was in place and the *Management and Control Manual* was designed, **no standardised procedure for complaints handling was in place** and the complaints were **handled on an ad hoc basis**. In 2014-2020, the complaints procedures are codified by national legislation (related ministerial decrees) and clearly specified in the *Management and Control System Manual*.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised **procedures are not unified for the analysed national programmes** compared to ESIF arrangements. However, general provisions of the national *Code of Administration Procedure* apply for both ESIF and national programmes. Specific procedures and possibilities to complain differ for the specific national programmes and in some cases, no possibility to complain is available. On the contrary, **ESIF programmes have unified procedures**. The codification of the complaints-handling system is more developed for ESIF.

9.2 Detailed description of the arrangements

9.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MAs) |
|--|---|
| Attica OP | Special MA for the OP "Attica" |
| Technical Assistance Programme | Special MA for the OP "Technical Assistance" |
| Reform of the Public Sector | Special MA for the OP "Reform of the Public Sector" |
| Western Macedonia OP | Special MA for the OP "Western Macedonia OP" |
| Eastern Macedonia-Thrace OP | Special MA for the OP "Eastern Macedonia-Thrace OP" |
| North Aegean OP | Special MA for the OP "North Aegean" |
| Central Macedonia OP | Special MA for the OP "Central Macedonia" |
| Epirus OP | Special MA for the OP "Epirus" |
| Ionian Islands OP | Special MA for the OP "Ionian Islands" |
| Competitiveness, entrepreneurship and innovation OP | Special MA for the OP "Competitiveness, Entrepreneurship and Innovation" 2014-2020 |
| Peloponessus OP | Special MA for the OP "Peloponessus" |
| Western Greece OP | Special MA for the OP "Western Greece" |
| Continental Greece OP | Special MA for the OP "Continental Greece" |
| Crete OP | Special MA for the OP "Crete" |
| South Aegean OP | Special MA for the OP "South Aegean" |
| Transport Infrastructure, Environment and Sustainable Development OP | Special MA for the OP "Transport Infrastructure, Environment and Sustainable Development" |
| Thessaly OP | Special MA for the OP "Thessaly" |

| Structure of complaints-handling systems | Description |
|--|---|
| General description of country arrangements | <p>A formal codified procedure is established and publically available for all of the OPs of Greece. The procedure is codified in the national legislation. The system is further developed by the Management and Control System (MCS) and the information is provided in the document Management and Control System Manual, which refers to complaints procedures found in relevant national laws related to OPs.</p> <p>The specific complaints procedures are codified in national legislation specifically for complaints and appeals raised during the evaluation and selection process. Complaints (objections) related to the processing of claims and against the outcomes of random controls and audits are further specified in the MCS guidelines. Complaints and appeals raised during other stages of the process are handled according to the national Code on Administrative Procedures.</p> <p>Management and Control System (MCS) is a set of guidelines for MAs issued by the National Coordination Authority (NCA) - Ministry of Economy, Development and Tourism. The guidelines include a definition of the minimum requirements for complaints-handling systems.</p> <p>MCS documents may be found on the NCA-operated website for all OPs. National laws are published in the Official Government Journal and are further available on the NCA-operated website and on the individual websites of the MAs (OPs).</p> <p>Relevant MA-level procedures have been published in the <i>Management and Control System Manual</i> and are also described in the calls for proposals.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>A complaint can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u></p> <ul style="list-style-type: none"> 3) <i>Management and Control System Manual, ΔΙ_2_ΚΕ, Art. 4.4 Submission and examination of complaints</i> 4) <i>Ministerial Decree YA 81986/EYΘY712/31.7.2015 (Art. 43) and its later amendment YA 110427/EYΘY/1020/20.10.2016 (Art. 43)</i> <p><u>Processing of claims</u></p> |

| | |
|--|---|
| | <p><i>Management and Control System Manual, ΔII_5_KE, Art. 4.2ii Objections procedure</i></p> <p><u>Outcomes of random controls</u></p> <p><i>Management and Control System Manual, ΔII 7 KE, Art. 4.4 Objections procedure</i></p> <p><u>Outcomes of audits</u></p> <p><i>Management and Control System Manual, ΔII 7 KE, Art. 4.4 Objections procedure</i></p> <p><u>Other</u></p> <p>Complaints can be lodged against administrative acts in general by reference to <i>Act no. 2690/1999 Code on Administrative Procedures, Art. 27</i></p> |
|--|---|

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints**

Complaints are generally submitted via postal services, in person and/or a proprietary online gateway.

The deadline for lodging complaints against the selection procedure is **seven working days** after the official decision was acknowledged. The complaint should be resolved within **15 working days** after the lodging of the complaint.
- 2. Deadlines for lodging and resolving complaints**

Objections to the processing of claims, against the outcomes of random controls and audits must be raised within **15 calendar days** after the decision or outcomes were acknowledged. The objections must be resolved within **15 calendar days**.

In case of a general complaint against any other administrative act, no deadline is specified for lodging the complaint. In the aforementioned case, the complaint should be **resolved within 30 days** from its submission.
- 3. Fees**

No fees are charged for lodging complaints.
- 4. Languages**

The complaints can be lodged in the relevant national languages and English.
- 5. Opportunities to present the position of the complainant**

The complainant is given an opportunity to present their position through written submission only.
- 6. Appeal within the complaints system**

In most cases, no further **administrative appeal** is possible. However, further administrative appeal can be usually filed against the decision about the control.

In the case of complaints related to the selection procedure, independence is ensured by establishing a **special team for examining the complaint** consisting of persons different from those originally involved in the selection procedure.
- 7. Independence of the complaints review**

For objections referring to the processing of claims, against the outcomes of random controls, against outcomes of audits and for all other complaints no guidelines exist for independence.

8. Further appeal

The matter may be submitted to the judiciary and the ombudsman for an independent review.

In general, lodging complaints is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims only with the explicit authorisation of the eligible complainant.

9. Other details

The only remedy provided is a correction of the decision.

According to the MAs, information from complaints received is further analysed by an informal internal review only, i.e., no formal review processes exist to revise the ESIF system based on the complaints received.

Assessment of effectiveness of the Member State

In Greece, 18 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Greek OPs scored in between the 1st and the 20th percentile (i.e. about 1-20% of countries scored worse in analysed characteristics than Greece). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “remedy”. Fairly well score can be observed in “accessibility” and “visibility”.

Remedy scored well and in Greece is assessed as the best aspect, since in Greek OPs, the decision on remedy is made according to structured procedures. The remedy provided is a correction of decision.

The workflow of the complaints procedure is in the documents described in relevant details and no fees are required when submitting a complaint. The complaints can be lodged in the national language only (Greek). Therefore, the aspect of **accessibility** scored also well.

The aspect of **visibility** scored acceptably. The information about the complaints-handling arrangements is permanently available online. However, no information is available on steps taken to inform frontline officers of the complaints handling procedures.

The aspect of **fit for purpose** scored acceptably in Greece, since in for the analysed OPs, the possible channel of complaint’s submission is the same as the channels through which the usual communication takes place (post). On average, the MAs handle less than 10 complaints per year, all of which are considered relevant.

Review scored acceptably. Further administrative appeal is usually not possible. The complainant can usually escalate the complaints procedure to a higher authority, and for some types of complaints, they can be lodged with the court or the Ombudsman for

independent administrative review. Information on the appeals procedure is usually provided to the stakeholders in the communication of the final administrative decision.

Timeliness of the process also scored acceptably. Deadlines for lodging complaints differ considerably among types of complaints and they are set either unreasonably short (7 days) or no deadlines are set. Deadlines for resolving complaints vary reasonably from 15 to 30 days from the receipt of the complaint. The timeframe of complaints usually cannot conflict with the timeline OP administration process.

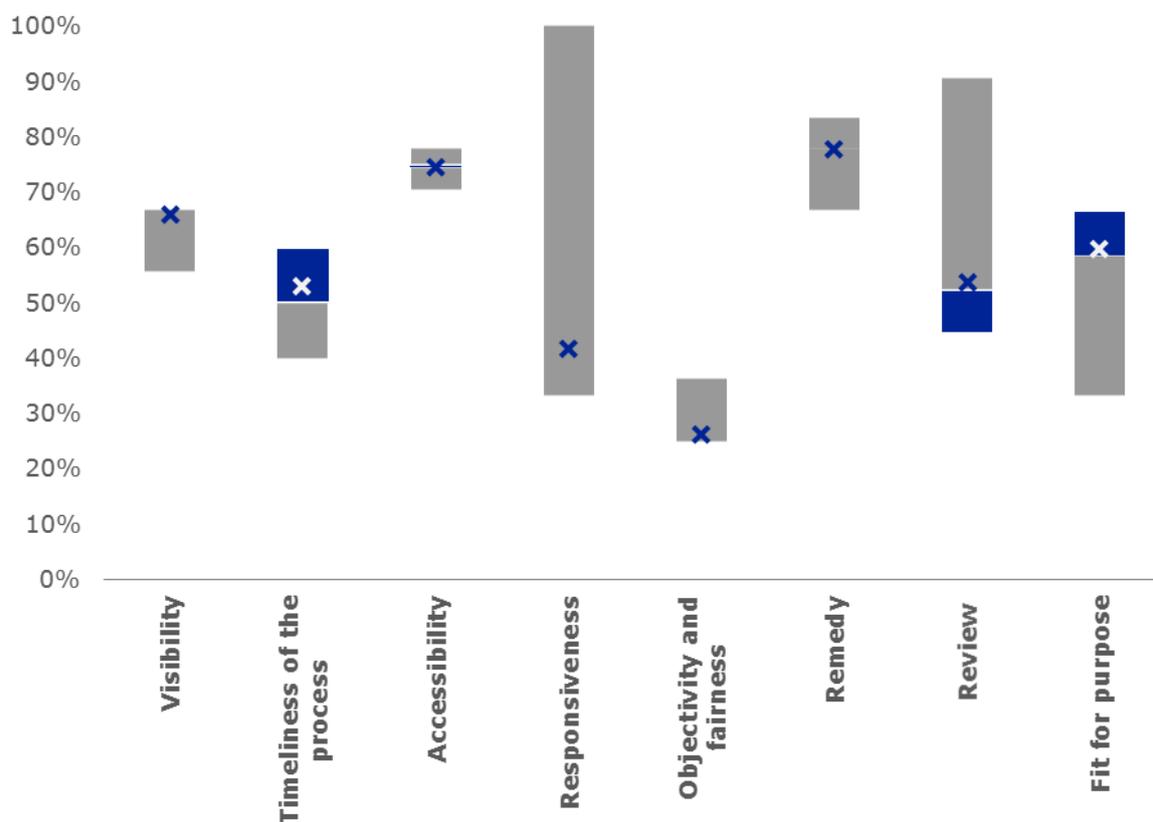
The aspect of responsiveness needs improvement as the MA usually informs the complainants only at the end of the process about any changes. Complaints are mostly addressed based on the first-in first-out basis, as opposed to being prioritised.

The aspect that scored the lowest and needs improvement is **objectivity and fairness**. In Greece, independence is ensured by having, at a minimum, different department than the department which produced the act against which the complaint is lodged. However, additionally to the low score, in some cases a complaints committee could be established by the chief officer of the MA. The complainant's position can only be presented in written form.

The following boxplot (**Chart 21**) shows the distribution of each of the aspects of effectiveness among the analysed OPs and how the information for the OPs differ. For Greece, the above information is reasonably consistent and the OPs have quite similar rules and procedures.

Relatively short boxplots suggest that overall, information about OPs were similar and the assessment of effectivity described above is applicable in general. The highest variability in analysed values can be observed for the aspects of responsiveness and review. For other observed aspects, collected data was uniform for all observed OPs.

Chart 21 Distribution of scores among aspects



9.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The country arrangements differ for the OPs in the 2007-2013 and 2014-2020 programming periods. In 2014-2020, the complaints procedures are codified by national legislation (related ministerial decrees) and clearly specified in the Management and Control System Manual. On the contrary, the management and control system of the previous programming period 2007 – 2013 was, in general, less developed.

Although national legislation defining the management and control system of ESIF was in place and the Management and Control Manual was designed, no standardised procedure for complaints handling was in place and the complaints were handled on an ad hoc basis.

As the complaints were dealt with ad hoc, no documents with specific information about complaints were available for the potential complainants and it was not specified who can

lodge a complaint. The deadlines or remedies were also not specified in any of the documents.

Since there were no specific complaints procedures codified in 2007-2013, the assessment of the effectiveness is not relevant in this case.

9.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are not unified for the analysed national programmes compared to ESIF arrangements.¹⁸ However, general provisions of the national [Code of Administration Procedure](#) apply for both ESIF and national programmes. Specific procedures and possibilities to complain differ for the specific national programmes and in some cases, no possibility to complain is available. On the contrary, the operational programmes (ESIF) have unified procedures. The codification of the complaints-handling system is more developed for ESIF.

According to the collected information from relevant authorities and also from the press¹⁹, a new management and control system is currently being developed for the national programmes (national ΠΔΕ) which should be **based on the ESIF** Management and Control System (ΣΔΕ) and should include specifications of complaints and appeal procedures.

Chart 22 The comparison between national programmes and ESIF - Greece

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↑ | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed²⁰:

- **Development Special Purpose Programmes of North and South Aegean**, managed by the Ministry of Economy and Development

¹⁸ Two national programmes were analysed in the case of Greece.

¹⁹ H Kathimerini, 28.11.2017: <http://www.kathimerini.gr/936619/article/oikonomia/ellhnikh-oikonomia/systhma-elegxoy-typoy-espia-prow8eitai-me-neo-nomo-gia-ta-erga-toy-pde>

²⁰ According to the information from the Greek Ministry of Economy and Development, due to the economic crisis the budget for purely national funding of development activities has been significantly reduced compared with the previous years and the respective examined programmes are the only ones involving grants/funding from purely national sources. Projects implemented within the framework of the Development Law 4399/2016 are not selected within any specific schemes similar to operational programmes, but can apply directly and are awarded according to their compliance with the objectives specified in the Development Law.

- The purpose of the programme is to strengthen the local economies of the Regions of the North and South Aegean Sea which face increased challenges due to their specific nature (insularity, reception of migratory flows, etc.) and the economic crisis of recent years.
- **Development Law N. 4399/2016**, managed by the Ministry of Economy and Development
 - The aim is to promote balanced development, respecting environmental resources and supporting less-favoured areas in the country by increasing employment, improving cooperation, increasing the average size of enterprises, improving services, attracting foreign direct investment etc. The programme involves various kinds of financial support including pure funding.

Documents codifying the procedures

Documentation about complaints differs significantly within the national programmes and is not unified as for ESIF.

The Development Law itself codifies the complaints/appeal-handling procedure related to the selection procedure in its Article 15. The Article includes sufficient details about complaints-handling.

On the other hand, no specific documents or applicable laws are valid for the Development Special Purpose Programmes of North and South Aegean. In these programmes, complaints cannot be lodged based on any formal document. **Such an arrangement is significantly different to the arrangements of ESIF.**

Types of procedures

For both the national programmes and ESIF, it is possible to complain against any subject matter in the Member State according to the common procedure for handling complaints in the national legislation. For the selection phase, different rules apply for the Development Law. No complaints procedures are codified for the Development Special Purpose Programmes.

The system is different to ESIF where the arrangements are unified, the same procedures are in place for all OPs and complaints procedures are codified also for other phases.

Submission of complaints

Submission of complaints according to Art. 15 of the Development Law is requested through the information system of public financial support (ΠΣΚΕ). In case of ESIF, submission in writing is requested without closer specification of the channel.

Deadlines

The national funding programmes system is different to ESIF where the deadlines are unified. The Development Law programme has its own rules for deadlines, established in the programme documents/applicable laws.

In the Development Law programme the deadlines are different for lodging complaints against rejection of proposal (10 days) than in ESIF (up to 7 days). The deadline for resolving complaints is the same as in ESIF (15 days).

Fees

No fees are to be paid when lodging complaints, i.e., the same rules are applicable to both national programmes and ESIF.

Remedy

The same rules are applied to national programmes and ESIF. In case the complaint is accepted, subsidy provider corrects his decision. No further remedy is possible.

Further appeal

According to the available information, no further administrative appeal is possible either within the national programmes or within ESIF. However, in general the matter may be submitted to the judiciary and the ombudsman for an independent review.

10 SPAIN (ES)

10.1 Summary of the complaints-handling arrangements

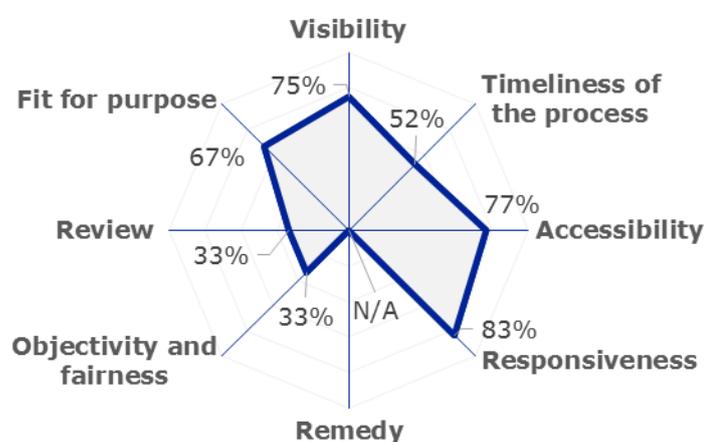
1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs in Spain. The complaints system is established on the **basis of national laws** (*law on Common Administrative Procedure of Public Administrations* and the *General law on Subsidies*).

Furthermore, some types of complaints are also regulated by *Orders*. Some departments in charge of particular OPs also describe complaints procedures in their internal documentation.

Complaints for all Spanish OPs can also be presented via online at the [webpage of Ministry of Finance and Public Administrations](#).

Overall, Spanish OPs **need improvement** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Both the national and ESIF complaints-handling procedures are established on the **basis of national laws**.

10.2 Detailed description of the arrangements

10.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|---|
| Sustainable growth ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Andalucía ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Aragón ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Asturias ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Baleares ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Canary Islands ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Cantabria ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Castilla y León ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Castilla-La Mancha ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Cataluña ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Ceuta ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Comunidad Valenciana ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Extremadura ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Galicia ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| La Rioja ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Madrid ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |

| | |
|--|---|
| Melilla ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Murcia ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| Navarra ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| País Vasco ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER |
| SME Initiative ERDF 2014-20 OP | Ministerio de Hacienda y Administraciones Públicas - Subdirección General de Administración del FEDER, <i>done by EIS</i> |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all OPs in Spain. The complaints system is established on the basis of national laws:</p> <ul style="list-style-type: none"> • Law 39/2015, on Common Administrative Procedure of Public Administrations (<i>Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas</i>) • Law 38/2003, on Subsidies (<i>Ley 38/2003, de 17 de noviembre, General de Subvenciones</i>). <p>For one transregional OP the procedures are further developed by specific provisions for beneficiaries of the particular OP (Sustainable growth ERDF 2014-20 OP) issued by the Ministry of Finance and Public Administrations and they are publically available. These specific provisions are in line with the national legislation mentioned above.</p> <p>To present, 3 Orders (2015, 2016, 2017) were issued and accompanied by 2 provisional (2016, 2017) and 2 final Resolutions (2016, 2017) covering the 3 rounds of the application process. Since these legal documents stipulate the same conditions, only documentation of the first round is provided as an example:</p> <ul style="list-style-type: none"> • Order HAP/2427/2015 (<i>Orden HAP/2427/2015, de 13 de noviembre</i>) • Resolution of 29/09/2016 of Secretary of State for Budget and Expenses (<i>Resolución de 29 de septiembre de 2016 de la Secretaría de Estado de Presupuestos y Gastos</i>) <p>Orders are usually in the form of call for an application submission and are subsequently accompanied by the provisional Resolution of selected applicants. Both batches of documents generally develop specific types of complaints procedures, mostly complaints on the selection</p> |

| | |
|---|---|
| | <p>process. Some departments in charge of particular OPs also describe complaints procedures in their internal documentation.</p> <p>National laws as well as documents for the transregional OP (Orders and Resolutions) for the particular OP (Sustainable growth ERDF 2014-20 OP) are published in the Official Bulletin of Spain (<i>Boletín Oficial del Estado</i>) and may also be found transcribed on third-party websites.</p> <p>There are some minor exceptions applicable to the specific provisions of particular OPs, but not at the level of the MAs: lodged complaints are always redirected to the corresponding regional departments in charge of particular OPs.</p> <p>There is an online gateway for presenting any kind of complaints at the webpage of Ministry of Finance and Public Administrations for all Spanish OPs (for Melilla ERDF 2014-20 OP the applicants can also lodge their complaints through the online gateway at the official webpage of regional independent authority of Melilla (<i>Ciudad Autónoma de Melilla, Consejería de Hacienda</i>)).</p> |
| <p>Level of the complaints-handling systems in place</p> | <p>National and OP specific</p> |
| <p>Description of the types of procedures</p> | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u></p> <p><i>Law 38/2003, on Subsidies (Title I, Chapter II, Article 24) accompanied by Law 39/2015, on Common Administrative Procedure of Public Administrations (Title IV, Chapter I, Article 53)</i></p> <p>Sustainable growth ERDF 2014-20 OP: <i>Order HAP/2427/2015 and Resolution 29/09/2016</i></p> <p><u>The conduct or outcome of random checks</u></p> <p><i>Law 38/2003, on Subsidies (Title III, Article 51) on preventing, detecting and penalising irregularities that occurred during the granting and use of European funds and/or the corresponding national public funds</i></p> <p><u>Other</u></p> <p>Complaints can also be lodged against any kind of administrative acts by reference to <i>Law 39/2015, on Common Administrative Procedure of Public Administrations (Title IV, Chapter I, Article 53)</i>.</p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints** Complaints are usually be submitted via **e-mail or proprietary online gateways**.

- 2. Deadlines for lodging and resolving complaints** Deadlines for lodging and resolving complaints vary by the type of complaint and by OP, mostly from 10 to 30 days after the lead beneficiary has been officially notified about the results which caused the lodging of the complaint, and according to the MAs (questionnaire) up to 6 months from the receipt of the complaint for its resolution.

- 3. Fees** **No fees are charged** for lodging complaints.

- 4. Languages** Complaints can be filed in **all relevant national languages**.

- 5. Opportunities to present the position of the complainant** The complainant is given an opportunity to present their position through **written submission** only.

- 6. Appeal within the complaints system** No information is available.

- 7. Independence of the complaints review** Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint.

- 8. Further appeal** The matter may be submitted to the judiciary for an independent review.

In general, lodging complaints is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims only with the explicit authorisation of the eligible complainant.

- 9. Other details** Correction of decision or reimbursement are provided as a remedy. Decisions on remedy are made **according to structured procedures** (see OP sheets).

According to the MAs (questionnaire), information from complaints received is further analysed by **formal internal review**.

Assessment of effectiveness of the Member State

In Spain, 21 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Spanish OPs scored in between the 1st and the 20th percentile (i.e. about 1-20% of countries scored worse in analysed characteristics than Spain). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “responsiveness”. Similarly, a high score can be observed in “accessibility” and “visibility”.

Responsiveness scored well as the MAs usually inform the complainants throughout the complaints process about any changes. Complaints are dealt with as they come, i.e. first in and first out, which is a standard process how to handle any received queries.

The workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in all national languages. Therefore, the aspect of **accessibility** scored also well.

The information about the complaints-handling arrangements is publically available. Mandatory training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored high as well.

Aspect that scored acceptable in Spain was **fit for purpose**, since the possibilities for a complaint’s submission are the same as the channels through which regular communication takes place (email, online gateway). On average, the MAs handle more than 10-15 complaints per year. Statistics on numbers of relevant complaints are not available.

Deadlines for lodging complaints differ among types of complaints, usually from 10 to 30 days after the beneficiary has been officially notified about the results. Deadlines for resolving complaints are set unreasonably long (up to 6 months from the receipt of complaints). When the timeframe of complaints conflicts with the timeline of the OP administration process, complaints are resolved on the basis of their priority. Therefore, **timeliness of the process** also scored acceptably.

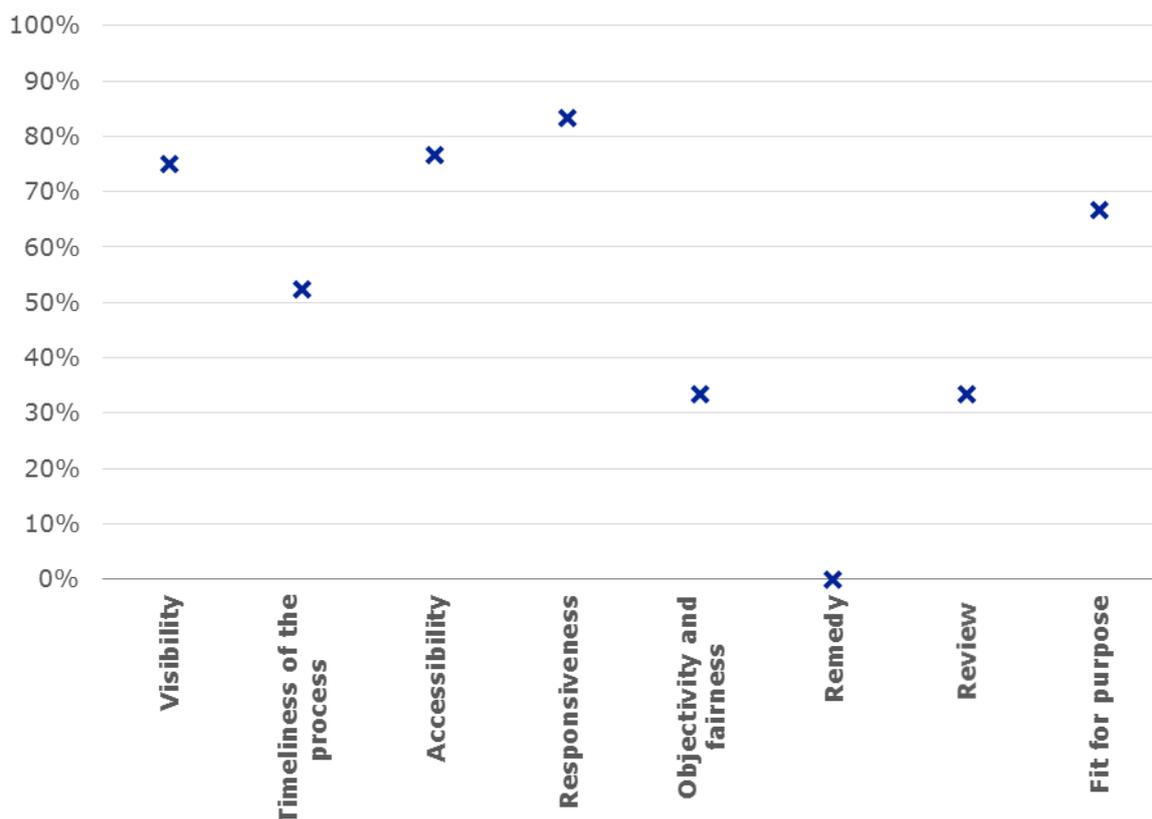
The aspects that scored the lowest and need improvement are the **objectivity and fairness** and **review**. In Spain, independence is ensured by having, at a minimum, different department than the department which produced the act against which the complaint is lodged. The complainant’s position can only be presented in written form. Therefore, the aspect of objectivity needs improvement.

Information from complaints received is further analysed only in informal internal reviews. However, no information is available on the possibility of appeals procedure available to stakeholders in the communication of the final administrative decision. The matter may be submitted to the judiciary for an independent review. Overall, the aspect of **review** needs improvement.

No information is available on the aspect of **remedy**.

The following boxplot (**Chart 23**) shows the distribution of each of the aspects of effectiveness among the analysed OPs. Even though 21 OPs in Spain were analysed, these OPs had the same MA, and the collected responses were all the same for every question. Therefore, the distribution of different parameters appears as crosses and the values of each analysed parameter apply to these OPs only. Due to missing data, remedy's score is 0.

Chart 23 Distribution of scores among aspects



10.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaint handling system in the previous programming period was almost the same as in the current programming period, as all general national laws (the main source of information on complaints) were already in force.

With regards to OP specific documents, which are not common even in the current programming period, for most OPs the documents and websites from the previous programming period are not available online anymore. One exception is the Canary Islands ERDF 2007-13 OP, for which the Manual for Control and Monitoring Procedures is still available. The Manual from the previous programming period informs on the possibility of lodging complaints against the selection process and the conduct or outcome of random checks, whereas currently such document does not exist, but there are laws and acts enabling to lodge complaints also against the preparation of the call for application submission and administrative procedures.

10.2.3 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

Standardised procedures for complaints-handling systems are unified for the analysed national funding programmes²¹ and for the ESIF programmes. The complaints system is established on the **basis of national laws**.

Chart 24 The comparison between national programmes and ESIF - Spain

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **Reindustrialization and Promotion of Competitiveness** (Reindustrialización y Fomento de la Competitividad), managed by the Ministry of Economy, Industry, and Competitiveness
 - The aim of the programme is to stimulate industrial development in Spain. To support industrial development, a regulatory framework has been approved for financing investment projects to improve industrial competitiveness of Spanish companies and contributing to reindustrialisation. The aid takes the form of financial support of industrial investments through the granting of long-term loans.
- **Compensatory aids for indirect CO2 emissions costs** (Ayudas compensatorias por costos de emisiones indirectas de CO2), managed by the Ministry of Economy, Industry and Competitiveness
 - This programme's goal is to create a compensation mechanism for indirect costs attributable to greenhouse gas emissions passed on to electricity prices.
- **INNOGLOBAL**, managed by the Centre for the Development of Industrial Technology (CDTI)
 - INNOGLOBAL is an aid for international business projects presented by Spanish companies. These projects can include both industrial research and experimental development activities

The relevant national laws are permanently available online and available only in Spanish.

²¹ Three national programmes were analysed in the case of Spain.

- [Law 39/2015, on Common Administrative Procedure of Public Administrations](#) (*Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas*)
- [Law 38/2003, on Subsidies](#) (*Ley 38/2003, de 17 de noviembre, General de Subvenciones*).

Complaints are usually submitted via e-mail. In the case of INNOGLOBAL programme complaints are also submitted via a proprietary online gateway. Complaints can be filled only in Spanish. The deadlines for both lodging and resolving complaints are 10 days. No fees are applicable for the national programmes or ESIF. Correction of decision or reimbursement are provided as a remedy. In most cases, judicial reviews are available to the complainant as appeal processes.

According to the responsible authority of the INNOGLOBAL programme, there are approximately 150 complaints handled every year and around 10-15 % of these complaints are relevant, based on the information from the responsible organisation. On the contrary, the complaints are less common in ESIF. In case of most OPs, there are approximately 10-15 complaints handled every year, and only 1 or 2 of these are relevant.

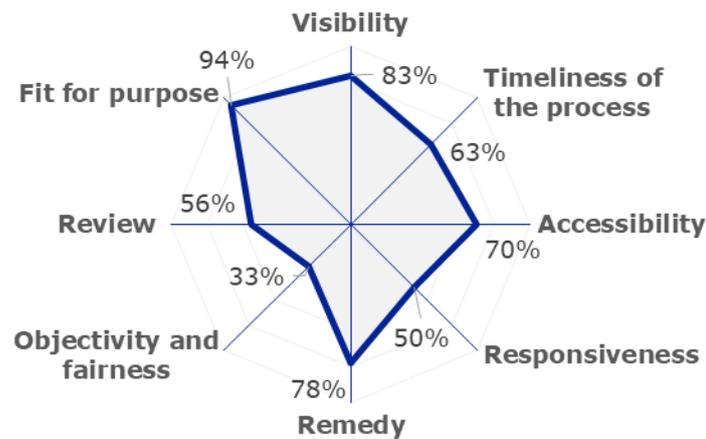
11 FINLAND (FI)

11.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available on the Managing Authorities' websites. The basic rules for complaints-handling are provided in the national laws and in the documents of the *European Investment Bank*.

Overall, Finnish OPs **scored acceptably** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programmes, and codified in the rules of the responsible organisation. Moreover the **complaints-handling procedures are more unified for the national programmes than for ESIF**. However, the *Acts* that contain a description for complaints-handling for national funding programmes are applicable to ESIF programmes as well.

11.2 Detailed description of the arrangements

11.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| SME Initiative (SME) | Ministry of Employment and the economy |
| Entrepreneurship and skills, Åland Structural Fund Programme 2014-2020 | Department of Trade and Industry, Åland Government |
| Sustainable growth and jobs 2014-2020 – Finland's structural funds programme | Ministry of Employment and the Economy |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available on the Managing Authorities' websites. The basic rules for complaints-handling are provided in the <i>national laws</i>²² and in the documents of the European Investment Bank (EIB).</p> <p>SME Initiative</p> <p>The basic rules for complaints-handling for the SME Initiative are established in the document <i>SME initiative Finland: the uncapped guarantee instrument</i>, available on the web of the EIB and in <i>Complaints mechanism of EIB</i>, available on the web of the EIB.</p> <p>Specifically, the rule <i>SME initiative Finland</i> is the basis for complaints against the selection process. Rule <i>Complaints mechanism of EIB</i> is the basis for complaints against any maladministration by the EIB. <i>A set of guidelines</i> is issued by the EIB, including a definition of the minimum requirements for complaints handling systems.</p> <p>All documents are publicly available on the web of the EIB.</p> <p>Åland fund</p> <p>The rules for the Åland fund are established in the national law - <i>Company Aid Act of Åland 2008:110</i> and <i>Company Aid Act of Åland 2016:30</i>.</p> <p>The <i>Company aid act of Åland</i> is the basis for the complaints-handling system. This describes the process for lodging complaints. However, the document does not give</p> |

²² http://www.regeringen.ax/sites/www.regeringen.ax/files/attachments/law/afs2016_nr30.pdf, <http://www.regeringen.ax/sites/www.regeringen.ax/files/attachments/law/afs2008-nr110.pdf>, https://www.finlex.fi/fi/laki/ajantasa/2015/20150410#L16_%C2%A7_138.

| | |
|---|---|
| | <p>further information about the minimum requirements to lodge a complaint.</p> <p>All documents are publicly available on the web.</p> <p>Sustainable growth and jobs</p> <p>The basic rules are established in the national Local Government Act (§ 133 - § 144), available online.</p> <p>The Act is the basis for the complaints handling system and includes a definition of the minimum requirements for complaints handling systems.</p> |
| <p>Level of the complaints-handling systems in place</p> | <p>National and International</p> |
| <p>Description of the types of procedure</p> | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p>SME Initiative</p> <p><u>The selection process</u></p> <p><i>SME initiative Finland: the uncapped guarantee instrument</i></p> <p><u>Other</u></p> <p><i>Complaints mechanism of EIB</i> describes the possibility of any complaints against maladministration of the EIB. Further appeal is possible. EIB can review their decision. Complainant can usually use a process of Independent administrative review by the European ombudsman.</p> <p>Aland fund</p> <p>National law <i>Company Aid Act of Åland</i> describes the possibilities for lodging complaints about the following phases:</p> <ul style="list-style-type: none"> • The selection process • The processing of claims • The handling of change requests • The change of grant conditions • The conduct or outcome of random checks <p>Sustainable growth and jobs</p> <p>As the Local Govt. Act does not specify which phases can be subject to complaint, it may be assumed that a complaint can be made at any phase of the project</p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints** Complaints are generally submitted via **postal services or e-mail.**
- 2. Deadlines for lodging and resolving complaints** **The complaint usually has to be submitted within two weeks** as of the day when the decision, which serves as the reason for the complaint, was received. Deadlines for resolving complaints vary by the type of complaint.
- 3. Fees** **No fees are charged** for lodging complaints.
- 4. Languages** In Aland fund, complaints can be lodged only in relevant national languages. In other OPs complaints can be lodged in all relevant national languages and also in English.
- 5. Opportunities to present the position of the complainant** The complainants have an opportunity to present their position in writing. In some cases the possibility of informal hearing is available.
- 6. Appeal within the complaints system** Further administrative appeal is possible to lodge within 14 days after the decision.
- 7. Independence of the complaints review** The rules for independence vary from OP to OP. In Sustainable growth and jobs different department decides about the complaints. Aland Fund has no guidelines for independence.

In SME and Sustainable growth and jobs OPs it is possible to appeal to an administrative court, the Supreme Court. In SME OP it is also possible to appeal to the European ombudsman. In the Aland fund it is possible to appeal to the administrative court.
- 8. Further appeal** In general, lodging complaints is possible for **any applicant and beneficiary in all OPs.** In OP SME Initiative and OP Sustainable growth and jobs it is also possible for **any party affected by the subject of the complaint** to do so. The only remedy provided is a **correction of the decision.**
- 9. Other details** The complainant is usually informed of the process and its outcome **at the end of the process. In SME OP the complainant is notified that their complaint has been received.**

Internal analysis of the complaints varies by OP. Analysis can be performed by internal or external review.

Assessment of effectiveness of the Member State

In Finland, 3 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Finish OPs scored in between the 21st and the 40th percentile (i.e. about 21-40% of countries scored worse in analysed characteristics than Finland). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “visibility” and “remedy”.

Fit for purpose is assessed as very well and the best aspect, since in Finish OPs, the possibilities for a complaint’s submission are wider (post, email, online gateway) compared to the channels through which regular communication takes place (post or email). Statistics on received complaints by the MAs differ substantially, but they do not exceed 100 complaints per year, out of which more than 90% were considered relevant.

The possibility of complaining is communicated to the applicant each time a decision is made that could elicit a complaint, or at least at the start and of the administrative process. Mandatory or optional training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored well.

The remedy provided is a correction of decision. The decision is made according to structured procedures (based on the applicable rules). Therefore, the **remedy** aspect scored well.

Another aspect that scored well is the **accessibility**. The workflow of the complaints procedure in the documents is described in relevant details and no fees are required when submitting a complaint. For some OPs, complaints can be lodged only in Finish, and for others in English as well.

Deadlines for lodging complaints differ among types of complaints. Deadlines for lodging complaints are usually set reasonably (2 weeks – 1 month after the beneficiary has been officially notified about the results), deadlines for resolving complaints are usually one month. When the timeframe of complaints conflicts with the timeline of the OP administration process, complaints are resolved as usual, or complaints-handling procedure is postponed. Therefore, **timeliness of the process** scored acceptably.

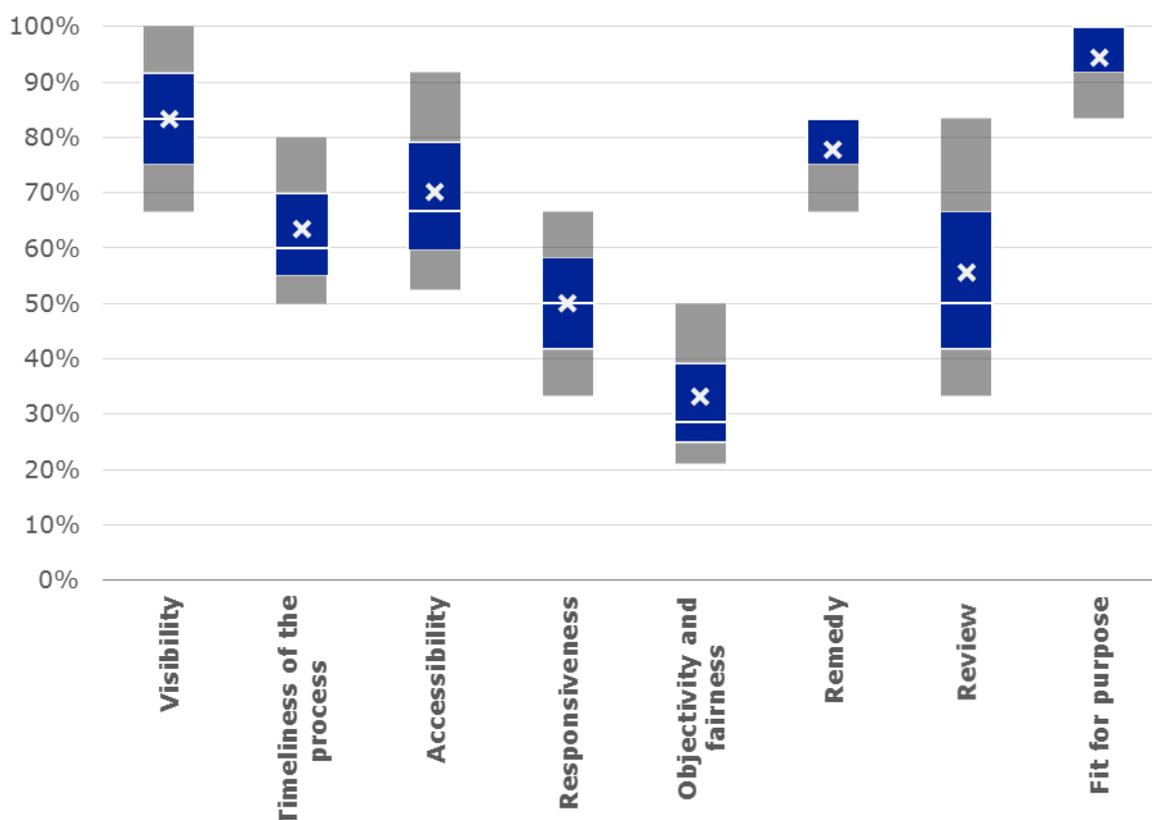
Review also scored acceptably. Further administrative appeal is usually possible. Appeal process is usually available to complainants in a form of judicial review, escalation to a higher authority or ombudsman, depending on the type of complaint. Information on the appeals procedure is in some OPs provided to the stakeholders in the communication of the final administrative decision.

The aspect of **responsiveness** also scored acceptably in Finland as the MA usually informs the complainants only at the end of the process about any changes. Complaints are mostly addressed based on the first-in first-out basis, as opposed to being prioritised.

The aspect that scored the lowest and needs improvement is **objectivity and fairness**. In Finland, independence is ensured by having, at a minimum, a different person than the person which produced the act against which the complaint is lodged. The complainant’s position can only be presented in written form.

The following boxplot (**Chart 25**) shows the distribution of each of the aspects of effectiveness among the analysed OPs. For Finland, the above information is reasonably consistent and the OPs have quite similar rules and procedures. The highest variability in analysed values can be observed for the aspects of review and accessibility. The assessment of effectiveness described above is applicable in general.

Chart 25 Distribution of scores among aspects



11.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The documents establishing the complaints-handling system were published (or updated) before or during programming period 2007 – 2013. Thus, the complaints-handling system was based on the same rules. Moreover, the MA confirmed that the complaints-handling system was the same as in the current programming period.

11.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programmes,²³ and codified in the rules of the responsible organisation. **Moreover the complaints-handling procedures are more unified for the national programmes than for ESIF.** However, The Acts²⁴ for national funding programmes are applicable to ESIF programmes as well.

Chart 26 The comparison of complaints-handling arrangements standardization between national programmes and ESIF - Finland

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↑ | ↑ | ● | ● | ● | ● | ↑ |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **EMTN programme (Euro Medium Term Note Programme)**, The Ministry of Economic Affairs and Employment in Finland.
 - The programme is guaranteed by the State of Finland and focuses on providing loans.
- **Finnpartnership programme (administrated by FINNFUND)**, State of Finland
 - The Ministry for Foreign Affairs in Finland.
 - Finnpartnership promotes business activities and partnerships in order to accelerate positive development impacts in the target country (developing country). Their main goal is to establish a business in developing countries that will be profitable and responsible, creating a cycle that reinforces positive development. Finnpartnership is a part of FINNFUND's activities.

Documents codifying the procedures

The national programmes and ESIF have a different legal basis in place that specifies the complaints-handling procedures, however, the laws applicable for the national programmes should, in general, be valid for all programmes in Finland. Both national programmes follow national legislation, in particular [The Administrative Procedure Act](#) and [The Administrative](#)

²³ Two national programmes were analysed in the case of Finland. See Part 3.1 – Methodology for further description.

²⁴ The Acts that contain a description for complaints-handling are available online in Finnish, Swedish and English (mainly unofficial translation), but they are legally binding only in Finnish and Swedish.

[Judicial Procedure Act](#). Even though each programme states that they follow different Acts, the Acts refer to each other in particular cases.

The EMTN programme follows [The Administrative Procedure Act](#) which is applicable to all complaints against **any public administration decision** in Finland, including national programmes and ESIF.

The legal process for Finnpartnership programme is described in [The Administrative Judicial Procedure Act](#) and is applicable to all appeals against any public administration decision in Finland, including national programmes and ESIF. Moreover, this Act specifies the procedures of the nationally funded programmes and describes the possibilities to appeal the decisions of a State administrative authority. This Act refers to The Administrative Procedure Act as a document applicable to complaints. Therefore, both national programmes follow the same procedure in order to handle complaints against their actions.

Types of procedures

In the EMTN programme, an administrative complaint can be filed concerning the unlawful conduct of Finnvera (the authority), a person employed by Finnvera, or about the failure to fulfil an obligation and their duties.

Based on the national laws applicable to national programmes and ESIF, complaints can be lodged any time during a project's implementation (the phase is not specified).

Submission of complaints

The submission of complaints differs for the national programmes and ESIF operational programmes. While for the ESIF programmes the complaints shall be lodged via postal services or e-mail, complaints for both national programmes must be filed in writing (orally with the consent of the supervisory authority). However, a copy of a paper letter of a complaint for EMTN programme can be sent by e-mail. The rules for ESIF are less strict compared to the national programmes.

The complaints for all programmes can be filed in all relevant national languages and English.

Deadlines

Each programme has different timeliness. In the ESIF OPs, complaints have to be lodged within 14 days from the day the decision was received. Deadlines for resolving complaints differ by types of complaint. In EMTN programme, anyone can file an administrative complaint. However, the complaint cannot be admitted for examination if its subject is dated more than two years back. In the case of the Finnpartnership Programme, an appeal should be lodged within 30 days of notice of the decision and it shall be filed in writing.²⁵

Fees

No fees are applicable for the national or ESIF programmes. According to The Administrative Procedure Act (that is used for complaint in EMTN programme) everyone bears his or her own costs.

Remedy

The same arrangements are in place for both national programmes and ESIF, i.e. correction of the decision.

²⁵ When calculating this period, the day of notice shall not be included.

Further appeal

The same possibility to further appeal the decision is in place for Finnpartnership national programmes and ESIF, i.e. a judicial review is possible.

However, in the EMTN programme, according to The Administrative Procedure Act (section 53d), no appeal may be made against a decision given in an administrative complaint matter for this programme. If a beneficiary does not agree with the decision of removing the interest subsidy, he or she shall firstly demand a remedial action from Finnvera. Then the complainant has a possibility of making a complaint to the Ministry of Economic Affairs and the Employment of Finland according to The Administrative Procedure Act. In general, beneficiaries have the possibility of making an appeal to the common court of first degree concerning the loan itself and its conditions altogether. These actions have been very rare during the past years.

Other comments

In the Finnpartnership programme they have not yet had any complaint.

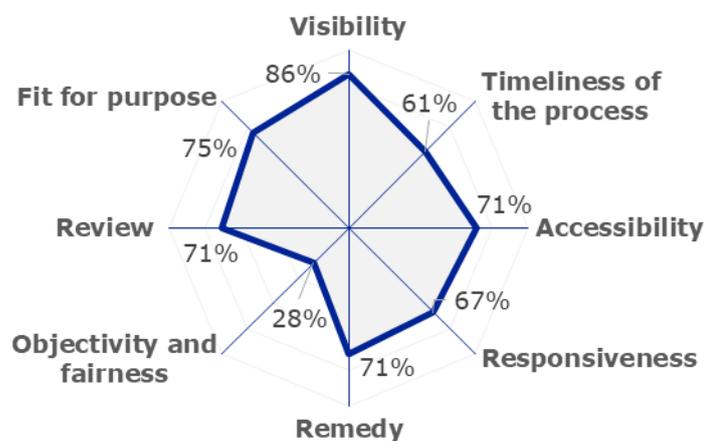
12 FRANCE (FR)

12.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available only for some of the OPs of France. The French complaint-handling system is **not established and applied uniformly across all OPs in France**. The system is fragmented and information is usually not easily accessible for applicants. The basic rules for complaints-handling are provided in national law, which codifies relations between applicants and the public administration. Further information is, in some cases, available in the document *Guidelines for Applicants/Beneficiaries*.

Overall, French OPs **scored acceptably** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The information is not available due to the administrative reform that took place in 2015. The local units representing the state (*préfectures*) were in charge of the OP management in the 2007-2013 programming period. In 2015, the units were abolished and do not exist anymore. Regions (*autorités de gestion*) manage the OP in the 2014-2020 period and different rules are applied.

3. Comparison of the national and ESIF complaints-handling procedures

Both in the ESIF and nationally funded programmes, the basic rules for complaints-handling are provided for in national law. **ESIF arguably provides more detailed and elaborate rules** due to the existence of specific *Guidelines* in some cases. Conversely, there seem to be no further documents specifically detailing with complaints-handling for the nationally funded programmes.

12.2 Detailed description of the arrangements

12.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|--|
| Operational Programme ERDF-ESF Guadeloupe et St Martin Etat 2014-2020 | Prefet of Guadeloupe |
| Interregional programme Alpes 2014-2020 | Region PACA |
| Interregional programme Alsace 2014-2020 | Region Grand Est |
| Interregional Programme Loire 2014-2020 | Region Centre-Val de Loire |
| Interregional programme Massif Central 2014-2020 | Region Occitaine |
| Interregional programme Pyrénées 2014-2020 | Region Occitanie |
| Interregional programme Rhône 2014-2020 | Region Auvergne-Rhone-Alpes |
| Interregional programme Réunion Conseil Régional 2014-2020 | Regional council of Réunion |
| National technical assistance 2014 - 2020 | The General Commissariat for Equality of the Territories |
| Operational Programme ERDF-ESF ile-de-France et Seine 2014-2020 | Region Ile-de-France |
| Regional programme Aquitaine 2014-2020 | Region Nouvelle Aquitaine |
| Regional programme Auvergne 2014-2020 | Region Auvergne-Rhone-Alpes |
| Regional programme Basse-Normandie 2014-2020 | Region Normandie |
| Regional programme Bourgogne 2014-2020 | Region Bourgogne Franche Comte |
| Regional programme Bretagne 2014-2020 | Regional council of Bretagne |

| | |
|--|--------------------------------------|
| Regional programme Centre 2014-2020 | Region Centre-Val de Loire |
| Regional programme Champagne-Ardenne 2014-2020 | Region Grand Est |
| Regional programme Franche-Comté et Jura 2014-2020 | Region Bourgogne Franche Comte |
| Regional programme Guadeloupe Conseil Régional 2014-2020 | Regional council of Guadeloupe |
| Regional programme Guyane Conseil Régional 2014-2020 | Regional council of Guyane |
| Regional programme Haute-Normandie 2014-2020 | Region Normandie |
| Regional programme Languedoc-Roussillon 2014-2020 | Region Occitanie |
| Regional programme Limousin 2014-2020 | Region Nouvelle Aquitaine |
| Regional programme Lorraine et Vosges 2014-2020 | Region Grand Est |
| Regional programme Martinique Conseil Régional 2014-2020 | Regional council of Martinique |
| Regional programme Mayotte 2014-2020 | Prefect of Mayotte |
| Regional programme Midi-Pyrénées et Garonne 2014-2020 | Region Occitanie |
| Regional Programme Nord-Pas de Calais 2014 - 2020 | Region Hauts de France |
| Regional programme Pays de la Loire 2014-2020 | Regional council of Pays de la Loire |
| Regional programme Picardie 2014 - 2020 | Region Haute de France |

| | |
|--|--|
| Regional programme Poitou Charentes 2014 - 2020 | Region Nouvelle Aquitaine |
| Regional programme Provence Alpes Cote d'Azur | Region Paca |
| Regional programme Rhône Alpes 2014-2020 | Region Auvergne-Rhone-Alpes |
| Regional programme Corse 2014-2020 | Territorial collectivity of Corsica |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available only for some of the OPs of France. The French complaint-handling system is not established and applied uniformly across all OPs in France. The system is fragmented and information is usually not easily accessible for applicants.</p> <p>The basic rules for complaints-handling are provided in <i>national law</i>, which codifies relations between applicants and the public administration. Further information is, in some cases, available in the document <i>Guidelines for Applicants/Beneficiaries</i>. The document generally details the channels which can be used for lodging a complaint, the deadlines for lodging a complaint (usually 2 months) and also the postal address where an applicant should send the complaint.</p> <p>In France, every region has its own MA (except for the OP Technical Assistance, which is national, not regional). MA is responsible for at least one, but usually for more OPs. Complaints-handling systems vary by region, sometimes those systems vary by OPs in one region.</p> <p>The complaints-handling system is usually established on the basis of national ordinance – Code des relations entre le public et l'administration. It comes from the Ordinance No. 2015-1341 from 23 October 2015 and Decree No. 2015-1342 of the same day. Several Managing Authorities apply their own internal documents. Those documents are usually called <i>Descriptif du système de gestion et de contrôle (DSGC)</i>.</p> <p>The national law may be found on the website of the Legislation of the French Republic. The law is available only in French. French is the only language that can be used for communication between the applicant and the public administration.</p> <p>The internal documents are usually not available online. In this case, the information on appeals is usually provided in the initial contract, or in another document made available</p> |

| | |
|---|--|
| | <p>to the stakeholders at the beginning of the administration process. The second option is provision of the information on appeals each time a decision is made (that could elicit an appeal).</p> <p>MAs' websites are also a source of information for those who would like to lodge a complaint. The websites of the majority of MAs contain relevant information. Usually, these websites provide information on deadlines, channels for lodging the complaint and postal address, where it should be sent.</p> |
| <p>Level of the complaints-handling systems in place</p> | <p>National and OP specific – internal documents</p> |
| <p>Description of the types of procedure</p> | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase. The following description is also divided based on the level of the complaints-handling system (National level and OP specific).</p> <p><u>National level – Code de relations entre le public et l'administration</u></p> <p><u>Other</u></p> <p>Any administrative decision may be the subject of a complaint.</p> <p>Complaints are codified in <i>Livre IV: Le Règlement des différends avec l'administration of the Code entre le public et l'administration</i>.</p> <p>Further appeal is possible. A complainant can usually use a process of juridical review (Administrative court of Appeal), which is governed by the Code de justice administrative. The complainant can also contact the Ombudsman (Défenseur des droits), which is an independent administrative authority. They do not receive any instructions in connection with its powers and they are governed by LOI organique n° 2011-333 du 29 mars 2011 relative au Défenseur des droits.</p> <p><u>OPs specific level – Internal documents</u></p> <p>OPs, which are included in this part of the description usually use their own internal documents or they provide specific information on the types of complaints.</p> <p><u>The selection process, the processing of claims, the conduct or outcome of random checks, the outcomes of audits.</u></p> <ul style="list-style-type: none"> • Regional Programme Aquitaine, Regional Programme Limousin, Regional programme Poitou Charentes |

Region Nouvelle Aquitaine uses *internal documents*. Information about the types of complaints comes from *the questionnaire* filled by the MAs' relevant person.

Further appeal is available to the complainant. They can usually use a process of juridical review (Administrative court of Appeal) or they can contact the Défenseur des droits (Ombudsman). See above for the legal basis.

The selection process, the processing of claims, the change of grant conditions, the outcomes of audits

- Regional programme Guadeloupe Conseil Régional, Operational Programme ERDF-ESF Guadeloupe et St Martin Etat

Guadeloupe uses *internal documents* (*Guide des procédures*). Information about the types of complaints comes from *the questionnaire* filled by the MAs' relevant person.

Further appeal is available to the complainant. The complainant can usually escalate the complaints procedure to a higher authority.

The call for application submission, the selection process, the processing of claims, the handling of charge request, the change of grant conditions, the conduct or outcome of random checks, the outcomes of audit

- Regional programme Franche-Comté et Jura, Regional programme Bourgogne

Information about the types of complaints comes from *the questionnaire* filled by the MAs' relevant person.

Further appeal is available to the complainant. The complainant can usually use a process of juridical review (Administrative court of Appeal) or escalation of the complaints procedure to a higher authority.

Other

- Regional programme Corse

A complaint of fraud and suspicion of conflict of interest is the only possible type of complaint.

Publicly available information is listed on the *website of MA*. Information about the type of complaint also comes from the *questionnaire* filled by the MAs' relevant person.

Further appeal is available to the complainant. They can usually escalate the complaints procedure to a higher authority.

The selection process, the processing of claims, the handling of change requests, the conduct or outcome of random checks

- Interregional programme Réunion Conseil Régional

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| | <p>Information about the types of complaints comes from <i>the MAs' questionnaire</i>. Information about lodging complaints are available <i>online on the MAs' website</i>.</p> <p>Further appeal is available to the complainant. They can usually use a process of juridical review (Administrative court of Appeal)</p> <p><u>The selection process, the outcomes of audits, other</u></p> <ul style="list-style-type: none"> Regional programme Champagne-Ardenne, Regional programme Lorraine et Vosges, Interregional programme Alsace <p>Publicly available information is listed on the <i>website of the MA</i>. Information about the type of complaint also comes from the <i>questionnaire</i> filled by the MAs' relevant person.</p> <p>Further appeal is available to the complainant. The complainant can usually use a process of juridical review (Administrative court of Appeal) or escalation of the complaints procedure to a higher authority.</p> <p><u>Other</u></p> <ul style="list-style-type: none"> Regional programme Mayotte <p>MA of Mayotte OP uses <i>internal documents (DSGC)</i>. All types of complaints are allowed, according to the MAs' questionnaire.</p> <p>Further appeal is possible via the Administrative court of Appeal.</p> <p><u>Other</u></p> <ul style="list-style-type: none"> Regional programme Centre, Interregional programme Loire <p>Region Centre-Val de Loire uses <i>internal documents (DSGC)</i>. All types of complaints are allowed, according to the MAs' questionnaire.</p> <p>Further appeal is available to the complainant. The complainant can usually escalate the complaints procedure to a higher authority.</p> |
|--|---|

Detailed description of the complaints-handling system:

- | | |
|---|--|
| <p>1. Channels for lodging complaints</p> | <p>Complaints are generally submitted via postal services. Some regions and MAs accept complaints submitted via a proprietary online gateway for interacting with the state administration.</p> |
| <p>2. Deadlines for lodging and resolving complaints</p> | <p>The complaint usually has to be submitted within two months as of the day when the decision, which serves as the reason for the complaint, was received. Deadlines for resolving complaints vary by region and types of complaint.</p> |
| <p>3. Fees</p> | <p>No fees are charged for lodging complaints.</p> |

- | | |
|--|---|
| 4. Languages | Complaints can be lodged in French only. |
| 5. Opportunities to present the position of the complainant | Complainant can usually present his position throughout the written submission. But those opportunities vary by region and OPs. |
| 6. Appeal within the complaints system | No information available. |
| 7. Independence of the complaints review | Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint. Usually a different unit or department handles the complaint. |
| 8. Further appeal | <p>Further appeal is possible. A complainant can usually use a process of juridical review (Administrative court of Appeal), which is governed by the <i>Code de justice administrative</i>. The complainant can also contact the Ombudsman (Défenseur des droits), which is an independent administrative authority. They do not receive any instructions in connection with its powers and they are governed by <i>LOI organique n° 2011-333 du 29 mars 2011 relative au Défenseur des droits</i>.</p> <p>In general, the lodging of complaints is possible by an applicant and a beneficiary or any party affected by the subject of the complaint. The only remedy provided is a correction of the decision.</p> <p>The complainant is usually informed of the process and its outcome at the start and at the end of the process.</p> |
| 9. Other details | <p>Training for frontline officers of the complaints handling procedures is usually provided, but is not mandatory.</p> <p>Usually, when the timeframe of complaints conflicts with the timeline of the OP administration process, the OP administration process continues as usual but the complaint is prioritized and resolved before the deadline so as to avoid conflict.</p> |

Assessment of effectiveness of the Member State

In France, 34 operational programmes (national) were analysed during the assessment of effectiveness. Overall, French OPs scored in between the 21st and the 40th percentile (i.e. about 21-40% of countries scored worse in analysed characteristics than France). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “visibility”. Similarly, a high score can be observed in “fit for purpose”, and also in “review”, “remedy” and “accessibility”.

The best score is in the aspect of **visibility** (scored very well). The possibility of complaining is communicated to the applicant through the information permanently available online. Information is provided for self-study to disseminate up-to-date knowledge of the complaints procedures among frontline officers.

Another aspect that scored well in France is **fit for purpose**. For French OPs, the possible channels of complaint's submission (post, email, in some OPs also online gateway or in person) are wider compared to the channels through the usual communication takes place (post). On average, the MAs handle less than 50 complaints per year, however, statistics on the number of relevant complaints are not available.

In France, further administrative appeal is possible. Appeals can be lodged with a court for judicial review and with the Ombudsman for independent administrative review. Information on the possibility of appeal is available online. Therefore, the aspect of **review** scored well.

If the complaint is found substantive, correction of decision is provided as remedy. The decision to provide the remedy is made according to structured procedures (based on the Code). Therefore, the aspect of **remedy** scored also well.

Another aspect that scored well is **accessibility**. The workflow of the complaints procedure in the documents is described in relevant details and no fees are required when submitting a complaint. Complaints can be lodged only in French language.

Responsiveness scored acceptably as the MA usually informs the complainants only at the end of the process about any changes, and only in some cases at the start of the process as well. Approximately in 50% of cases, complaints are handled based on the first-in first-out basis, otherwise they are resolved based on their priority, depending on region and OP.

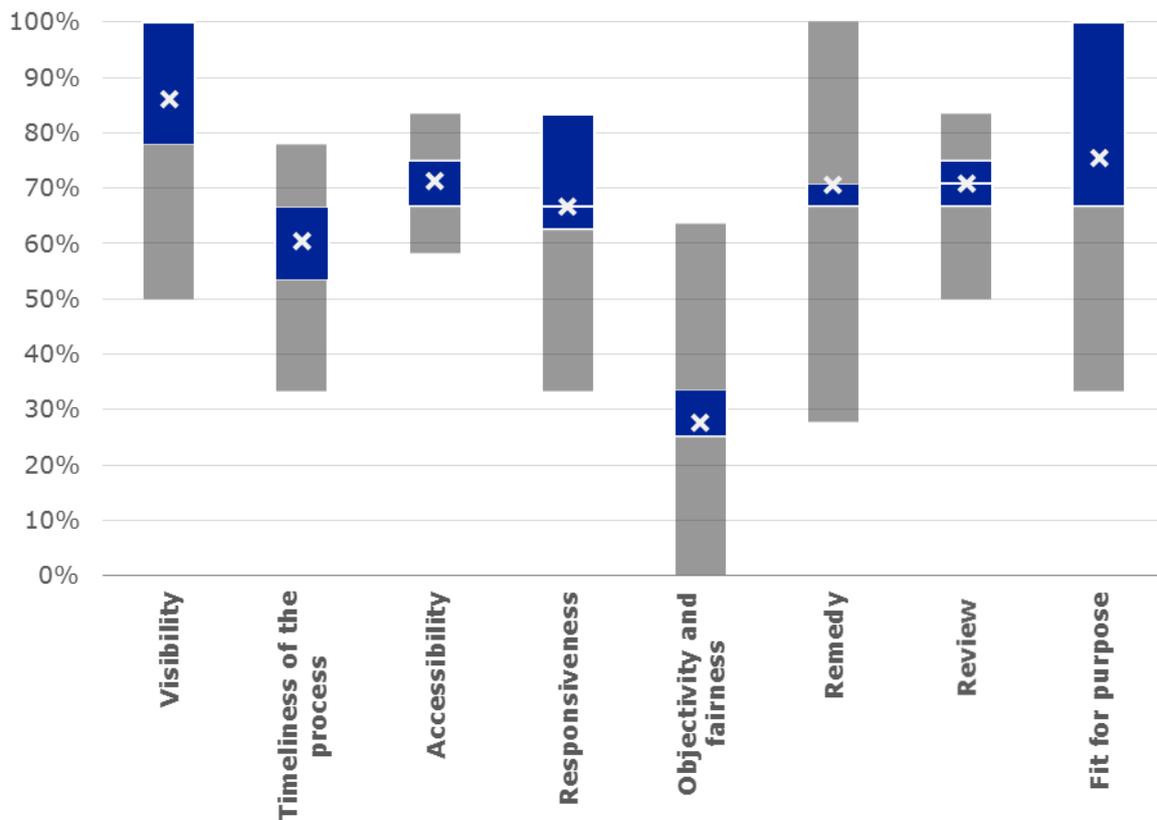
Deadlines for lodging complaints differ among types of complaints. Deadlines for lodging complaints are usually set quite reasonably (2 weeks – 2 months after the beneficiary has been officially notified about the results), however, deadlines for resolving complaints are usually not set at all. The timeframe of complaints usually cannot conflict with the timeline of the OP administration process. Therefore, **timeliness** of the process scored acceptably.

The aspect that scored the lowest and needs improvement is the **objectivity and fairness**. A complaint is handled by a different person than the person which produced the act against which the complaint is lodged. The complainant is given the opportunity to present his/her position through the initial written submission, and for some types of complaints also by a formal hearing process.

The following boxplot (**Chart 27**) shows the distribution of each of the aspects of effectiveness among the analysed OPs. First, as the number of OPs is greater than in other countries, variability in responses increases. Second, the complaints-handling procedures are fragmented both on the level of OPs and regions in France, for which reasons the variability in analysed aspects is bigger than for some other countries. However, taking into account only the relevant responses in rectangles (2nd and 3rd quartile), variability decreases significantly and remains greater only for the aspects of fit for purpose, visibility and responsiveness.

Taking into consideration only relevant responses, the above information is relatively consistent and the OPs have quite similar rules and procedures. The assessment of effectiveness described above is applicable in general.

Chart 27 Distribution of scores among aspects



12.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

Little information is available on the previous programming period. The territorial reform took place during the current programming period and the system of the Managing Authorities rapidly changed. Also the Code des relation entre le public at l'administration has been in force from autumn 2015. The prefectures (representation of the French state in the regions), which do not exist anymore, acted as the MAs in the 2007-2013 programming period. Based on the minimum available information, only basic system was in place compared to the 2014-2020 programming period.

The complaints-handling systems were less developed according to MA of the Interreg V-A - Belgium-France, the South West Europe programme and of the Interregional programme Réunion Conseil Régional 2014-2020.

12.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Both in the ESIF and nationally funded programmes,²⁶ the basic rules for complaints-handling are provided for in national law. ESIF arguably provides more detailed and elaborate rules due to the existence of specific Guidelines in some cases. Conversely, there seem to be no further documents specifically detailing with complaints-handling for the nationally funded programmes.

Chart 28 The comparison between national programmes and ESIF - France

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↓ | ↓ | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following national programmes were analysed:

- **Aid to reindustrialisation**, managed by BPI France
 - The aid can finance 15% to 30% of a business' capital investment into a reindustrialisation or relocation project.
- **Regional planning grant for industry and services**, managed by General Commissariat for Equality of the Territories

²⁶ Three national programmes were analysed in the case of France.

- Direct investment aid intended to promote the establishment and development of companies with job-creating projects and sustainable activities.
- **Future Investment Programme - Sustainable cities and territories**, managed by the National Agency for Urban Renovation
 - Grants to develop a more efficient city in terms of respect for the environment, consumption adjustments, lower costs incurred by inhabitants or quality of life.

Documents codifying the procedures

In both the ESIF and nationally funded programmes, the basic rules are contained in the Code des relations entre le public et l'administration regarding the administrative complaints and in the Code de justice administrative regarding the judicial procedure. Arguably, there are no further documents codifying complaints in nationally funded programmes, in contrast to the specific and more detailed Guidelines in some ESIF programmes.

Types of procedures

In nationally funded programmes, the subject of a complaint is not limited, while in ESIF, specific types of available procedures are described, such as the selection process, the processing of claims, the conduct or outcome of random checks, the outcomes of audits for the specific OPs.

Submission of complaints

In both ESIF and nationally funded programmes, the complaints are usually submitted via postal services. Additionally, in ESIF, some authorities accept complaints via a proprietary online gateway.

Deadlines

In both the ESIF and nationally funded programmes, the general deadline for submitting complaints is 2 months; however, specific deadlines in different procedures are in place in ESIF.

Fees

In both the ESIF and nationally funded programmes, there is no fee for lodging a complaint.

Remedy

In both ESIF and nationally funded programmes, the only remedy provided is the correction of decision.

Further appeal

Further appeal is possible in ESIF and most probably also in nationally funded programmes.

Other comments

The information regarding nationally funded programmes relies mainly on desk research; direct contact with the officers in charge of the relevant national authorities was strongly and repeatedly sought, however, with little success.

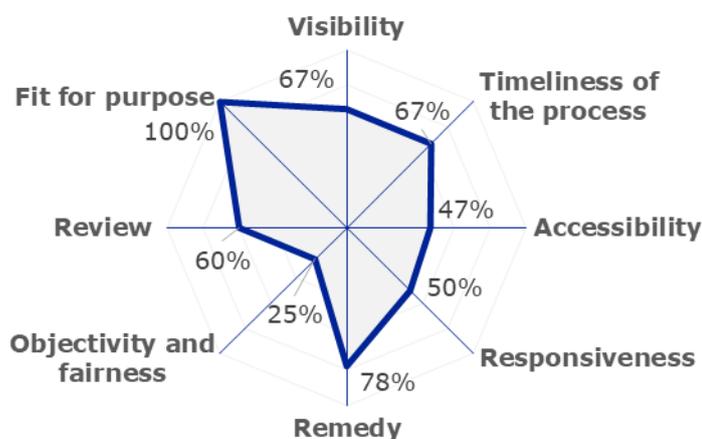
13 CROATIA (HR)

13.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

The rules for the only Croatian OP (Competitiveness and Cohesion OP) are established in the *Common national rules*, which are not publically available. The applicants and beneficiaries are informed about the possibility to complain in the initial contact and each time the decision that could lead to complaint is made.

Overall, Croatian OP **scored acceptably** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

Croatia only entered the European Union in 2013, therefore, an evaluation of the previous programming period would be irrelevant.

3. Comparison of the national and ESIF complaints-handling procedures

Codified complaint procedures are in place for both ESIF and nationally funded programmes. However, the **documents codifying the ESIF procedure are not publicly available, in contrast to the publicly available documents regarding national funding**. The possibility to **complain in ESIF proceedings is wider** than in nationally funded programmes. The workflow for handling complaints is well developed in both ESIF and nationally funded programmes, with ESIF having even more comprehensive and detailed documentation.

13.2 Detailed description of the arrangements

13.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| Competitiveness and Cohesion OP (CCOP) | Ministry of Regional Development and EU Funds |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>The rules for the only Croatian OP (Competitiveness and Cohesion OP) are established in the <i>Common national rules</i>, which are not publically available.²⁷</p> <p>Specifically, rules no. 6 and 13 are the basis for the complaints-handling system (rule no. 6 describes the procedures for awarding grants, rule no. 13 provides basic guidance on the process of irregularity management). A set of guidelines is issued by the Governing Body of the OP, including a definition of the minimum requirements for complaints handling systems.</p> <p>Common national rules are not publically available but the documents were received by the Managing Authority. The applicants and beneficiaries are informed about the possibility to complain in the initial contact and each time the decision that could lead to complaint is made.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u></p> <p><i>Common national rule 6</i></p> <p><u>Other</u></p> <p><i>Common national rules 6</i> describe the complaints procedure at any stage of the proceeding.</p> |

²⁷ Documents were provided via e-mail by the Managing Authority.

Detailed description of the complaints-handling system:

- | | |
|--|--|
| 1. Channels for lodging complaints | Complaints are generally submitted via postal services and e-mail. |
| 2. Deadlines for lodging and resolving complaints | Deadlines for lodging and resolving complaints are the same for all types of complaints, i.e., 15 days to lodge the complaint from receiving the decision from The Managing Authority and 30 days to resolve the complaint. |
| 3. Fees | No fees are charged for lodging complaints. |
| 4. Languages | The complaint can be lodged in Croatian. |
| 5. Opportunities to present the position of the complainant | The complainant is given an opportunity to present their position through written submission only. |
| 6. Appeal within the complaints system | Further administrative appeal is possible. The deadline for lodging an appeal is 30 days. |
| 7. Independence of the complaints review | No information is available. |
| 8. Further appeal | Based on the Common national rules 6 and 13, the applicant and beneficiary can submit complaint further to an administrative court. Lodging a complaint is restricted to an applicant and a beneficiary. The only remedy provided is a correction of the decision. |
| 9. Other details | The received complaints are further analysed in an external formal review, according to the information from the Managing Authority. The Managing Authority also organises optional training for frontline officers, in order to inform them about the complaints-handling system in place. |

Assessment of effectiveness of the Member State

In Croatia, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, Croatian OPs scored in between the 21st and the 40th percentile (i.e. about 21-40% of countries scored worse in analysed characteristics than Croatia). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “remedy”, “visibility”.

Fit for purpose is assessed as the best aspect (scored very well), since in the Croatian OP, the possibilities for a complaint’s submission (post, email, in person) are wider compared to the channels through which regular communication takes place (post). Statistics on numbers of received complaints are not available for the Croatian OP.

Remedy provided is a correction of decision. The decision is made according to codified procedures. Therefore, the **remedy** aspect scored well.

The possibility of complaining is communicated to the applicant each time a decision is made that could elicit a complaint, and in a document made available to the beneficiary at the start of the administrative process. Non-mandatory training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored acceptably.

Deadlines for lodging complaints are set quite short (8 days), and deadlines for resolving complaints are quite long (30 days). On the other hand, the timeframe of complaints cannot conflict with the timeline of the OP administration process. Therefore, **timeliness of the process** scored acceptably.

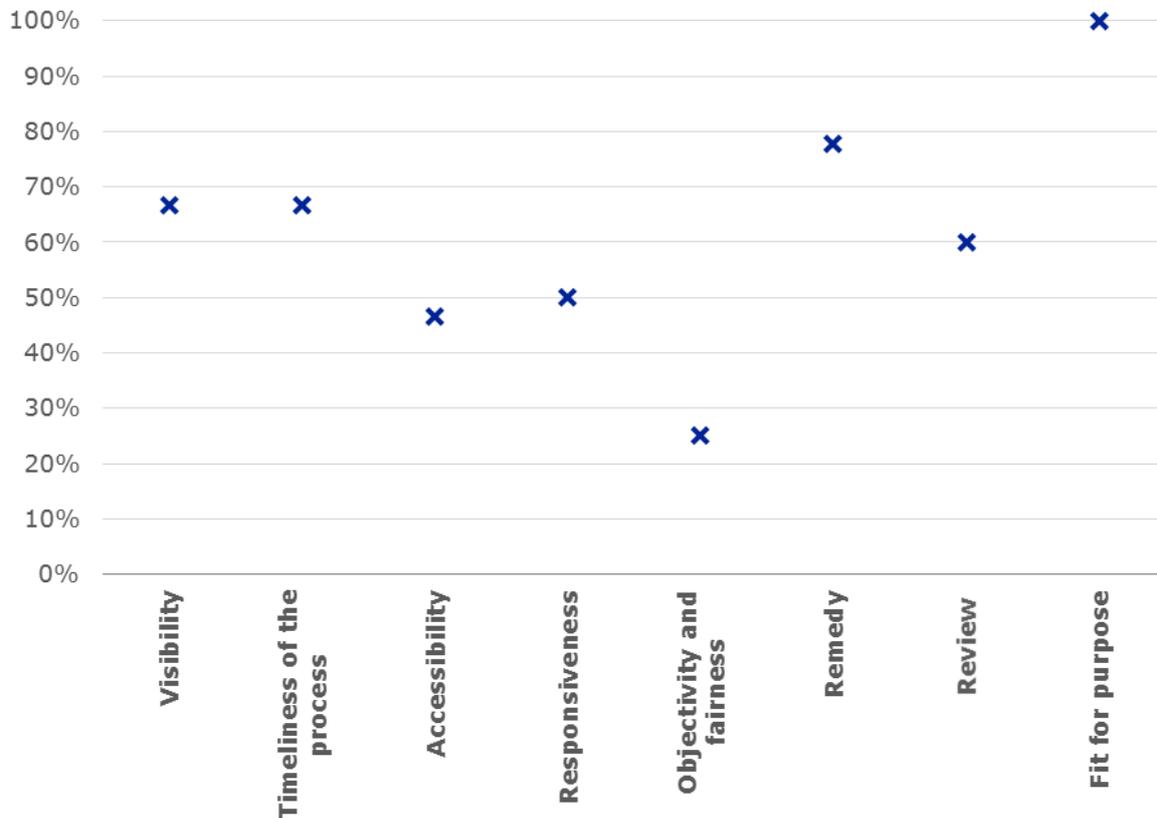
Review also scored acceptably. Further administrative appeal is usually possible. Appeal process is usually available to complainants in a form of judicial review only. Information on the appeals procedure is usually provided to the stakeholders in the communication of the final administrative decision.

The aspect of **responsiveness** also scored acceptably in Croatia as the MA usually informs the complainants only at the end of the process about any changes. Complaints are mostly addressed based on the first-in first-out basis, as opposed to being prioritised.

A complaint is, at minimum, handled by a different person than the person which produced the act against which the complaint is lodged. The complainant is given the opportunity to present his/her position through the initial written submission only. The aspect of **objectivity and fairness** scored the lowest of all in Croatia and needs improvement, however, as the available information for this aspect is limited, the score should not be applicable to other OPs in Croatia. Furthermore, it can be considered from collected additional information that the score for this aspect might, in reality, be higher than 25%.

The following boxplot (**Chart 29**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be borne in mind that, as there is only one OP in Croatia, the values of each analysed parameter apply to this OP only and no further explanation is needed.

Chart 29 Distribution of scores among aspects



13.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

N/A – Croatia only entered the European Union in 2013, therefore, an evaluation of the previous programming period would be irrelevant.

13.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Codified complaint procedures are in place for both ESIF and nationally funded programmes.²⁸ However, the documents codifying the ESIF procedure are not publicly available, in contrast to the publicly available documents regarding national funding. The possibility to complain in ESIF proceedings is wider than in nationally funded programmes. The workflow for handling complaints is well developed in both ESIF and nationally funded programmes, with ESIF having even more comprehensive and detailed documentation.

Chart 30 The comparison between national programmes and ESIF - Croatia

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↑ | ↓ | ● | ↓ | ● | | ↓ |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following national programme was analysed:

- **Research Projects**, managed by the Croatian Science Foundation
 - The programme finances fundamental research that creates new and improves existing knowledge of a particular area and is aimed at a better understanding of research subjects as well as applied research conducted with clear technological, economic or social goals.

Documents codifying the procedures

The complaints-handling procedure is governed by different documents in the case of ESIF and programmes funded by the Croatian Science Foundation. The procedure in ESIF is governed by the *Common national rules 6 and 13*, which are not publicly available. The procedure in the Croatian Science Foundation is governed by the *Ordinance on the Conditions and Procedure for the Awarding Grants for Achieving the Purpose of the Croatian Science Foundation*, which is publicly available.

Types of procedures

The types of procedures available differ in the case of ESIF and projects funded by the Croatian Science Foundation. The applicant for ESIF has a wider opportunity to complain. In ESIF, an applicant may complain against the selection process but also at any stage of the proceeding, effectively giving the applicant the opportunity to complain about any process. In the Croatian Science Foundation, there are only two possible complaint

²⁸ One national programmes was analysed in the case of Croatia as also only one ESIF operational programme was analysed in the first phase.

procedures: against (i) the initial refusal of an application due to non-fulfilment of formal criteria and against (ii) the final funding decision.

Submission of complaints

In both the ESIF and projects funded by the Croatian Science Foundation, complaints are submitted by post or by e-mail. Additionally, complaints in Interreg can also be submitted by a proprietary online gateway.

Deadlines

Complaints to the Croatian Science Foundation must be filed within a shorter deadline than complaints in ESIF. For both types of complaint procedure within the Croatian Science Foundation, the applicant can file a complaint within 8 working days from the day of notification of the decision. In ESIF, the applicant can file a complaint within 14 days from receiving the decision. In ESIF, the Managing Authority has 30 days to resolve the complaint. There is no express time limit for resolving complaints in the Croatian Science Foundation.

Fees

In both ESIF and projects funded by the Croatian Science Foundation, there is no fee for filing a complaint.

Remedy

In ESIF, the remedy depends on the substance of the filed complaint. In the Croatian Science Foundation, successful complaint in the first possible type of complaint would advance the application to the evaluation round and successful complaint in the second possible type of complaint would mean the project is accepted for funding.

Further appeal

Only the ESIF complaints procedure allows for a further administrative appeal, i.e. the escalation of complaint. The *Ordinance* excludes further administrative appeal in the Croatian Science Foundation by stating that the decision on the complaint is final. In both ESIF and projects funded by the Croatian Science Foundation, the applicant may seek judicial review after the final administrative decision has been rendered.

Other comments

Both the *Common national rules* and the *Ordinance* are available only in Croatian.

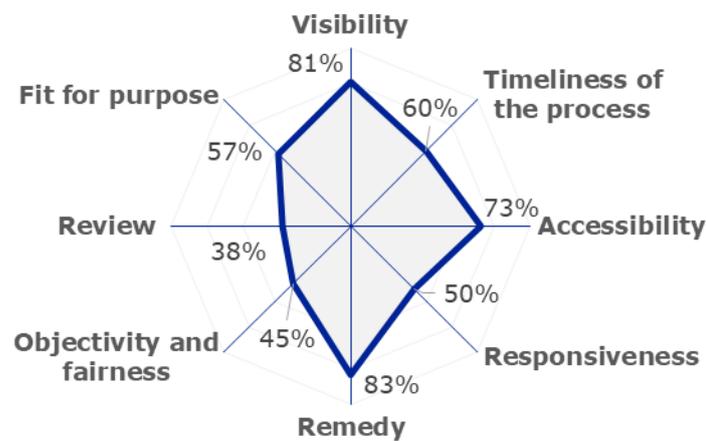
14 HUNGARY (HU)

14.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs in Hungary. The complaints system is established **on the basis of national law** (*Government regulation no. 272/2014, XI5, chapter XX, paragraphs 152 – 155*). The law covers the main rules of procedures for the use of funds and sets the responsibilities of each authority involved in the process.

Overall, Hungarian OPs **scored as needing improvement** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programmes. **The complaint-handling procedure is slightly different compared to the ESIF.** Both analysed national programmes follow the national law and internal rules of the responsible authorities. ESIF programmes also follow national legislation but different law.

14.2 Detailed description of the arrangements

14.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MAs) |
|---|--|
| Competitive Central-Hungary OP | Ministry of National Economy, Managing Authority for Regional Development Programmes |
| Economic Development and Innovation Operational Programme | Ministry of National Economy, Managing Authority for Regional Development Programmes |
| Environmental and Energy Efficiency OP | Ministry of National Development, Deputy State Secretariat for Environment and Energy Efficiency Operational Programmes |
| Human Resources Development Operational Programme | Ministry of Human Capacities |
| Integrated Transport OP | Ministry of National Development, Deputy State-Secretariat of Transport Operational Programmes, |
| Public Administration and Civil Service Development OP | Prime Minister - Head of the Managing Authority for Public Administration Programs |
| Territorial and settlement development OP | Ministry of National Economy, Managing Authority for Regional Development Programmes |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all OPs in Hungary. The complaints system is established on the basis of national law (Government regulation no. 272/2014, XI5, chapter XX, paragraphs 152 – 155).</p> <p>The reference to the Government Regulation no. 272/2014 (XI.5) is available on the website of the Hungarian government corresponding to the Operational Programmes. The above-mentioned law covers the main rules of procedures for the use of funds (e.g. preparation of proposals, financial implementation, audits, rules for financial instruments, payments to beneficiaries, complaints) and sets the responsibilities of each authority involved in the process.</p> |
| Level of the complaints-handling systems in place | National |

| | |
|---|--|
| <p>Description of the types of procedure</p> | <p>Complaints can be lodged in the following phases:</p> <ul style="list-style-type: none"> • The selection process • Processing of claims • Handling of the change requests or change of the grant conditions <p>The possibility to lodge complaints is described in the Regulation no. 272/2014, chapter XX, paragraph 152.</p> <p>No further complaint about the corresponding final decision of the MA can be made. However, further administrative appeal is possible. According to the responses provided by the MA in questionnaires, the applicant or beneficiary may further appeal the decision of the selection process through juridical review.</p> |
|---|--|

Detailed description of the complaints-handling system:

1. **Channels for lodging complaints**

Complaints can be presented through an [electronic gateway](#) (i.e. internal electronic system).

Deadline for lodging complaint is 10 days after receipt of the decision.
2. **Deadlines for lodging and resolving complaints**

The MA (appointed department) should process the complaint within **30 days**. The time can be extended, but only once and for another 30 days in case further verification is needed.
3. **Fees**

No fees are charged for lodging complaints.
4. **Languages**

The complaints could only be sent in Hungarian.
5. **Opportunities to present the position of the complainant**

The complainant is given an opportunity to present their position through **written submission only**
6. **Appeal within the complaints system**

No information is available.
7. **Independence of the complaints review**

Independence is ensured by having, at a minimum, a **different department or institution** than the department originally involved in deciding on a complaint.
8. **Further appeal**

The matter may be submitted to the judiciary for an independent review.
9. **Other details**

In general, lodging complaints is **restricted to an applicant or beneficiary**. Third parties are entitled to make claims only with the explicit authorisation of the eligible complainant.

The remedy provided is **correction of the decision.**

Assessment of effectiveness of the Member State

In Hungary, 7 operational programmes (national) were analysed during the assessment of effectiveness. Overall, the Hungarian OPs scored in between the 1st and the 20th percentile (i.e. about 1-20% of countries scored worse in analysed characteristics than Hungary). The score is displayed in the radar chart in the Summary above.

In **the radar chart above**, we can observe that the best score is in the aspect of “remedy”. Similarly, a high score can be observed in “visibility” and “accessibility”.

Remedy scored well and is assessed as the best aspect. For Hungarian OPs, remedy provided is a correction of decision, and the decision is made according to structured procedures based in the relevant national law.

The possibility of complaining is communicated to the applicant each time a decision is made that could elicit a complaint. Moreover, the information is publicly available on the websites corresponding to the particular OP. Non-mandatory training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored well.

The workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in the national language only (Hungarian), however, the desk research showed that the relevant authorities communicate in English as well. Therefore, the aspect of **accessibility** scored also well.

The aspect of **timeliness** of the process scored acceptably as deadlines for lodging complaints are set short (10 days after the beneficiary has been officially notified about the results) and deadlines for resolving complaints are set somehow long (30 days). The timeframe of complaints usually does not conflict with the timeline of the OP administration process.

Aspect that scored acceptable in Hungary was **fit for purpose**, since the possibilities for a complaint’s submission are the same as the channels through which regular communication takes place (post, online gateway), or fewer, depending on the type of complaint. On average, the MAs handle around 500 complaints per year, out of which about 90% are relevant.

The aspect of **responsiveness** also scored acceptably in Hungary as the MA usually informs the complainants only at the end of the process about any changes. Complaints are mostly addressed based on the first-in first-out basis, as opposed to being prioritised.

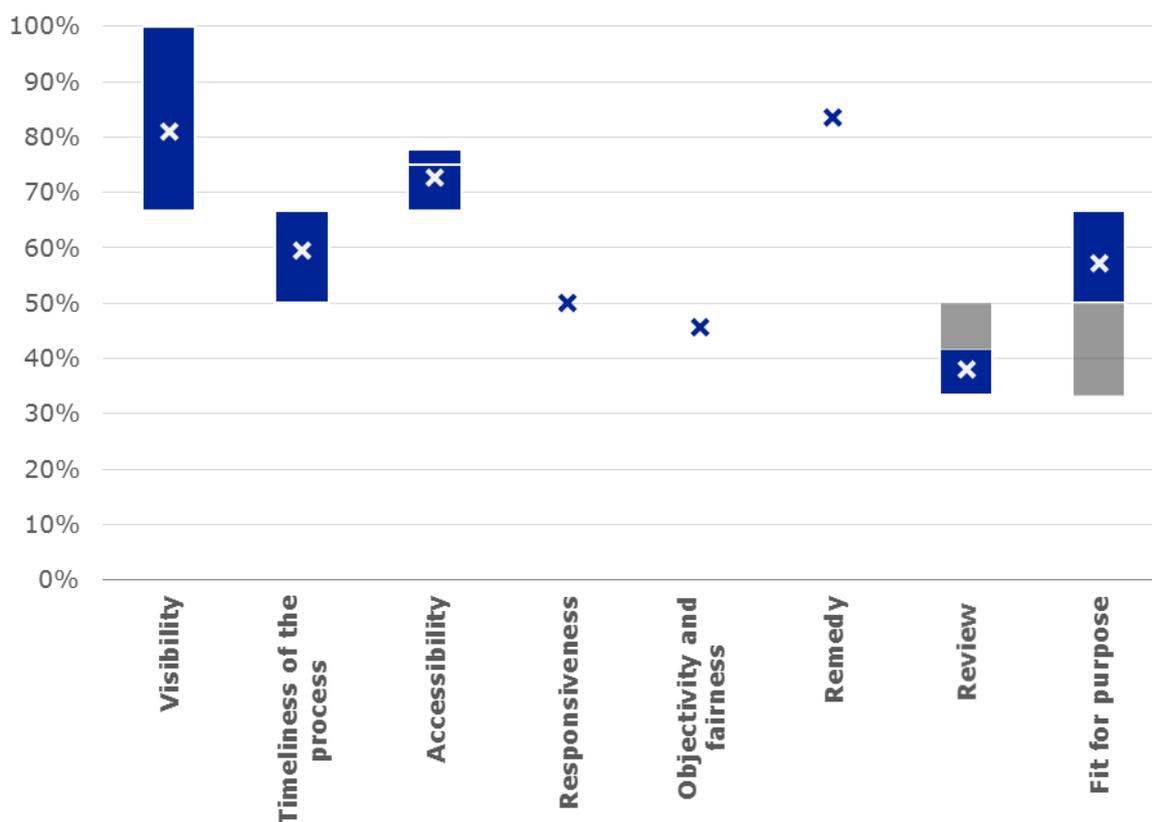
The aspect that needs improvement is the **objectivity and fairness**. In Hungary, independence is usually ensured by having, at a minimum, a different department than the person which produced the act against which the complaint is lodged. However, the complainant’s position can only be presented in written form only.

The aspect that scored the lowest and needs improvement is **review**, as the information on appeals is not always available. No information on further administrative appeal was provided. Appeals can be lodged with a court for judicial review. For some OPs, notification letter on the decision contains information on the possibility of appeal, for others no information was available.

The following boxplot (**Chart 31**) shows the distribution of each of the aspects of effectiveness among the analysed OPs. For Hungary, the above information is reasonably consistent and the OPs have quite similar rules and procedures.

Relatively short boxplots suggest that overall, information about OPs were similar, with the exception of the aspect of visibility, for which the variability of responses was greater. All observations of the aspects of responsiveness, objectiveness and fairness and remedy have the exact same values. The assessment of effectiveness described above is applicable in general.

Chart 31 Distribution of scores among aspects



14.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaint procedure in the previous period was **the same**. The procedure was adjusted by [Government regulation no. 4/2011 \(I. 28\); chapter V., article 33, paragraphs 81 – 82](#). The only difference to the actual period was that the complaints could have been sent by **email** or **post services**. The fact that the same system was in place was confirmed by the MAs.

14.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programmes.²⁹ **The complaint-handling procedure is slightly different compared to the ESIF.** Both analysed national programmes follow the national law and internal rules of the responsible authorities. ESIF programmes also follow national legislation but different law.

Chart 32 The comparison between national programmes and ESIF - Hungary

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ● | ↓ | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **Schemes financed by the NRDI fund**, managed by the National Research, Development and Innovation Office (NRDIO)
 - The NRDI fund finances different programmes as “*National Excellence Programme*”, “*Competitiveness and excellence cooperation*”, “*Funding to SMEs and large companies for RDI activities*” etc. The aim of the NRDI Fund is to support business in Hungary and to stimulate research-industry cooperation to ensure that research results end up in innovative marketable products and technologies in fields such as artificial intelligence, protein research and clean water.
- **Hungarian Kisfaludy Programme**, managed by the Hungarian Tourist Agency
 - The programme is a framework programme for supporting touristic accommodation buildings which contain subprograms for newly built hotels, or subprogram for capacity-building of existing pensions.

Documents codifying the procedures

Documentation about complaints-handling slightly differs within the national programmes and ESIF. The codifying documents for the national programmes are based on the legislation, which is different to the law codifying the ESIF. **However, the principles are similar.**

The National Research, Development and Innovation Fund follows the national legislation (in particular Government Decree 368/2011; XII. 31.). The Decree includes some basic details about the complaints-handling procedure, which are subsequently further described in the internal rules and regulations of NRDI Office.

²⁹ Two national programmes were analysed in the case of Hungary.

Similarly, the procedure used by the Hungarian Tourist Agency follows their internal adjustments. The rules correspond to the abovementioned national legislation. In both cases, the information about the complaint-handling procedure can be found online in the documents related to the calls for tenders and in guides for applicants.

Types of procedures

Based on the documentation mentioned above, **in both the national programmes and ESIF**, it is possible to complain about the selection process, processing of claims or handling of the change requests or change of the grant conditions.

Submission of complaints

In both NRDIO fund and ESIF, complaints can be lodged via an electronic gateway (each has different gateway). In addition, the complaints against the national programme can be sent in writing to the address of the office or in case of the older projects (i.e. calls from 2016 or 2017) the written complaint can be delivered in person. On the contrary, the complaint within the Hungarian Kiszfaludy Programme should be submitted only in a written form.

Deadlines

The deadlines in the analysed national programmes are the same as in ESIF. Within the analysed national programmes the complaints can be presented within 10 days after becoming aware of such action but not later than 30 days after the date on which it occurs. The responsible authority should process the complaint within 30 days. The time can be extended, but only once and for another 30 days in case further verification is needed.

Fees

No fees are to be paid when lodging complaints, i.e. the same rules are applicable to both national programmes and ESIF.

Remedy

The same rules are applied to both national programmes and ESIF. If the complaint is accepted, the subsidy provider corrects their decision.

Further appeal

Specific methods on how the beneficiary or applicant can further appeal the decision of the selection process exist in the national programmes. In ESIF, standard judicial review is possible. In the case of the NRDIO, the unit which handles the complaints should make a proposal to the president of the NRDIO to accept or reject the complaint.

Regarding the complaint handling procedure of the Hungarian Kiszfaludy Programme, in the case of a refusal, the complaint is automatically sent to the Ministry for National Development which provides the financial support for the Kiszfaludy programme for their assessment.

Other comments

Similarly to ESIF, independence is ensured by having a different unit/department than the department originally involved in the decision. For both analysed national programmes, specific department is assigned (in the case of NRDIO - Unit for Customer Service and Objection Handling and in case of the Hungarian Kiszfaludy Programme - Law Department and the Project Finance Department of Hungarian Tourist Agency).

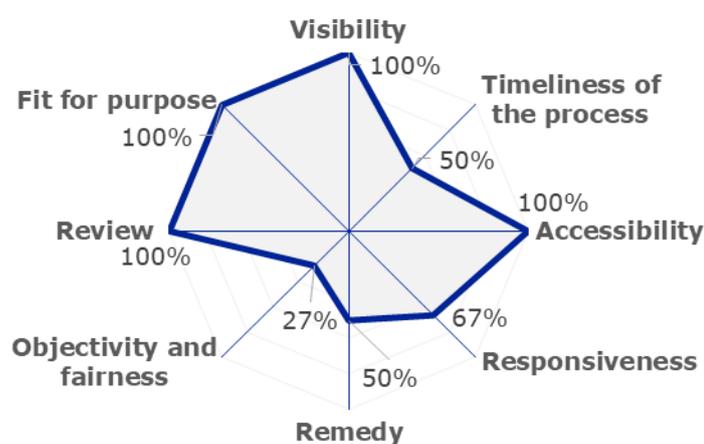
15 IRELAND (IE)

15.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established for all OPs of Ireland. The information is provided in the document *Complaints Procedure - ERDF Regional Operational Programmes 2014-2020*. The document specifically covers complaints regarding ERDF OPs and states explicitly that it pertains to both OPs. The complaints system is therefore established **on the basis of an ESIF specific procedure**.

Overall, Irish OPs **scored well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The complaints-handling system in the 2007-2013 programming period was significantly different compared to the 2014-2020 period as the system was not codified in any formal document and the complaints would be dealt with on an **ad hoc basis**. On the contrary, the complaints-handling system is established based on a **standardised procedure in the 2014-2020 programming period**. The complaints procedure was established based on the requirement under EU regulations as well as based on good practice to codify such procedures.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised **procedures are not unified for the analysed national programmes** compared to the ESIF arrangements. The procedures and possibilities to complain differ for the specific national programmes. On the other hand, the **ESIF operational programmes have unified procedures**. The codification of the complaints-handling system is more developed for ESIF than for national programmes.

15.2 1.2 Detailed description of the arrangements**15.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period**

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MAs) |
|--|--|
| Border, Midland and Western Regional Operational Programme 2014-2020 | Border, Midland and Western Regional Assembly |
| Southern & Eastern Regional Operational Programme | Southern & Eastern Regional Assembly |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established for all OPs of Ireland. The information is provided in the document <i>Complaints Procedure - ERDF Regional Operational Programmes 2014-2020</i>. The document specifically covers complaints regarding ERDF OPs and states explicitly that it pertains to both OPs.</p> <p>The complaints system is therefore established on the basis of an ESIF specific procedure.</p> <p>The document is publically available on the website of one of the Managing Authorities (MAs) and its applicability was confirmed with the MAs.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedures | <p>Complaints can be lodged in the following phases. The documents for presenting and establishing a complaint are indicated in italics under each individual phase.</p> <p><u>All phases and all complaints</u></p> <p><i>Complaints Procedure – ERDF Regional Operational Programmes 2014-2020</i></p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints** Formal complaints are to be submitted in writing, i.e., via postal services and/or email.

There are **no deadlines for lodging complaints** in the first instance. For further administrative appeal, a 14 working day deadline exists if the complainant is dissatisfied with the MA's previous response (the complaint is then submitted to the Director of the Assembly). In both the first instance and the second instance, the MA/Director must acknowledge the complaint within five days of receipt and respond to the complaint within eight weeks of receipt.
- 2. Deadlines for lodging and resolving complaints**
- 3. Fees** **No fees are charged** for lodging complaints.
- 4. Languages** Complaints may be lodged in English and Gaelic.
- 5. Opportunities to present the position of the complainant** The complainant is given an opportunity to present their position through written submission at a minimum, and generally the system allows for some form of flexibility in how the complainant is heard.
- 6. Appeal within the complaints system** Further administrative appeal is possible.
- 7. Independence of the complaints review** Independence is ensured by having a different institution than that which was originally involved to decide on a complaint. This is due to the fact that Intermediary Bodies handle most of the programming administration, while complaints are to be lodged with the MA.

In both OPs, the complaint can be appealed in court (this is subject to an administrative fee), the public Ombudsman (free of charge), or escalated to the superordinate body of the MAs, which is the Department of Public Expenditure and Reform (also free of charge).
- 8. Further appeal** The lodging of complaints is **not restricted** to any specific party, and any third party may make claims on behalf of eligible complainants provided they have explicit authorisation to do so.

Correction of a decision is provided as a remedy, but again, one MA has indicated that any other options of remedy would be discussed on a case by case basis.
- 9. Other details** A potential complainant is first encouraged to seek informal resolution of the issue. If this process fails, it is possible to lodge a formal complaint.

So far, n MA of the Member State has registered any complaints.

Assessment of effectiveness of the Member State

In Ireland, 2 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Irish OPs scored in between the 61st and the 80th percentile (i.e. about 61-80% of countries scored worse in analysed characteristics than Ireland). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspects of “fit for purpose”, “review”, “visibility” and “accessibility”.

Fit for purpose is assessed as the best aspect in which Ireland scored very well, since in Irish OPs, the possibilities for a complaint’s submission (online gateway, phone) are wider compared to the channels through which regular communication takes place (e-mail). According to the MAs of the analysed OPs, they have not handled any complaints yet.

The aspect of **review** also scored very well, since appeals can also be lodged with a court for judicial review, with a higher authority following an escalation procedure, with the Ombudsman for independent administrative review. Information on the possibility of appeal is permanently available online.

The possibility of complaining is communicated to the applicant through the information permanently available online. However, no information is available on dissemination of up-to-date knowledge of the complaints procedures among frontline officers. The aspect of **visibility** scored very well.

The workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in all the national languages (English and Irish). Therefore, the aspect of **accessibility** also scored very well.

Responsiveness scored acceptably as the MA usually informs the complainants only at start and at the end of the process about any changes, and no information on the principle of handling complaints (prioritisation or first-in, first-out) is available for Ireland.

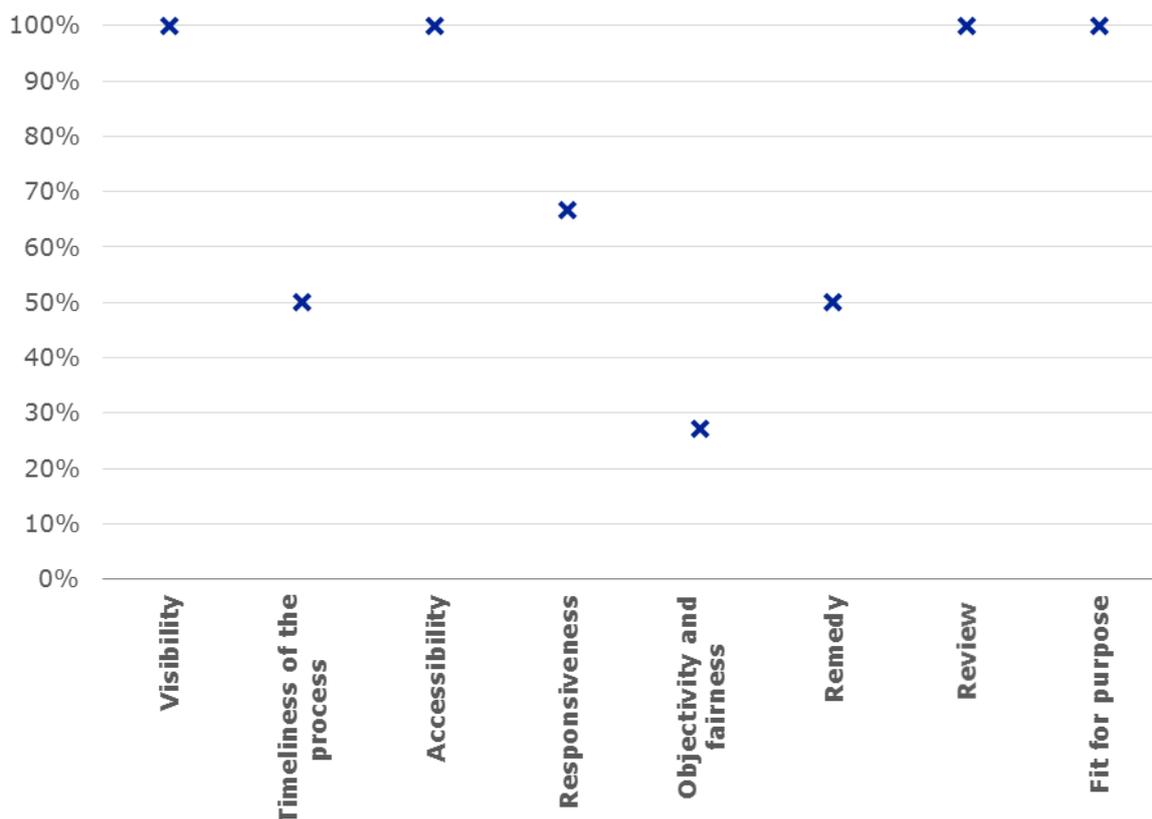
The remedy provided is a correction of decision at a minimum, the rest is dealt individually. The decision to provide remedy is made ad hoc. Therefore, the **remedy** aspect also scored acceptably.

No deadlines are set for lodging complaints and deadlines for resolving complaints are set rather long (8 weeks from the receipt of complaints). No information is available on the procedures in case when the timeframe of complaints conflicts with the timeline of the OP administration process. Therefore, **timeliness of the process** also scored acceptably.

The aspect that scored the lowest and needs improvement is the **objectivity and fairness**, as complaints are ascribed for resolution ad hoc. A complaint is handled by a different institution than the institution which produced the act against which the complaint is lodged, indicating a tier 4 separation of the process from the original act.

The following boxplot (**Chart 33**) shows the distribution of each of the aspects of effectiveness among the analysed OPs and how the information for the OPs differ. For Ireland, the above information is consistent and the analysed OPs have similar rules and procedures. Crosses instead of boxplots suggest all observations of the analysed aspects have the exact same values. The assessment of effectiveness described above is applicable in general.

Chart 33 Distribution of scores among aspects



15.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling system in the 2007-2013 programming period was significantly different compared to the 2014-2020 period as the system was not codified in any formal document and the complaints would be dealt with on an ad hoc basis. On the contrary, the complaints-handling system is established based on a standardised procedure in the 2014-2020 programming period. The complaints procedure was established based on the requirement under EU regulations as well as based on good practice to codify such procedures.

Nevertheless, based on the information from one of the Managing Authorities, no complaints at all were lodged during the 2007-2013 programming period.

As no codified procedures were in place, the assessment of the effectiveness is not relevant in this case.

15.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are not unified for the analysed national programmes compared to the ESIF arrangements.³⁰ The procedures and possibilities to complain differ for the specific national programmes. On the other hand, the ESIF operational programmes have unified procedures. The codification of the complaints-handling system is more developed for ESIF than for national programmes.

Chart 34 The comparison between national programmes and ESIF - Ireland

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↑ | ↑ | ● | ↓ | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **The Research, Development and Demonstration Funding Programme**, managed by The Sustainable Energy Authority (SEAI) that is established by Government of Ireland, invests in innovative projects concerning research, development and demonstration that contribute to Ireland's transition.
- **The Regional Enterprise Development Fund** (under Enterprise Ireland that operates under the [Industrial Development Act 1986](#)), managed by Government of Ireland, supports regional enterprise development in Ireland.
- **Documents codifying the procedures**

Documentation about complaints is significantly different within the national programmes and is not unified as it is for ESIF operational programmes. National programmes have their own programme documentation or internal rules.

The Research, Development and Demonstration Funding Programme codifies the complaints-handling procedures in the [Customer Service Charter](#). The Regional Enterprise Development Fund has a guide on the quality of their service delivery to the clients called [Client Charter](#). Although the Regional Enterprise Development Fund does not have a formal complaints procedure, it does operate in line with the Client Charter, Irish Legislation and EU State aid Rules. On the contrary, the complaints system of ESIF is established on the basis of an ESIF specific procedure (*Complaints Procedure*) that covers complaints regarding ERDF OPs.

³⁰ Two national programmes were analysed in the case of Ireland as also only one ESIF operational programme was analysed in the first phase.

Types of procedures

In the case of the Research, Development and Demonstration Funding Programme it is possible to complain about delays, mistakes, quality and standard of any service which was provided, quality of SEAI's facilities, quality of administrative processes, and also about decisions. In the case of The Regional Enterprise Development Fund, the specific types of procedures are not specified.

On the other hand, the ESIF programmes have two main areas which can be complained about: complaints relating to the MA's functions and complaints relating to a project co-funded by the ERDF, i.e. the complaints can be lodged any time during the projects implementation.

Submission of complaints

Anyone who is affected by the actions/services of relevant authority can complain in case of ESIF programmes, The Research, Development and Demonstration Funding Programme and The Regional Enterprise Development Fund.³¹

For both Research, Development and Demonstration Funding Programme and ESIF OPs, a formal complaint must be submitted in writing, i.e., via postal services and/or email.

However, in the case of The Regional Enterprise Development Fund, complaints can also be made by telephone (besides email/letter).³²

Deadlines

There are no deadlines for lodging complaints in the first instance in the case of ESIF or both the national funding programmes. In the national programmes, stricter deadlines are set for resolving further administrative appeals compared to ESIF programmes. For ESIF, a 14 working day deadline exists for lodging complaints, 5 days of response to the complaints, 8 weeks to resolve; for the Research programme, the deadline for resolving complaints is within 2-5 days, making the national programme more effective for the complainants.

Fees

No fees are applicable for the national programmes or ESIF I programmes.

Remedy

Correction of a decision is provided as a remedy in the case of ESIF programmes, but one MA has indicated that any other options of remedy would be discussed on a case by case basis.

Even though the procedure which is described in the Customer Service Charter of The Research, Development and Demonstration Funding Programme is very detailed, the remedy is proposed on the basis of individual cases.

The Regional Enterprise Development Fund does not have any codified procedures, thus there are no descriptions of remedies.

³¹ Their Client Charter does not specify who can complain.

³² The complainant can directly contact the Secretary of Enterprise Ireland in writing.

Further appeal

For ESIF programmes, the complaint can be appealed in court (this is subject to an administrative fee), the public Ombudsman (free of charge). On the other hand, the Customer Service Charter of The Research, Development and Demonstration Funding Programme allows the complainant to refer his or her complaint to the Ombudsman (free of charge) or Ombudsman for children (free of charge).

Other comments

If a complainant sends a complaint (they consider all the complaint as queries/inquiries) about The Regional Enterprise Development Fund, the Client Charter ensures that all written communications from clients are acknowledged within 24 hours of receipt Monday-Friday. All these queries (complaints) are reacted to within 5 working days of receipt. If it is not possible to reply conclusively, the Enterprise Ireland will send an interim answer.

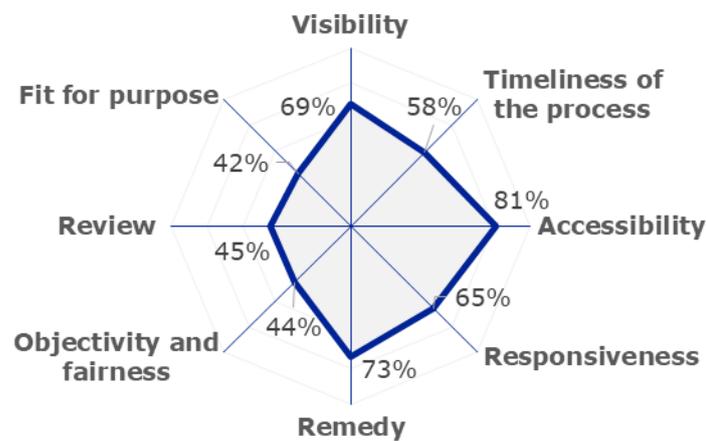
16 ITALY (IT)

16.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

An **unclearly codified complaint procedure** exists in Italy. The details about the complaints-handling system of the Italian operational programmes are usually indicated in the specific programme document called *Sistema di gestione e controllo (Si.Ge.Co.* – a system of the management and controls). The template of this document copies the Annex III of the *Commission Implementing Regulation no. 1011/2014*.

Overall, Italian OPs **scored as needing improvement** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

In the period 2007 – 2013, the Italian MAs also adopted the *Si.Ge.Co.* document, however, it did not contain any details about the complaints handling. The complaints handling was different for each OP and no centralised arrangements and documents were in place. In the 2014-2020 period, the details about the complaints-handling system are usually indicated in the *Si.Ge.Co.* document. The 2014-2020 system for the handling of complaints is new, which illustrates significant evolution in comparison to the previous period.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are **not unified on the national level**, similarly to ESIF. ESIF and the national programmes have the same arrangements that are subordinated to the EU rules on the ESIF. The procedures and possibilities to complain are the **same for the national programmes and for the ESIF**.

16.2 1.2 Detailed description of the arrangements**16.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period**

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MAs) |
|---|---|
| Infrastructure and networks | Ministero delle Infrastrutture e dei Trasporti - Direzione Generale per lo Sviluppo del territorio, Sistemi informativi e statistici:Divisione II - Programmi europei e nazionali per le reti e la mobilità |
| National Programme on Culture | "Ministero dei Beni e delle Attività Culturali e del Turismo |
| NOP on education | Segretariato Generale Servizio II" |
| NOP on Enterprises and Competitiveness | Ministero dello Sviluppo Economico - Direzione Generale per gli incentive alle imprese |
| NOP on Governance and Institutional Capacity | Agenzia per la Coesione Territoriale - Ufficio 5 di Staff - Autorità di Gestione del PON Governance e Capacità Istituzionale 2014-2020 |
| NOP on legality | Ministero dell'Interno – Dipartimento della Pubblica Sicurezza |
| NOP on metropolitan cities | Ufficio dell'Autorità di Gestione del PON Città Metropolitane - Direzione Generale per la Politica Regionale Unitaria Comunitaria |
| NOP on research and innovation | Direzione Generale per il Coordinamento, la Promozione |
| NOP on SME initiative | Ministero dello sviluppo economico – Direzione generale per gli incentive alle imprese |
| POR Lombardia ERDF | Regione Lombardia - Programmazione comunitaria e coordinamento autorità di gestione |
| ROP Abruzzo | Dipartimento della Presidenza e Rapporti con l'Europa - AdG por FESR e por FSE OdP par FSC |
| ROP Basilicata | Ufficio "Autorità di Gestione Po Fesr Basilicata" - Comunicazione e Informazione, Dipartimento Programmazione e Finanze |
| ROP Bolzano | Provincia autonoma di Bolzano - Ripartizione Europa, Ufficio per l'integrazione europea |
| ROP Calabria ERDF ESF | Regione Calabria |
| ROP Campania | Regione Campania |

| | |
|--|--|
| ROP Emilia Romagna | Regione Emilia-Romagna |
| ROP Friuli Venezia Giulia | Regione Autonoma Friuli Venezia Giulia |
| ROP Lazio ERDF | Regione Lazio - Assessorato Sviluppo Economico - Direzione Regionale per lo Sviluppo Economico e le Attività Produttive (SEAP) |
| ROP Liguria ERDF | Regione Liguria - Dipartimento Sviluppo Economico - Settore Competitività e Innovazione del Sistema Produttivo |
| ROP Marche ERDF | Regione Marche |
| ROP Molise | Regione Molise |
| ROP Piemonte ERDF | Regione Piemonte - Direzione Attività Produttive |
| ROP Puglia ERDF ESF | Regione Puglia |
| ROP Sardegna ERDF | Regione Sardegna - Centro Regionale di Programmazione - Assessorato della Programmazione, Bilancio, Credito e Assetto del Territorio |
| ROP Sicilia ERDF | Regione Sicilia - Dipartimento Programmazione Economica |
| ROP Toscana | Regione Toscana - Direzione Generale della Giunta regionale Settore Autorità di Gestione Por Fesr |
| ROP TRENTO | Provincia Autonoma di Trento - Dipartimento Affari Istituzionali e Legislativi _ Dirigente del Servizio Europa |
| ROP Umbria | Regione Umbria- Servizio Programmazione Comunitaria |
| ROP Vale d'aosta | Presidenza della Regione Val d'Aosta Dipartimento Politiche Strutturali e Affari Europei |
| ROP Veneto ERDF | Regione del Veneto - Dipartimento Politiche e Cooperazione Internazionali/ Sezione Programmazione e Autorità di Gestione FESR |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | An unclearly codified complaint procedure exists in Italy. The details about the complaints-handling system of the Italian operational programmes are usually indicated in the specific programme document called " <i>Sistema di gestione e controllo</i> " (Si.Ge.Co. – a system of the management and controls). The template of this document |

| | |
|---|--|
| | <p>copies the Annex III of the Commission Implementing Regulation no. 1011/2014.</p> <p>Part 2.2.3.16 of Si.Ge.Co. is dedicated to complaints-handling process of the MA, while the complaint procedure regarding the certification authority is described in part 3.2.2.4 of Si.Ge.Co.</p> <p>The same procedure that is usually employed to handle the complaints at the regional administration is also used for handling the complaints within the operational programmes. In the above-mentioned parts of Si.Ge.Co., the method for contacting the managing authority is usually indicated: the email address (or PEC – <i>posta elettronica certificata</i>; certified mail) of the region secretary or direct mail corresponding to the operational programme, reference to the public relation office of the region (URP – <i>Ufficio per le relazioni con il pubblico</i>; in some cases the regions have implemented an online gateway for interacting with their offices) or the green line of the region. In case of the general mail address, the possible complaints are subsequently transmitted to the specified department of the managing authority.</p> <p>There is a rather unclear boundary between what is a standardised and non-standardised procedure. In several cases, the MAs claimed that codified procedures do not exist. However, information about contact points for sending a complaint was found in Si.Ge.Co. (e.g., ROP Emilia Romagna, ROP Friuli Venezia Giulia, ROP Trento, ROP Piemonte, ROP Umbria, ROP Veneto). On the other hand, other MAs claimed the procedures are standardised, where the same information is found in Si.Ge.Co., e.g., ROP Campania.</p> |
| <p>Level of the complaints-handling systems in place</p> | <p>Regional – OP specific</p> |
| <p>Description of the types of procedure</p> | <p>Based on the official documents, in most cases there is no restriction for those who can submit a complaint to the MAs. Therefore, any interested party can send a complaint (e.g. NOP on research and innovation). However, there are limitations in some OPs. For example, only the party affected by the subject can complain in ROP Bolzano and only the potential applicant or beneficiary can complain about the selection process in ROP Sicilia.</p> <p>According to Si.Ge.Co. the complaint can be about any part of the selection process, processing of claims, conduct or outcome of random check and audits. However, several operational programmes have stricter conditions for the lodging of complaints (see the example of ROP Sicilia above).</p> <p>Another example of stricter rules is ROP Marche, which limits the complaint to any part of the selection process,</p> |

the changes of grant conditions and the outcome of the audit.

Detailed description of the complaints-handling system:

1. Channels for lodging complaints

The complaints are generally submitted via mail (or PEC – *posta elettronica certificata*) and a proprietary online gateway for public relations, according to the desk research and received questionnaires.

2. Deadlines for lodging and resolving complaints

In the documents examined, there is only a little information about the deadlines for lodging and resolving complaints. According to [Law no. 241/90 \(article 2, p. 3\)](#), if the time limit is not explicitly stabilized within the process carried out by the public organisation, there is a deadline of **30 days**. In several cases, the managing authorities responded that there are no deadlines for resolving the complaint.

3. Fees

No fees are charged for lodging of the complaints.

4. Languages

The languages vary from OP to OP. In some OPs, it is possible to lodge a complaints only in Italian, in other OPs also in English. For some OPs the information is not available.

5. Opportunities to present the position of the complainant

In most OP, it is possible to present the position via formal or informal hearing or in writing. The information is not available for all OPs.

6. Appeal within the complaints system

In Si.Ge.Co., the possibility of **the further administrative appeal** is not usually explicitly mentioned (the administrative court of the region or similar when it is stated).

7. Independence of the complaints review

Based on the programme documents, **it is usually not clearly determined as to who should resolve complaints** and the **independence of the person/department**.

8. Further appeal

Appeals can be lodged with a court for judicial review. The appeal to the ordinary court within the time limits established by the Civil Procedure Code.

9. Other details

Regarding the possibility of further appeal, there are also some exceptions. In the case of a complaint against the selection of the supplier of the project financed by the operational programme, ROP Sicilia enabled three possibilities for lodging complaints: hierarchical appeal (*ricorso gerarchico*) and extraordinary appeal (*ricorso straordinario*) which are verified by the president of the region (the exception regarding the determination of the person who should decide the complaint – see the previous paragraph). Moreover, there is a third, judicial

appeal (*ricorso giurisdizionale*) which can serve as the above-mentioned second tier of complaints.

Assessment of effectiveness of the Member State

In Italy, 30 operational programmes (national) were analysed during the assessment of effectiveness. Overall, the Italian OPs scored in between the 1st and the 20th percentile (i.e. about 1-20% of countries scored worse in analysed characteristics than Italy). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “accessibility”, “remedy” and “visibility”.

The best score is in the aspect of **accessibility**, in which Italy scored well, since the workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in the national language only (Italian).

In Italy, the remedy provided is a correction of decision. The decision is made according to structured procedures for most Italian OPs. Thus, the aspect of **remedy** scored well.

When structured procedures exist, the possibility of complaining is usually communicated to the applicant each time a decision is made that could elicit a complaint. Moreover, the information is in some cases publicly available on the websites corresponding to the particular OP. Non-mandatory training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored acceptably.

The complaints are not prioritised, instead, they are resolved on a first-in, first-out basis. The OP administration process continues as usual if the timeframe of complaints conflicts with the timeline of the OP administration process. The complainant is informed of the status of his/her complaint at the end of the complaints process for majority of OPs. Therefore, the aspect of **responsiveness** scored acceptably.

The aspect of **timeliness** of the process scored acceptably. Deadlines for both lodging and resolving complaints differ substantially between types of complaints and regions in Italy. In many cases no deadlines for lodging complaints are set, deadlines for resolving complaints are set around one month on average. When the timeframe of complaints conflicts with the timeline of the OP administration process, the complaints procedure continues as usual (there is no action from the MA).

The possibility of further administrative appeal is usually not explicitly mentioned, however, appeals can be lodged with a court for judicial review. Information on the possibility of appeal is provided to stakeholders in the communication of the final administrative decision only for some OPs or regions. The aspect of **review** needs improvement.

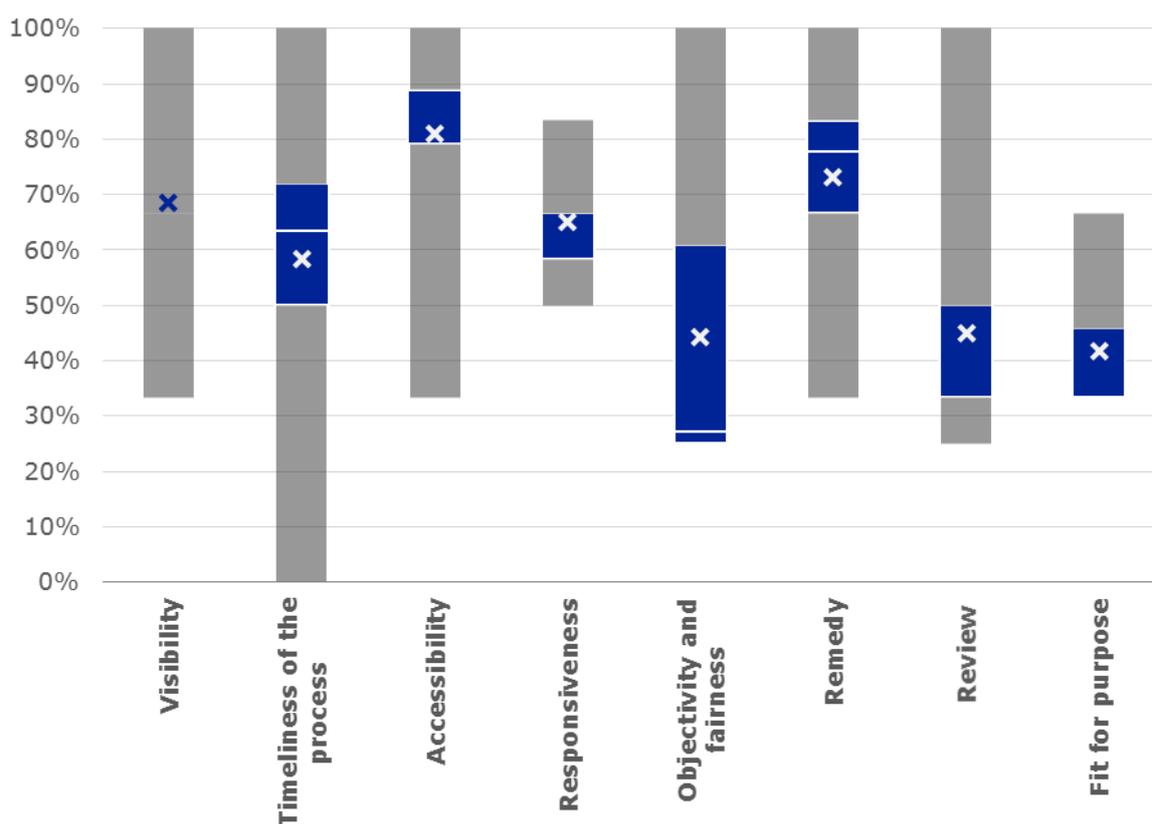
The aspect that needs improvement is the **objectivity and fairness**, as no standard procedures for ensuring independence exist in Italy, procedures differ substantially between regions and OPs. The complainant’s position can only be presented mostly in written form.

The aspect that scored the lowest and needs improvements is **fit for purpose**. For this aspect, arrangements among Italian OPs are non-uniform and differ significantly among OPs and regions. In desk research it was found that some MAs accept more/different channels than announced. Not all MAs publish sufficient information on possible channels of lodging complaints, for which reason this aspect is difficult to assess and compare. On average, the MAs handle less than 10 complaints per year, out of which less than 50% are considered relevant

The following boxplot, **Chart 35**, shows the distribution of each of the aspects of effectiveness among the analysed OPs and how the information for the OPs differ. For Italy, we can observe higher variation in the distribution of responses suggesting that the data was more spread out. The inconsistency is caused by different procedures across OPs in the country.

In Italy, unification of complaint handling procedures is low, as the procedures are not based on general laws, but rather on OPs specific documents, which also differ among regions. However, the relevant answers were quite consistent (depicted as short boxplots) for the aspects of visibility, accessibility, responsiveness and fit for purpose. Overall, the assessment of effectiveness described above is not applicable in general.

Chart 35 Distribution of scores among aspects



16.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling system differed in the 2007-2013 programming period compared to the 2014-2020 programming period. The details about the complaints-handling system of the Italian operational programmes in the 2014-2020 period are usually indicated in a specific programming document called "*Sistema di gestione e controllo*" (Si.Ge.Co. – a system of the management and controls) which is based on Annex III of the Commission Implementing Regulation No. 1011/2014. In the period 2007 – 2013, the Italian Managing Authorities also adopted such a document. However, the document did not contain any details about the complaints handling (due to the fact that the complaints handling was determined only in Regulation (EU) No. 1303/2013 and not in Regulation (EC) No 1083/2006, the information about the complaints handling was not included in the 2007-2013 programme documents). The MAs also indicate in their documents for 2014 – 2020 (i.e., Si.Ge.Co.) that the 2014-2020 system for the handling of complaints is new and that there is a significant change in comparison to the previous period.

The complaints handling was different for each OP and no centralised arrangements and documents were in place. Specific descriptions of the complaints-handling procedure were neither codified nor described in the documents of the particular OPs. However, the potential complaints were always handled by the Managing Authorities on the basis of their internal adjustments. According to the available information provided by the Managing Authorities, a different level of the complaints-handling procedure was in place for particular OPs comparing to the current period:

- The same system was used by NOP on Legality, ROP Puglia and ROP Basilicata;
- The system was less developed in ROP Campania, ROP Abruzzo and ROP Bolzano, *NOP on Research and Competitiveness*;
- The system is not established in the 2014-2020 period; therefore, it was not in place in the 2007-2013 period either (e.g. ROP Trento, ROP Valle d'Aosta or ROP Piemonte), the complaints were handled on an ad hoc basis.

Due to the fact that the codified procedures were not described in the programming documents (part of them were dealt with ad hoc or they were less developed in comparison to the current period); only insignificant information about the complaints-handling procedure from the previous period is available, the assessment of the effectiveness is not relevant in this case.

16.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures **are not unified on the national level, similarly to ESIF**. ESIF and the national programmes³³ have the same arrangements that are subordinated to the EU rules on the ESIF. The procedures and possibilities to complain are the **same for the national programmes and for the ESIF** (this applies to particular programmes managed by the same MA – see the explanation in the footnote, below).

Chart 36 The comparison between national programmes and ESIF - Italy

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **PO Ricerca e Innovazione**, managed by the Ministry of Education, University and Research; Department for higher education and research.
 - The main objective of the programme is the support of the competitiveness of the most disadvantaged regions of Italy in order to increase the ability to produce and use quality research and innovation which could result in the intelligent and sustainable development of those areas.
- **PO Imprese e competitività**, managed by the Ministry of Economic Development; DG for business incentives.
 - The programme covers the EU funding to the less developed and transition regions of Italy under the "Investment for growth and jobs goal". The programme will implement 4 operational priorities covering strengthening

³³ The "national programmes" could be more precisely named operational programmes (OPs) in Italy - see the detailed explanation below:

The individual OPs (which are controlled by the same managing authority) can be composed from the following parts:

- Funding from ESIF: PON - *Programma operativo nazionale*;
- Co-funding to ESIF: POC - *Programma operativo complementare*;
- Funding from FSC (Development and Cohesion Fund; *Fondo per lo Sviluppo e la Coesione*): PO FSC - *Programma operativo FSC*.

All OPs have the same name and focus on similar activities, but with minor differences. For example, the Ministry of Economic Development is the managing authority of:

- *PON Imprese e competitività* (PON IC);
- *POC Imprese e Competitivita* (POC IC) in which also the larger companies can be funded within 3 priority axis;
- *PO Imprese e Competitivita FSC* (PO IC FSC) which is an intervention for financing the airspace of the state which cannot be financed from PON Imprese e competitività.

research, technological development and innovation; enhancing access to, use and quality of ICT; enhancing the competitiveness of SMEs and supporting the shift towards a low carbon economy.

- **PO Citta Metropolitane**, managed by the Agency for territorial cohesion; Office of the Managing Authority of the PON Metropolitan Cities.
 - The programme implements one part of the initiatives conceived in the framework of the European Urban Agenda for cohesion policies. The programme, dedicated to sustainable urban development, aims to improve the quality of services and to promote social inclusion in 14 metropolitan areas in Italy.

In particular, all national programmes adopt similar documents to ESIF (i.e. a specific programming document called "*Sistema di gestione e controllo*" - Si.Ge.Co. – a system of the management and controls) where the complaint procedure is specified (for every single national programme it is slightly different according to the rules of the relevant ESIF and to the MA).

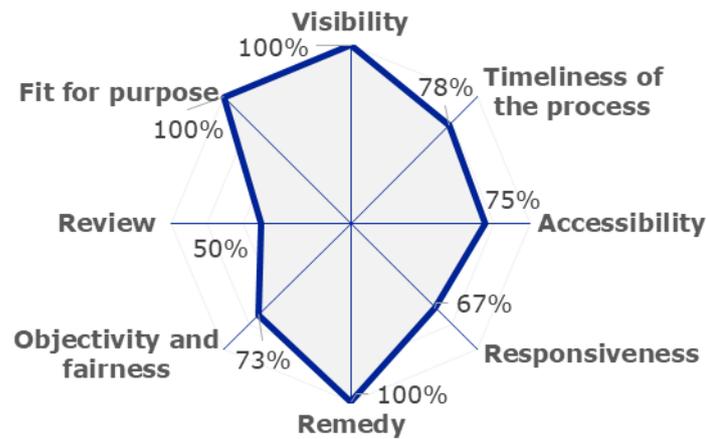
17 LITHUANIA (LT)

17.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for the only OP in Lithuania. The complaints system is established on the basis of national laws.

Overall, the Lithuanian OP **scored very well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programme, and codified in the rules of the responsible organisation. Moreover, the national laws providing a general description of complaints-handling are applicable for both ESIF and national programmes. The **national programme has more detailed rules in place than ESIF**.

17.2 Detailed description of the arrangements

17.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|--|
| Operational Programme for EU Structural Funds Investments for 2014-2020 | Ministry of Finance of the Republic of Lithuania |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for the only OP in Lithuania. The complaints system is established on the basis of national laws.</p> <p>Firstly, the Law of the Republic of Lithuania on administrative proceedings applies generally to all complaints of any character in Lithuania.</p> <p>Second, the Law on public administration establishes the principles of public administration and the foundations of organising administrative procedures as well as guaranteeing the right of persons to appeal against the acts of entities of public administration.</p> <p>Both laws are available online in both Lithuanian and English languages.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>Complaints can be lodged in all phases of the project. As it is stated in the <i>Law on Public Administration</i>, in article 1, this Law guarantees the right of persons to appeal against the acts or omissions or administrative decisions of entities of public administration.</p> <p>Concerning the types of procedure, a process of judicial review is available to a complainant (section 1, article 3 of <i>Law on Administrative Proceeding</i>).</p> |

Detailed description of the complaints-handling system:

1. Channels for lodging complaints

Complaints may be sent by **post, via online gateway or brought in person and filed with the administrative disputes commission or administrative court**. The relevant decision from the administrative disputes commission must be attached to the complaint.

- 2. Deadlines for lodging and resolving complaints** Generally, a complaint must be lodged within **one month** from the publication of the administrative act being challenged.
- 3. Fees** **No fees are charged** for lodging complaints.
- 4. Languages** Complaints can be filled in all relevant national languages (Latvian).
- 5. Opportunities to present the position of the complainant** Complainant can present the position in formal hearing process, or throughout written submission.
- 6. Appeal within the complaints system** Further administrative appeal is not possible.
- 7. Independence of the complaints review** The independence is ensured by at least different department handling the complaint.
- 8. Further appeal** Process of juridical review takes place.

Complaints can be lodged with the empowered institution by private persons, whereas state and municipal institutions or public servants must file petitions.
- 9. Other details** **The correction of a decision** is provided as a remedy, and in the case of a positive outcome, a beneficiary shall be entitled to **recover the costs incurred**.

Assessment of effectiveness of the Member State

In Lithuania, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, Lithuanian OP scored in between the 81st and the 99th percentile (i.e. about 81-99% of countries scored worse in analysed characteristics than Lithuania). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspects the “fit for purpose”, “remedy” and “visibility”.

Lithuania scored very well in the aspect of **fit for purpose**, since in the Lithuanian OP, the possibilities for a complaint’s submission (post, online gateway, in person) are wider compared to the channels through which regular communication takes place (post). On average, the MA handle about one hundred complaints per year, out of which 20% of complaints are relevant.

If the complaint is found substantive, reimbursement of costs incurred, compensation or correction of decision are provided as remedy. The decision to provide the remedy is made according to structured procedures. Therefore, **remedy** scored very well as well.

The information about the complaints-handling arrangements is permanently available online. Mandatory training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers. The aspect of **visibility** scored very well.

Deadlines for lodging and resolving complaints are set quite reasonably; complaints should be lodged within one month from the reception of the decision and they should be resolved within one month from receiving the complaint. When the timeframe of complaints conflicts with the timeline of the OP administration process, the complaints procedure continues as usual (there is no action from the MA). Therefore, the aspect of **timeliness** scored well.

The aspect of **accessibility** also scored well. Complaints can be filled in all relevant national languages, and no fees are required when submitting a complaint. The workflow of complaints procedure is in the documents described in details.

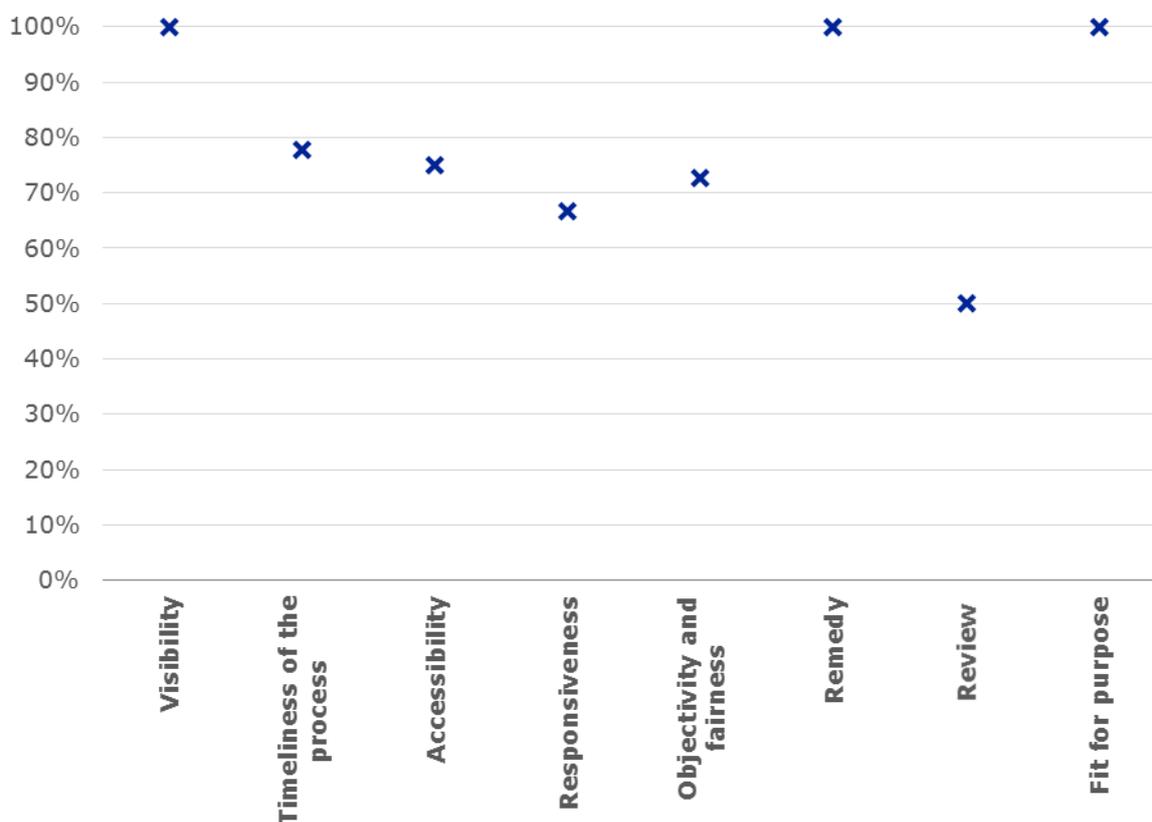
In Lithuania, independence is ensured by having, at a minimum, different institution than the institution which produced the act against which the complaint is lodged. The complainant is given the opportunity to present his/her position through a formal hearing process and a written submission. Therefore, the aspect of **objectivity and fairness** scored well.

Responsiveness scored acceptably as the MA usually informs the complainants at start and at the end of the process about any changes, and complaints are addressed based on the first-in first-out basis, as opposed to being prioritised.

The aspect that scored the lowest, but still acceptably, is **review**. It should be stressed that even though the aspect of review had the lowest score of all analysed parameters, it still scored fairly well. In Lithuania, appeals can be lodged with a court for judicial review. Information on the possibility of appeal is provided to the applicants/beneficiaries. Appeal procedures are specified in the initial decision.

The following boxplot (**Chart 37**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be borne in mind that, as there is only one OP in Lithuania, the values of each analysed parameter apply to this OP only and no further explanation is needed.

Chart 37 Distribution of scores among aspects



17.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

As both the general national laws were already in force during the previous programming period (from 1999 and 2000), complaints could have been lodged against the same matters as in the current programming period.

17.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Specific, standardised procedures for complaints-handling are in place for the analysed national funding programme,³⁴ and codified in the rules of the responsible organisation. Moreover, the national laws providing a general description of complaints-handling are applicable for both ESIF and national programmes. **The national programme has more detailed rules in place than ESIF.**

Chart 38 The comparison between national programmes and ESIF - Lithuania

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↑ | ↑ | ● | ↑ | ● | ● | ↓ |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF. Please note it does not mean the arrangements are also more effective, details are explained further in the text.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programme was analysed:

- **Sustainability of agro, forest and water ecosystems**, managed by the Research Council of Lithuania.
 - The programme focuses on the analysis and scientific research of the effects of climate change, with the aim of proposing measures to avoid threats related to the consequences of climate change and draw up new guidelines for controlling and restoring the sustainability of ecosystems.

Documents codifying the procedures

The *Law of the Republic of Lithuania on administrative proceedings* and *Law on public administration* **are applicable to all complaints** against any public administration decision in Lithuania, including national programmes and ESIF. Moreover, the General rules of the Research Council **specify the procedures of the nationally funded programmes** and describe the possibilities to appeal the decisions of the Council.

Types of procedures

Based on the national laws applicable to ESIF and national programmes, complaints can be lodged any time during a project's implementation (the phase is not specified). Details about the complaints are specified for the national programme (compared to the ESIF). Specific types of procedures that can be subject to appeal are specified in the General rules of the Council. Based on the General rules, the specific phases (selection procedures,

³⁴ Only one national programme was analysed in case of Lithuania as also only one ESIF operational programme was analysed in the first phase.

expert evaluation of the report) can be appealed only in the case that factual errors or procedural non-conformities took place.

Submission of complaints

The laws that are applicable to both national programmes and ESIF specify that the complaints shall be lodged via postal services, an online gateway or in person. The procedure is not specified in the General rules of the Council.

Deadlines

The national laws applicable to ESIF and to the general complaints in the national programme set the deadlines for lodging complaints at one month from the publication of the administrative act being challenged. **The deadlines for the national programme are significantly stricter compared to the deadlines set in the laws.** In the national programme, the complaint must be lodged within three days following the notification of the decision. The examination shall be resolved within ten days and the appellant must be informed within three days of the decision being made.

Fees

No fees are applicable for the national or ESI funds.

Remedy

The same arrangements are in place for both national programmes and ESIF, i.e. correction of the decision.

Further appeal

The same possibility to further appeal the decision is in place for both national programmes and ESIF, i.e. a judicial review is possible.

Other comments

Moreover, the independence of the complaints-handling in the national programme is established by the General rules. The examination of the complaints is made by an Appeal Board, established ad hoc. The board consists of seven members who are approved by the Chair of the Council. The decision of the Board is then presented to the Chair of the Council, who can amend the primary decision and notify the appellant of the change.

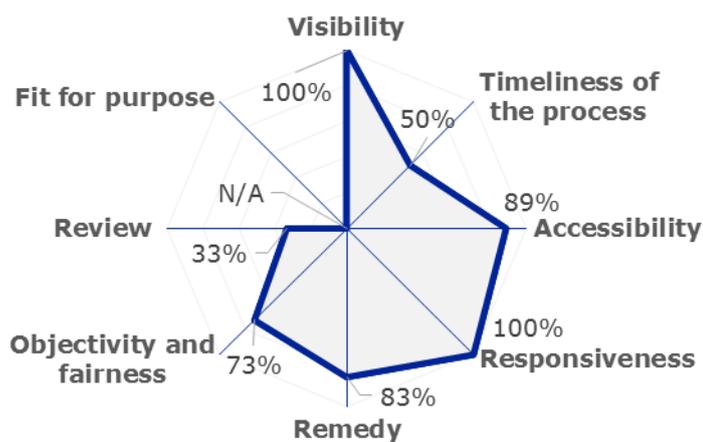
18 LUXEMBOURG (LU)

18.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for the only OP of the Member State. Most of the information is provided in national law.

Overall, the Luxembourgish OP **scored very well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are unified for the analysed national programme of Luxembourg. The complaints-handling procedure is the **same for the national programmes and for the ESIF programmes**. It is based on the *Law on the rules of procedure before the administrative courts* and on the *Law on the organisation of the courts of the administrative order*.

18.2 Detailed description of the arrangements

18.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|---|
| Operational Programme ERDF Luxembourg 2014-2020 | Ministère de l'Economie, Luxembourg |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for the OP of the Member State. Most of the information is provided in <i>national law</i>.</p> <p>The complaints system is established in Loi du 21 juin 1999 portant règlement de procédure devant les juridictions administratives and in Loi du 7 novembre 1996 portant organisation des juridictions de l'ordre administratif. Those laws contain information about the administrative jurisdiction. Laws apply to all complaints against the administrative decision made by state authority.</p> <p>National laws may be found on the website of the Legislation of Luxembourg. The law is available only in French.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>Complaint can be lodged in the following phases at a minimum. The documents and its sections, relevant to the complaint-system procedures are indicated in italics under each individual phase.</p> <p><u>Other</u></p> <p>The subject of a complaint is not limited.</p> <p>Further juridical appeal is possible. Complainant can usually use process of juridical review of the Administrative court which is governed by the same laws.</p> |

Detailed description of the complaints-handling system:

- Channels for lodging complaints** The complaint must be in the form of written submission. Complaints are usually lodged by postal services.
- Deadlines for lodging and resolving complaints** The complaint shall be filed within 3 months.

- | | |
|--|---|
| 3. Fees | No fees are charged for lodging complaints. |
| 4. Languages | The language of administrative proceedings shall be French, Dutch or German. |
| 5. Opportunities to present the position of the complainant | The complainant is given an opportunity to present their position through written submission and formal hearing process. |
| 6. Appeal within the complaints system | No information available. |
| 7. Independence of the complaints review | Usually, different institution handles the complaint. |
| 8. Further appeal | Further juridical appeal is possible. Complainant can usually use process of juridical review of the Administrative court which is governed by the same laws. |
| 9. Other details | In general, lodging complaints is restricted to any party affected by the subject matter of the complaint. The only remedy provided is correction of decision. |
| 10. Exceptions | Not relevant, only one OP. |

Assessment of effectiveness of the Member State

In Luxembourg, 1 operational programme (national) was analysed during the assessment of the effectiveness. Overall, the only OP of Luxembourg scored in between the 81st and the 99th percentile (i.e. about 81-99% of countries scored worse in analysed characteristics than Luxembourg). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspects of the “visibility” and “responsiveness”. However, it should be stressed that even though these two aspects had the highest score of all analysed parameters, the overall effectiveness of the only OP in Luxembourg is lower than for some other countries.

The basic information about the complaints-handling arrangements is permanently available online. However, no information is available on the dissemination of up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored very well.

The aspect of **accessibility** scored also very well. The workflow of the complaints procedure is in the documents described in details and no fees are required when submitting a complaint. The information on the languages in which complainants can present complaints is not available.

The remedy provided in Luxembourg is a correction of decision, and the decision is made according to structured procedures. Therefore, the aspect of **remedy** scored well.

In Luxembourg, independence is ensured by having, at a minimum, different institution than the institution which produced the act against which the complaint is lodged. The

complainant is given the opportunity to present his/her position through a formal hearing process and a written submission. Therefore, the aspect of **objectivity and fairness** scored well.

Deadlines for lodging and resolving complaints are set rather long (3 months from the receipt of the decision). No information is available on the procedures in case when the timeframe of complaints conflicts with the timeline of the OP administration process. Therefore, **timeliness of the process** scored acceptably.

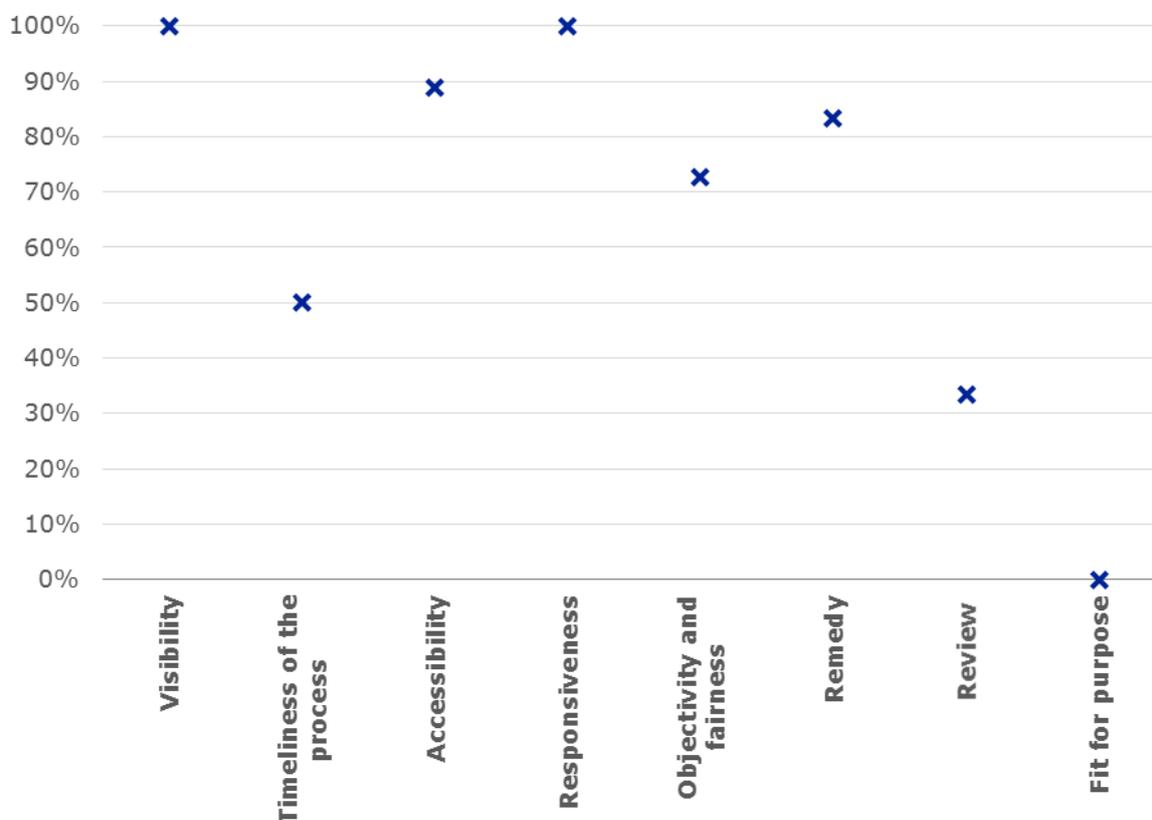
Luxembourg also scored very well in **responsiveness**, as the MA informs complainants throughout the complaints process about any changes.

A low score can be observed for **review**, which needs improvement. This score is low because no information is available on the possibility of further administrative appeal nor on the ways the information on the appeals is communicated to stakeholders. However, appeals can be lodged with a court for judicial review.

No information is available for the aspect of **fit for purpose**. The MA does not keep exact statistics on numbers of complaints, but they probably handle less than 10 complaints per year.

The following boxplot (**Chart 39**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be borne in mind that, as there is only one OP in Luxembourg, the values of each analysed parameter apply to this OP only.

Chart 39 Distribution of scores among aspects



18.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The laws have been already in force, thus, the basic procedures for the appeal possibilities were in place. No further information about the previous programming period on the complaint-handling system is publically available.

18.2.3 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

Standardised procedures are unified for the analysed national programmes of Luxembourg.³⁵ The complaints-handling procedure is **the same for the national programmes and for the ESIF programmes**. It is based on the [Law on the rules of procedure before the administrative courts](#) and on the [Law on the organisation of the courts of the administrative order](#). This act is permanently available online in French.

Chart 40 The comparison between national programmes and ESIF - Luxembourg

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programme was analysed:

- **Financial aid for research and development projects (R&D)**, managed by the Ministry of the Economy
 - The aim of the programme is to provide a subsidy for the companies and private sector that carry out research and development projects and innovation initiatives. The amount of financial aid depends on the company size and on the type of project or initiative.

The subject of a complaint is not limited. The deadline for lodging and resolving complaints is three months. No fees are charged during the complaints-handling process. The only remedy provided is the correction of the decision. The complainant has the opportunity to present their position throughout the written submission or formal hearing process.

³⁵ One national programme was analysed in the case of Luxembourg.

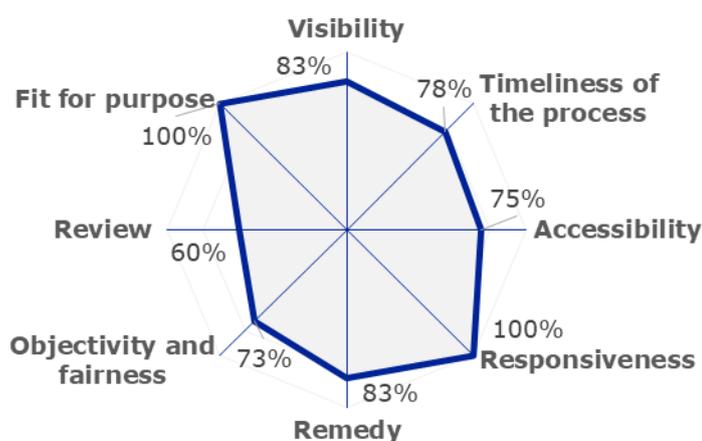
19 LATVIA (LV)

19.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for the only OP in Latvia. Most of the information is provided in **national law** (*Law On Management of European Union Structural Funds and the Cohesion Fund for the 2014-2020 Programming Period*), which applies to all OPs in Latvia.

Overall, Latvian OPs **scored very well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

For both the national programmes and ESIF, the general **Administrative Procedure Law applies** and the **Code of Administrative Procedure** apply.

In addition, a *law on Management of European Union Structural Funds and the Cohesion Fund* and OP specific procedures are applicable for Latvian ESIF programmes. The codification of the complaints-handling system is therefore **more developed for ESIF**.

19.2 Detailed description of the arrangements

19.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MA) |
|--|--|
| Growth and Employment | Ministry of Finance of the Republic of Latvia |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for the only OP in Latvia. Most of the information is provided in <i>national law</i>.</p> <p>The complaints system is established in the <u>Law On Management of European Union Structural Funds and the Cohesion Fund for the 2014-2020 Programming Period</u>. This law contains information about the management system of EU funds, and the rights and duties of the parties involved. Furthermore, it codifies the implementation of EU fund projects, as well as the system of appealing a decision to the MA. This law applies to all OPs in the Member state.</p> <p>Complaints against administrative procedures can also be lodged based on the Administrative Procedure Law.</p> <p>The national law may be found on the website of the Legislation of the Republic of Latvia. The law is available in the Latvian and English languages.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>A complaint can be lodged in the following phases at a minimum. The documents and the sections relevant to the complaint-system procedures are indicated in italics under each individual phase.</p> <p><u>The selection process</u></p> <p>This type of complaint is codified in <i>Section 28-(1) of the Law On Management of European Union Structural Funds and the Cohesion Fund for the 2014-2020 Programming Period</i>.</p> <p><u>The processing of claims</u></p> <p>This type of a complaint is codified in <i>Section 32-(2) of the Law On Management of European Union Structural Funds and the Cohesion Fund for the 2014-2020 Programming Period</i>.</p> <p>Whether a further appeal is possible depends on the type of decision issued by the MA. The process is described in detail below.</p> |

Administrative Procedures

This type of a complaint is codified in *the Administrative Procedure Law*.

Detailed description of the complaints-handling system:

- | | |
|--|--|
| 1. Channels for lodging complaints | Complaints are generally submitted via postal services and/or a proprietary online gateway and/or in person. |
| 2. Deadlines for lodging and resolving complaints | The complaint has to be submitted within one month as of the day when the decision, which serves as the reason for the complaint, was received. For the Latvian OP, the deadline for resolving complaints is three months. |
| 3. Fees | No fees are charged for lodging complaints for complaints lodged based on the ESIF law. Complaints against administrative procedure are subject to fees according to the Administrative Procedure Law. A fee of 30 EUR shall be paid as an application for a court suit. |
| 4. Languages | Complaints can be lodged in Latvian and in English. |
| 5. Opportunities to present the position of the complainant | Complainant can present his position throughout written submission and informal hearing process. |
| 6. Appeal within the complaints system | No information available. |
| 7. Independence of the complaints review | Different institution handles the complaint. |
| 8. Further appeal | <ul style="list-style-type: none"> • The administrative act taken by the Managing Authority regarding the decision may be appealed against by submitting an application to the relevant courthouse of the Administrative District Court. The administrative act is issued when the complainant is Latvian NGO. • The administrative decision taken by the Managing Authority may not be further appealed against. The administrative decision is made if the complainant is a Latvian public authority or public equivalent body. • The civil legal procedures further apply when the beneficiary is a natural or legal person. Further appeals shall be settled in accordance with Civil Procedure Law. |
| 9. Other details | In general, lodging complaints is restricted to an applicant/a beneficiary , with a third party entitled to make claims only with the explicit authorisation of the |

eligible complainant in the OP in Latvia. The only remedy provided is a correction of the decision.

Assessment of effectiveness of the Member State

In Latvia, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, the Latvian OP scored in between the 81st and the 99th percentile (i.e. about 81-99% of countries scored worse in analysed characteristics than Latvia). The score is displayed in the radar chart in the Summary above.

In **the radar chart above**, we can observe that the best score is in the aspects of the “fit for purpose” and “responsiveness”. Similarly, a high score can be observed in “remedy” and “visibility”.

Fit for purpose is assessed as the best aspect, as in the Latvian OP, the possibilities for a complaint’s submission (post, online gateway, in person) are wider compared to the channels through which regular communication takes place (e-mail). On average, the MA handle about one hundred complaints per year, out of which 20% of complaints are relevant.

Second, Latvia scored very well in **responsiveness**, as the MA informs complainants throughout the complaints process about any changes. Furthermore, complaints are dealt with on the basis of their priority.

The remedy provided in Latvia is a correction of decision, and the decision is made according to structured procedures. Therefore, the aspect of **remedy** scored well.

The information about the complaints-handling arrangements is permanently available online, or it is communicated to the applicant each time a decision is made that could elicit a complaint. Non-mandatory training is provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** also scored well.

Deadlines for lodging and resolving complaints are set quite reasonably; complaints should be lodged within one month from the reception of the decision and they should be resolved within one month from receiving the complaint. When the timeframe of complaints conflicts with the timeline of the OP administration process, the complaints procedure continues as usual (there is no action from the MA). Therefore, the aspect of **timeliness** scored well.

In Latvia, independence is ensured by having, at a minimum, different institution than the institution which produced the act against which the complaint is lodged. The complainant is given the opportunity to present his/her position through an informal hearing process and a written submission. Therefore, the aspect of **objectivity and fairness** scored well.

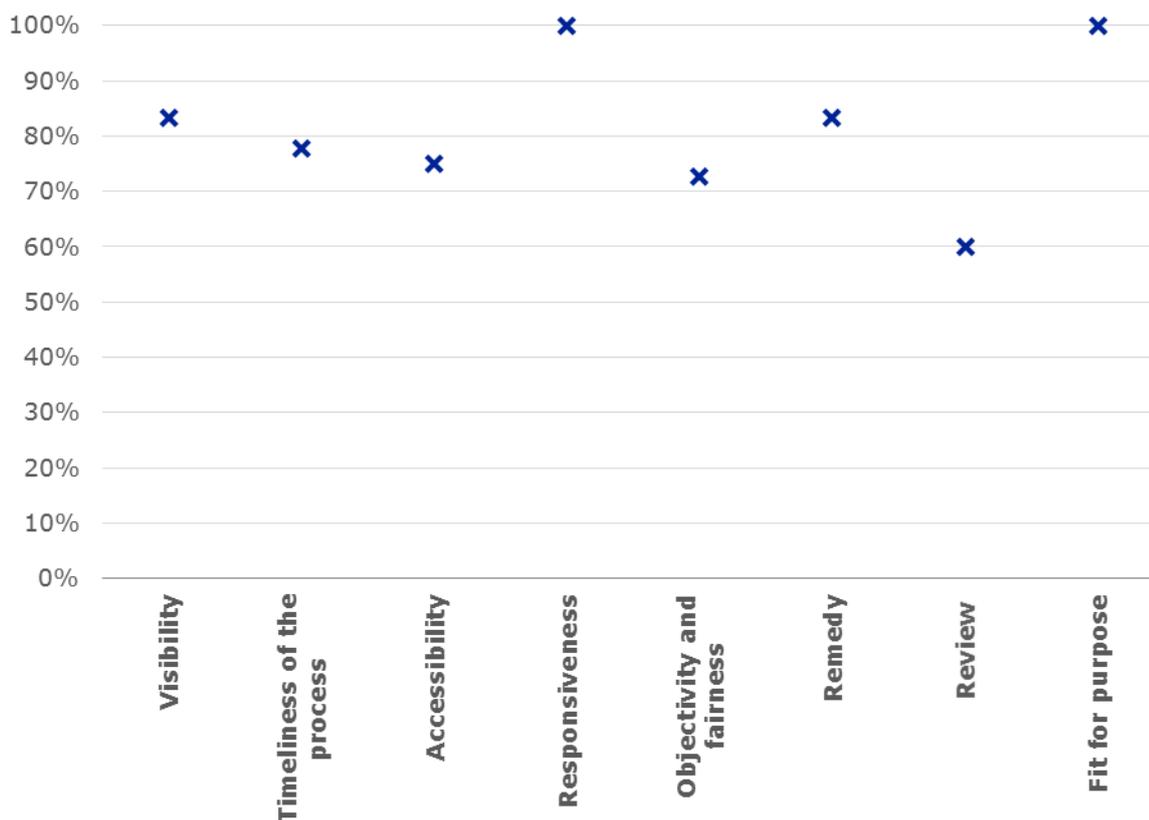
The aspect of **accessibility** also scored well. Complaints can be filled in all relevant national languages and English, and no fees are required to lodge a complaint. The workflow of complaints procedure is in the documents described in relevant details.

The aspect that scored the lowest, but still acceptably, is **review**. However, it should be stressed that even though the aspect of review had the lowest score of all analysed parameters, it still scored fairly well. In Latvia, appeals can be lodged with a court for

judicial review. The information on appeals procedures is available to stakeholders in the communication of the final administrative decision.

The following boxplot (**Chart 41**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be borne in mind that, as there is only one OP in Latvia, the values of each analysed parameter apply to this OP only.

Chart 41 Distribution of scores among aspects



19.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

Similar arrangements as in 2014-2020 period were in place in 2007-2013 period based on the [Law On Management of European Union Structural Funds and the Cohesion Fund \(2007-2013\)](#), section 22-25. Based on the information from the MA, the differences are rather small (difference is in the framework of the management and control system). The system was less unified, as there were different authorities responsible for different part of the projects implementation. The system in 2014-2020 was unified to provide better service for the beneficiaries.

19.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

For both the national programmes³⁶ and ESIF, the general [Administrative Procedure Law](#) applies. The complaints-handling procedures described by the Code of Administrative Procedure are general.

In addition, a [law on Management of European Union Structural Funds and the Cohesion Fund](#) and OP specific procedures are applicable for Latvian ESIF programmes. The codification of the complaints-handling system is therefore more developed for ESIF.

Chart 42 The comparison between national programmes and ESIF - Latvia

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↓ | ● | | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following programme was analysed:

- **ALTUM**, managed by the Latvian Ministry of Finance, the Ministry of Economics and the Ministry of Agriculture
 - ALTUM is a state-owned development finance institution, which offers state aid for various target groups with the help of financial tools (such as loans, credit guarantees, investing in venture capital funds, etc.). ALTUM develops and implements state aid programmes to compensate for the market's shortcomings that can't be solved by private financial institutions.

Documents codifying the procedures

The *Administrative Procedure Law* is applicable to all complaints against any public administration decision in Latvia, including national programmes and ESIF. In addition, ESIF programmes are mainly regulated by the above mentioned law on ESIF, which also defines contesting and an appeal of decisions procedure. However, some specifics (e.g. deadlines for contesting and appeal) stem from the *Administrative Procedure Law*.

Types of procedures

Based on the national laws applicable to ESIF and national programmes, complaints can be lodged at any time during a project's implementation (the phase is not specified). By contrast, in the law applicable for ESIF programmes the types of procedures are further specified. The phases during which the complaints can be lodged in ESIF include: the selection process, the processing of claims and the administrative procedures.

³⁶ One national programme was analysed in the case of Latvia.

Submission of complaints

The *Administrative Procedure Law* applicable to both national programmes and ESIF specifies that the complaints shall be submitted in written form only.

According to the ESIF law, complaints can be submitted via postal services and/or a proprietary online gateway and/or in person. Therefore, possibilities are broader for complaints about OPs.

Deadlines

The deadlines for both national programmes and ESIF against administrative procedures for both lodging and resolving complaints are one month.

No deadlines for lodging a complaint are stated in the ESIF law, instead, they stem from the Administrative Procedure Law. On the other hand, the deadline for issuing an administrative act is longer in the ESIF law than in the Administrative Procedure Law (3 months).

Fees

Complaints against administrative procedure (both national programmes and ESIF) are subject to fees according to the Administrative Procedure Law. A fee of 30 EUR shall be paid as an application for a court case. A fee of 60 EUR shall be paid for a cross-appeal. A security charge of 15 EUR shall be paid for any ancillary complaint. An application for a new hearing over a newly discovered event pays a security fee of 15 EUR. If the application is fully or partially satisfied, the defendant (potential defendant) has to reimburse the applicant and pay their fee. On the other hand, no fees are to be paid when lodging complaints for OPs according to the ESIF law.

Remedy

For complaints against administrative procedures (both ESIF and national programmes), the complainants can claim for "adequate compensation" (reimbursement). The remedy in the case of the law on Management of European Union Structural Funds and the Cohesion Fund is a correction of the decision.

Further appeal

For both national programmes and ESIF the decision can be appealed to the court.

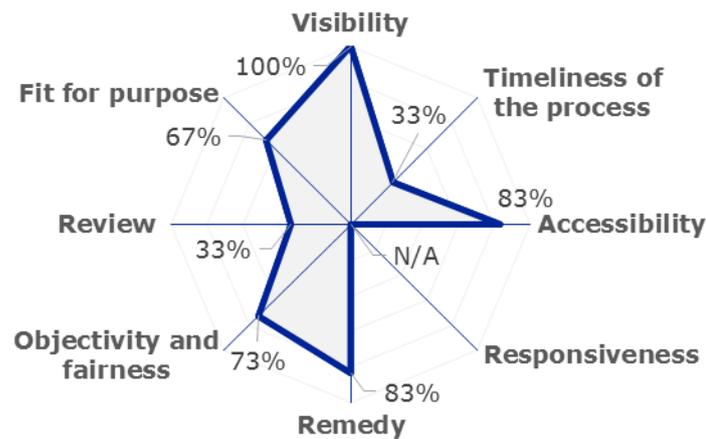
20 MALTA (MT)

20.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for both OPs of Malta. The complaints-handling procedures are established based on the document of **Appeals Procedure**.

Overall, Maltese OPs **scored adequately** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

No relevant national funding programmes were identified in Malta, for which reason it was not possible to compare the arrangements.

20.2 1.2 Detailed description of the arrangements

20.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| Fostering a competitive and sustainable economy to meet our challenges | Planning and priorities Coordination Division (PPCD) - Ministry for European Affairs and Implementation of the Electoral Manifesto |
| Stimulate private sector investment for economic growth | Planning and priorities Coordination Division (PPCD) - Ministry for European Affairs and Implementation of the Electoral Manifesto |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for both OPs of Malta. The management of complaints is established in the Appeals Procedure, which is available online.</p> <p>This document contains information about the type of complaints which can be lodged against the decisions of the Project Selection Committee. Details about deadlines and the content of the appeal are included. This procedure applies to all OPs in Malta.</p> <p>Relevant information may be found on the website of EU Funds in Malta. Information is available only in English.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>A complaint can be lodged in the following phase. The document and its section relevant to the complaint-system procedures are indicated in italics under this phase.</p> <p><u>The selection process</u></p> <p><i>Appeals Procedure</i></p> |

Detailed description of the complaints-handling:

1. **Channels for lodging complaints** Complaints are generally submitted via postal services.
2. **Deadlines for lodging and resolving complaints** Complaint must be lodged **in writing within five working days** from the date of the written notification sent out by the Managing Authority.
3. **Fees** **No fees are charged** for lodging complaints.
4. **Languages** Complaints can be lodged in Maltese or English.

- 5. Opportunities to present the position of the complainant** The complainant is given an opportunity to present their position through written submission and formal hearing process.
- 6. Appeal within the complaints system** No information available.
- 7. Independence of the complaints review** Independence is ensured by having, at a minimum, a different department than the department originally involved in deciding on the complaint. The complaints are usually handled by the Project Selection Appeals Board, which is independent of the Project Selection Committee and the Managing Authority.
- 8. Further appeal** **Further appeal** is possible. Applicants, who are not satisfied with the decision of the Project Selection Appeals Board can lodge further appeal to the Court of Appeal of Malta. That is the final appellate court in Malta in civil matters.
- In general, lodging of a complaint is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims only with the explicit authorisation of the eligible complainant in all OPs in Malta. The only remedy provided is a correction of the decision.
- 9. Other details** The complaint must include a detailed justification as to the reasons why the applicant does not agree with the decision taken by the Project Selection Committee and why the decision (about the project) should be reconsidered. The applicant must provide the Project Selection Appeals Board with all the relevant documents and testimonials in support of their complaint.

Assessment of effectiveness of the Member State

In Malta, 2 operational programmes (national) were analysed during the assessment of effectiveness. Overall, the Maltese OPs scored in between the 41st and the 60th percentile (i.e. about 41-60% of countries scored worse in analysed characteristics than Malta). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “visibility”. Similarly, a high score can be observed in “remedy” and “accessibility”.

The best score is in the aspect of **visibility**, which scored very well. The possibility of complaining is communicated to the applicant through the information permanently available online. However, no information is available on dissemination of up-to-date knowledge of the complaints procedures among frontline officers.

If the complaint is found substantive, correction of decision is provided as remedy. The decision to provide the remedy is made according to structured procedures. Therefore, the **remedy** scored well.

The workflow of the complaints procedure is in the documents described in details and no fees are required when submitting a complaint. The complaints can be lodged in both national languages (Maltese and English). Therefore, the aspect of **accessibility** scored also well.

In Malta, independence is ensured by having, at a minimum, different department than the department which produced the act against which the complaint is lodged. The complainant is given the opportunity to present his/her position through a formal hearing process and a written submission. Therefore, the aspect of **objectivity and fairness** scored well.

Another aspect which scored acceptably is the **fit for purpose**, since in the Maltese OPs, the possibilities for a complaint’s submission are the same as the channels through which regular communication takes place (post). Information on the number of complaints handled per year is not available for Malta.

The aspects that scored the lowest and need improvement are “review” and “timeliness”.

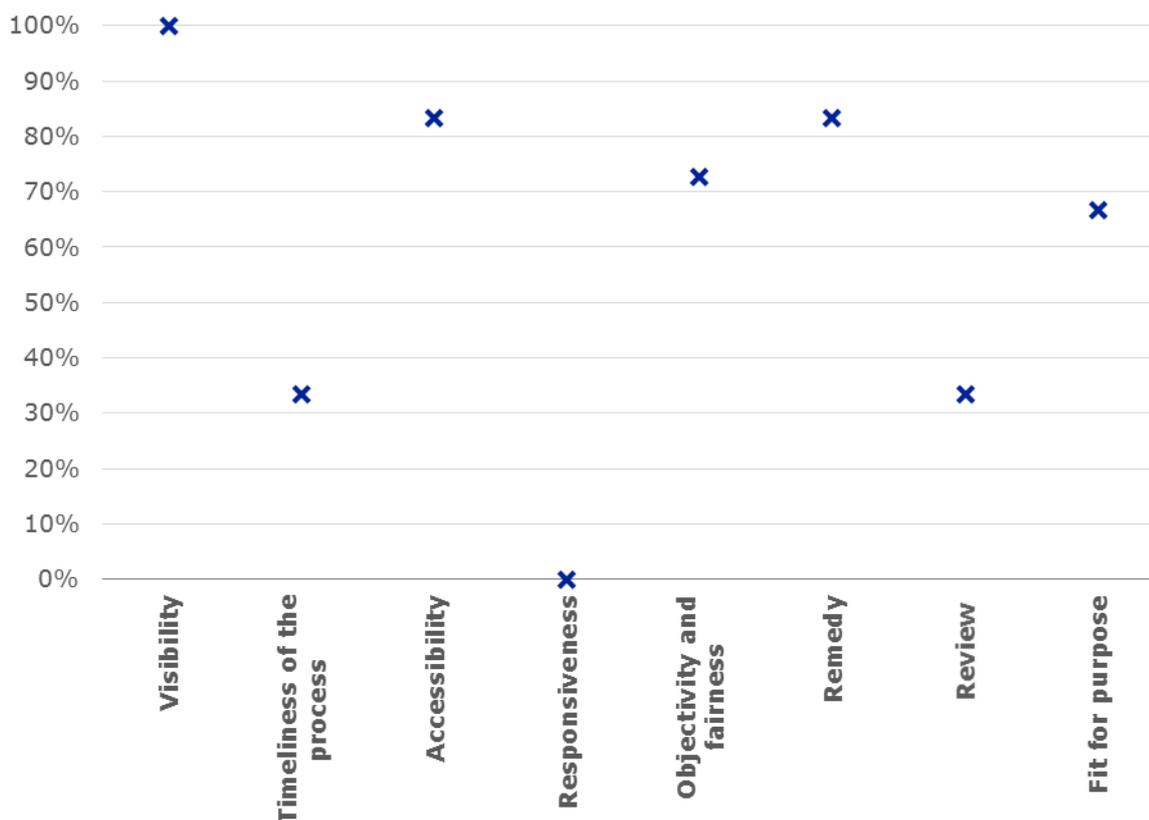
The aspect of **review** is low for Malta as no further administrative appeal is possible. However, after the final decision is made, appeals can be lodged with a court for judicial review. Information on the possibility of appeal is provided.

The aspect of **timeliness** scored low mainly due to short deadlines for lodging a complaint. A complaint must be lodged in less than 5 days after a decision is communicated to the stakeholder. Information on the deadline for resolving complaints is not available.

No information is available on the aspect of **responsiveness**.

The following boxplot (**Chart 43**) shows the distribution of each of the aspects of effectiveness among the analysed OPs. Even though 2 OPs in Malta were analysed, these OPs have the same MA, and the collected responses are all the same for every question. Therefore, the distribution of different parameters appears as crosses. Due to missing data, responsiveness's score is 0.

Chart 43 Distribution of scores among aspects



20.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

Little information is available about the previous programming period. According to the publicly available information, the system of appeals was very similar to the complaints-handling system of the 2014-2020 programming period.

20.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

No relevant national funding programmes were identified in Malta.

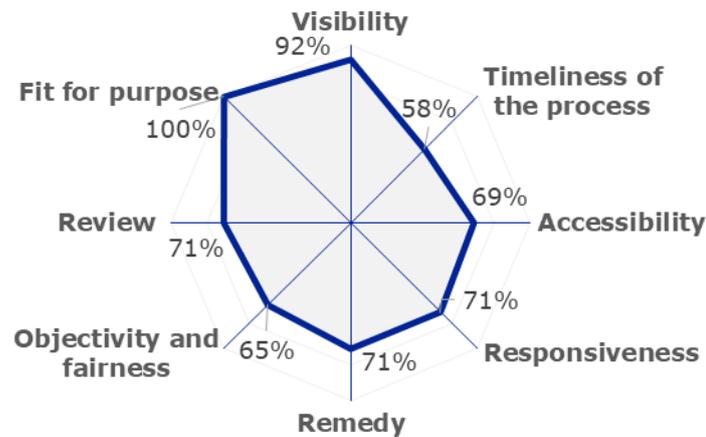
21 THE NETHERLANDS (NL)

21.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs of the Netherlands. The rules for complaints-handling are provided in the **national law** (*General Administrative Law Act*). Further information is usually provided in the *Handbook for Applicants/Beneficiaries* and in the document of *Complaints procedures* of each OP.

Overall, the Dutch OPs **scored well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

The complaints-handling procedures are the same for the national programmes and for the ESIF programmes. They are based on the *General Administrative Law Act* and on the *internal brochure* about complaints.

21.2 1.2 Detailed description of the arrangements

21.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MA) |
|---|--|
| OP East Netherlands ERDF 2014-2020 | Province Gerland |
| OP North Netherlands ERDF 2014-2020 | Samenwerkingsverband Noord Nederland |
| OP South Netherlands ERDF 2014-2020 | Province of Noord-Brabant Provinciehuis |
| OP West Netherlands ERDF 2014-2020 | City of Rotterdam |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all OPs of the Netherlands. The rules for complaints-handling are provided in the <i>national law</i>. Further information is usually provided in the document <i>Handbook for Applicants/ Beneficiaries</i> and in the document <i>Klachtenprocedure</i> ("Complaints procedure").</p> <p>The complaints-handling system is established on the basis of the Algemene wet bestuursrecht (General Administrative Law Act). Chapter 6, 9 and 10 of this law establish the process in general. Chapters 9 and 10 include information on complaints and chapret 6 describes objections.</p> <p>Process of handling complaints is described in detail in the document called Brochure Intern Klachtrecht, which is available online. This document is based on the <i>Algemene wet bestuursrecht</i> and it was published in 1999. This brochure is available only in Dutch.</p> <p>The Handboek EFRO 2014-2020 is the same for all 4 OPs in the Member state. The document mentions the legal possibility for objection and appeal in accordance with the decision on the application and with the on-site inspection.</p> <p>The Klachtenprocedure documents (e.g. Klachtenprocedure of the OP West Netherlands ERDF) contain information about the process of handling complaints, definition of the minimum requirements and deadlines for lodging a complaint. This document is not the same for all OPs. On the other hand, these documents contain very similar information.</p> <p>The national law may be found on the website of the Legislation of the Netherlands. The law is available in Dutch and English. Dutch is the only language that can be</p> |

| | |
|--|---|
| | used for communication between the applicant and the public administration. The Klachtenprocedure document and the Handboek EFRO may be found on the website of managing authorities. Those documents are available only in Dutch. |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>The object of the complaint is not strictly defined, based on the <i>Algemene wet bestuursrecht</i> (<i>General Administrative Law Act</i>) and the <i>Klachtenprocedure documents</i>.</p> <p>The decision on the complaint is not final. Further appeal is available to the complainant. After a complaint, an appeal may be brought before the Administrative Court and further to the Supreme Court. The issue may also be taken up with the ombudsman. Those options are also based on the <i>Algemene wet bestuursrecht</i> (<i>General Administrative Law Act</i>).</p> |

Detailed description of the complaints-handling system:

1. **Channels for lodging complaints** Complaints are generally submitted via **postal services, email or in some cases a proprietary online gateway** for interacting with the state administration.
2. **Deadlines for lodging and resolving complaints** **The complaint usually has to be submitted within six weeks of the decision being received.** Deadlines for resolving complaints vary by OPs.
3. **Fees** **No fees are charged** for lodging complaints. On the other hand, fees for juridical procedures are charged. These fees are paid back if the appeal ends favourably for the complainant.
4. **Languages** Complaints can only be lodged in Dutch.
5. **Opportunities to present the position of the complainant** Usually, position can be presented throughout the written submission and formal hearing process.
6. **Appeal within the complaints system** Further administrative appeal is not possible.
7. **Independence of the complaints review** Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint. Usually a different unit or department handles the complaint. Training of frontline officers regarding complaints handling procedures is usually provided, but it is not mandatory.

8. Further appeal

After a complaint, an appeal may be brought before the Administrative Court and further to the Supreme Court. The issue may also be taken up with the ombudsman.

9. Other details

In general, lodging complaints is enabled to **an applicant, a beneficiary or any party affected by the subject of the complaint**. The only remedy provided is a **correction of the decision**.

The complainant is usually informed of the process and its outcome **at the start, at the end, and at other phases throughout the process**.

Assessment of effectiveness of the Member State

In The Netherlands, 4 operational programmes (national) were analysed during the assessment of effectiveness. Overall, the Dutch OPs scored in between the 61st and the 80th percentile (i.e. about 61-80% of countries scored worse in analysed characteristics than The Netherlands). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed for the aspect of “visibility”.

Fit for purpose is assessed as the best aspect, since in the Dutch OPs, the possibilities for a complaint’s submission (post, online gateway, e-mail, phone, in person) are wider compared to the channels through which regular communication takes place (e-mail, online gateway). On average, the MAs handle less than 10 complaints per year, all of which are considered relevant.

The information about the complaints-handling arrangements is permanently available online. Non-mandatory training or information provided for self-study are provided to frontline officers to disseminate up-to-date knowledge of the complaints procedures. Therefore, the aspect of **visibility** scored very well.

Responsiveness scored well as the MAs usually inform the complainants throughout the complaints process about any changes, or at least at the start and in the end of the process. The complaints are dealt with as they come, i.e. first in and first out, which is a standard process how to handle any received queries.

Administrative appeal is not possible for the Dutch OPs. An appeal may be brought before the Administrative Court and further to the Supreme Court. The issue may also be taken up with the Ombudsman. Information on the appeals procedure is available to the stakeholders in the communication of the final administrative decision. Therefore, the aspect of **review** also scored well.

If the complaint is found substantive, correction of decision is provided as remedy. The decision to provide the remedy is made according to structured procedures or ad hoc, depending on the type of complaint. Therefore, the aspect of **remedy** scored also well.

The aspect of **accessibility** scored acceptably in the Netherlands. The workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in all national languages.

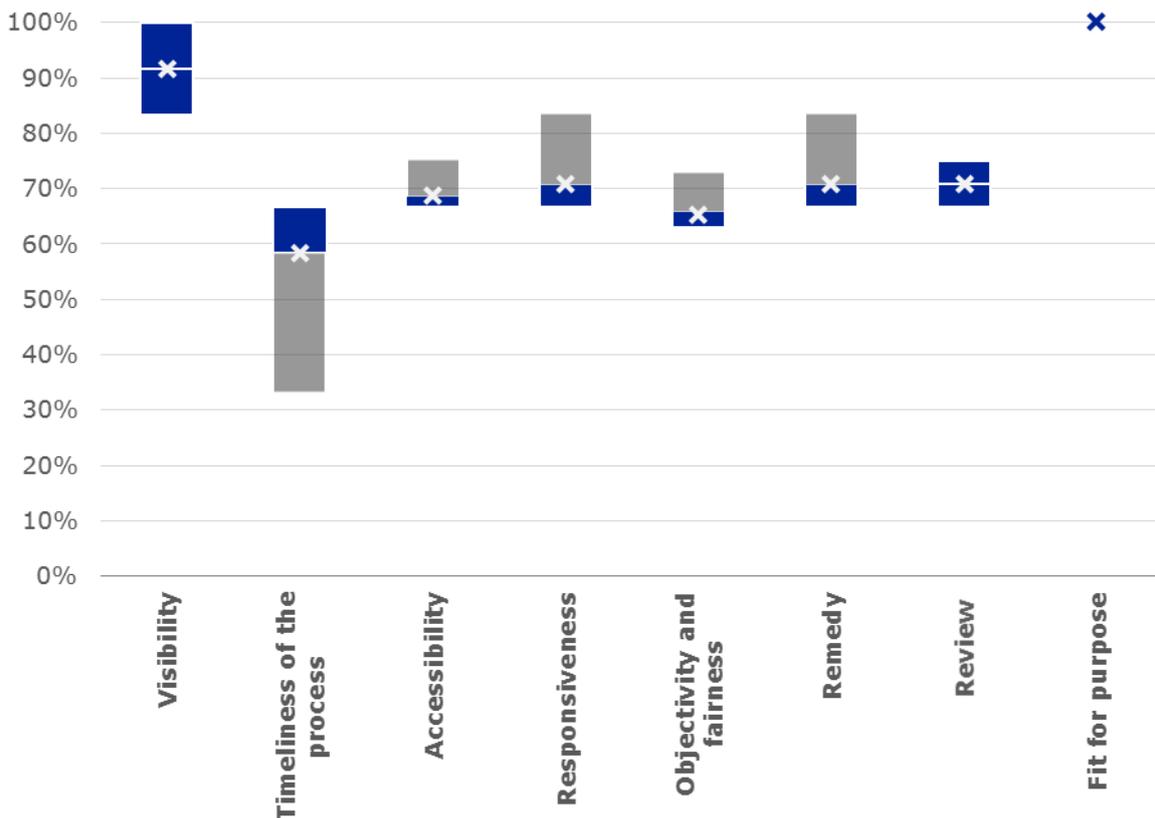
Objectivity and fairness also scored acceptably. In the Netherlands, independence is ensured by having, at a minimum, a different unit or institution than the unit or institution which produced the act against which the complaint is lodged. The complainant’s position can only be presented in written form or during formal hearing.

The aspect that scored the lowest, but still acceptably, is **timeliness**. In the Netherlands, the deadlines for lodging and addressing complaints differ substantially among OPs and types of complaints. For some OPs and types of complaints, deadlines for lodging are only two weeks since the decision is communicated to the applicant/beneficiary, but deadlines are not set for others. Similarly, deadlines for addressing complaints vary from 2 weeks to 2 months since the complaints is received.

For the Netherlands, the above information is reasonably consistent and the OPs have quite similar rules and procedures, as depicted in **Chart 44**

Short boxplots or even just crosses suggest that overall, information about OPs were similar. The assessment of effectiveness described above is applicable in general.

Chart 44 Distribution of scores among aspects



21.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling systems were developed and established in the [Algemene wet bestuursrecht](#) (General Administrative Law Act), which was already in force, thus, the basic procedures for the appeal possibilities were in place. The law was firstly published in 1992. Also the Brochure Interne Klachtrecht was published and publicly available.

The system of handling complains of the previous programming period was the same as in this programming period. The only difference is that the Klachtprocedure documents were not so common, according to the publicly available information.

21.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are unified for the analysed national programmes of the Netherlands.³⁷ **The complaints-handling procedure is the same for the national programmes and for the ESIF programmes.** It is based on the [General Administrative Law Act](#) and on the [internal brochure](#) about complaints. This brochure was firstly published in September 1999. Documents are permanently available online in Dutch.

Chart 45 The comparison between national programmes and ESIF - the Netherlands

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **SME Innovation Stimulation Region and Top Sectors (MIT)**, managed by the Netherlands Enterprise Agency and the Ministry of Economic Affairs and Climate
 - The aim of the programme is to stimulate innovation and research in small and medium-sized enterprises across regions.
- **Stimulation of Sustainable Energy Production (SDE+)**, managed by the Netherlands Enterprise Agency and the Ministry of Economic Affairs and Climate
 - The aim of the programme is to encourage the production of renewable energy in the Netherlands. The programme is designed as an operating

³⁷ Two national programmes were analysed in the case of the Netherlands.

grant. Producers receive financial compensation for the renewable energy they generate.

The subject of a complaint is not limited. Deadline for lodging complaints is six weeks. Deadline for resolving complaints is ten weeks. No fees are charged during the complaints-handling process. Complaints are usually submitted via postal services or proprietary online gateway for interacting with the state administration. The only remedy provided is the correction of the decision. The complainant has the opportunity to present their position throughout the written submission or formal hearing process.

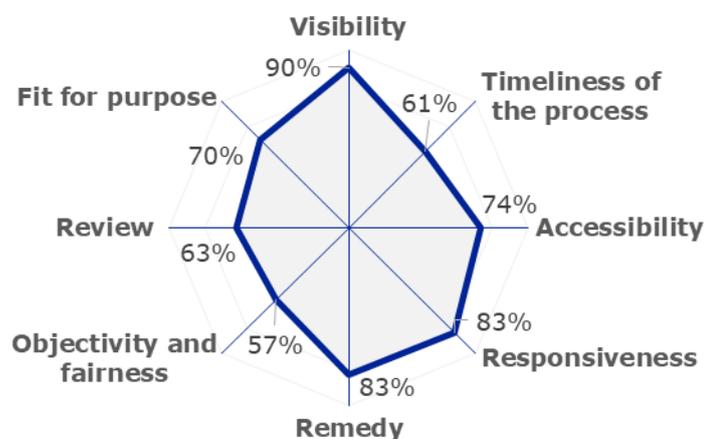
22 POLAND (PL)

22.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publicly available for all OPs in Poland. The complaints-handling system is established on the **basis of national laws**, especially the *Act on the rules for the implementation of the programmes of the Cohesion Policy financed under the financial perspective 2014-2020 (Implementation Act)*.

Overall, Polish OPs **scored well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The complaints-handling system **differed** in the 2007-2013 programming period compared to the 2014-2020 programming period. For the 2014-2020 period, the new ESIF law (the *Implementation Act*) was approved. The law covers **more types of complaints**; apart from complaints against selection process as in 2007-2013 it also covers complaints against processing of claims, the conduct or outcome of random checks and the outcome of audits. Overall, the complaints-handling system is **more unified and centralised** in the 2014-2020 period.

3. Comparison of the national and ESIF complaints-handling procedures

The national laws providing a general description of complaints-handling are **applicable for both ESIF and national programmes**. Specific, standardised procedures for handling complaints are in place for one of the four analysed national programmes, other national programmes had no specific guidelines available and followed the general rules of national laws. Overall, **ESIF programmes are more codified** than national programmes.

22.2 Detailed description of the arrangements

22.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MAs) |
|---|---|
| OP Development of Eastern Poland | Ministry of Investment and Economic Development |
| OP Digital Poland | Ministry of Investment and Economic Development |
| OP Infrastructure and Environment | Ministry of Investment and Economic Development |
| OP Smart growth | Ministry of Investment and Economic Development |
| OP Technical Assistance | Ministry of Investment and Economic Development |
| ROP 1 Regional Operational Programme for Dolnośląskie Voivodeship 2014-2020 | Marshal's Office of the Dolnośląskie Voivodeship |
| ROP 10 Regional Operational Programme for Podlaskie Voivodeship | Marshal's Office of the Podlaskie Voivodeship |
| ROP 11 Regional Operational Programme for Pomorskie Voivodeship | Marshal's Office of the Pomorskie Voivodeship |
| ROP 12 Regional Operational Programme for Śląskie Voivodeship | Marshal's Office of the Śląskie Voivodeship (*Zarząd Województwa Śląskiego) |
| ROP 13 Regional Operational Programme for Świętokrzyskie Voivodeship | Marshal's Office of the Świętokrzyskie Voivodeship |
| ROP 14 Regional Operational Programme for Warmińsko-Mazurskie Voivodeship | Marshal's Office of the Warmińsko-Mazurskie Voivodeship (*Zarząd Województwa Warmińsko-Mazurskiego) |
| ROP 15 Regional Operational Programme for Wielkopolskie Voivodeship | Marshal's Office of the Wielkopolskie Voivodeship (*Zarząd Województwa Wielkopolskiego) |
| ROP 16 Regional Operational Programme | Marshal's Office of the Zachodniopomorskie Voivodeship (*Zarząd Województwa Zachodniopomorskiego) |

| | |
|---|--|
| for Zachodniopomorskie Voivodeship | |
| ROP 2 Regional Operational Programme for Kujawsko-Pomorskie Voivodeship 2014-2020 | Marshal's Office of the Kujawsko-Pomorskie Voivodeship |
| ROP 3 Regional Operational Programme for Lubelskie Voivodeship 2014-2020 | Marshal's Office of the Lubelskie Voivodeship (*Zarząd Województwa Lubelskiego) |
| ROP 4 Regional Operational Programme for Lubuskie Voivodeship 2014-2020 | Marshal's Office of the Lubuskie Voivodeship |
| ROP 5 Regional Operational Programme for Łódzkie Voivodeship 2014-2020 | Marshal's Office of the Łódzkie Voivodeship (*Zarząd Województwa Łódzkiego) |
| ROP 6 Regional Operational Programme for Małopolskie Voivodeship 2014-2020 | Marshal's Office of the Małopolskie Voivodeship (*Zarząd Województwa Małopolskiego) |
| ROP 7 Regional Operational Programme for Mazowieckie Voivodeship 2014-2020 | Marshal's Office of the Mazowieckie Voivodeship (*Zarząd Województwa Mazowieckiego) |
| ROP 8 Regional Operational Programme for Opolskie Voivodeship | Marshal's Office of the Opolskie Voivodeship |
| ROP 9 Regional Operational Programme for Podkarpackie Voivodeship | Marshal's Office of the Podkarpackie Voivodeship (*Zarząd Województwa Podkarpackiego) |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publicly available for all Operational Programmes (OPs) in Poland.</p> <p>The complaints-handling system is established on the basis of national laws, governing the complaints procedures for all OPs of the Member State. Most of the information is provided in the Act on the rules for the implementation of the programmes of the Cohesion Policy financed under the financial perspective 2014-2020 of 11 July 2014 (the so-called Implementation Act), the Code of Administrative Procedure of 14 June 1960 and the Law on Proceedings before Administrative Courts of 30 August</p> |

| | |
|--|---|
| | <p>2002. The abovementioned national laws provide detailed information about the complaints-handling system.</p> <p>Relevant national laws are published in the Official Journal of Laws and may also be found in the Online Legal Database (ISAP) and on the websites of OPs, or on the websites of MAS.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedures | <p>Complaints can be lodged in the following phases at a minimum. Laws presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u> <i>Art. 53 et seq. of the Implementation Act of 11 July 2014</i></p> <p><u>The processing of claims</u> <i>Art. 24 and 25 of the Implementation Act of 11 July 2014</i></p> <p><u>The conduct or outcome of random checks</u> <i>Art. 25 of the Implementation Act of 11 July 2014</i></p> <p><u>The outcomes of audits</u> <i>Art. 25 of the Implementation Act of 11 July 2014</i></p> <p><u>Other</u></p> <p>Complaints may also be lodged against a negligent or inappropriate performance of duty by the proper body or its employees, breaches of the rule of law or the interests of the complainant, or the lengthy or bureaucratic processing of cases by reference to the Art. 227 et seq. of the <i>Code of Administrative Procedure of 14 June 1960</i>.</p> <p>Appeal procedure is laid down in Art. 127 et seq. of the <i>Code of Administrative Procedure of 14 June 1960</i>.</p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints** Complaints are generally submitted via postal services and/or a proprietary online gateway.
- 2. Deadlines for lodging and resolving complaints** Deadlines for lodging and resolving complaints vary by the type of complaint.
- 3. Fees** **No fees are charged** for lodging complaints in the first instance. However, **fees may apply** to appeal procedures before the Administrative Court and cassation appeal before the Supreme Administrative Court.
- 4. Languages** Complaints can be lodged in Polish.

- 5. Opportunities to present the position of the complainant** The complainant is given an opportunity to present their position through written submission.
- 6. Appeal within the complaints system** For some types of complaints, further administrative appeal is possible (selection procedure and other - performance of tasks by competent authorities), for some complaints further administrative appeal is not possible (processing of claims, random checks).
- 7. Independence of the complaints review** Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint, preparation of the project and/or its evaluation.
- 8. Further appeal** **Judicial reviews**, including formal hearing process, are available to the complainant as appeal procedures based on national laws.
- Relevant national law for Polish project partners is the Law on Proceedings before Administrative Courts.
- In general, lodging complaints is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims only with the explicit authorisation of the eligible complainant.
- 9. Other details** According to the MAs, correction of a decision is the most common remedy provided. In some cases, specific remedies such as a change of content in the agreement may be provided.
- According to the MAs, further analysis of information received from complaints varies among the MAs. The most common process being informal internal review.

Assessment of effectiveness of the Member State

In Poland, 21 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Polish OPs scored in between the 61st and the 80th percentile (i.e. about 61-80% of countries scored worse in analysed characteristics than Poland). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “visibility”. Similarly, a high score can be observed in “remedy” and “responsiveness”.

The best score is in the aspect of **visibility**. The possibility of complaining is communicated to the applicant through the information permanently available online, and for some types of complaints also each time a decision is made that could elicit a complaint. Non-mandatory training and information for self-study are provided to disseminate up-to-date knowledge of the complaints procedures among frontline officers.

If the complaint is found substantive, correction of decision is provided as remedy. The decision to provide the remedy is made according to structured procedures. Therefore, the aspect of **remedy** scored well.

Responsiveness scored well as the MAs usually inform the complainants throughout the complaints process about any changes. The complaints are dealt with as they come, i.e. first in and first out, which is a standard process how to handle any received queries.

The workflow of the complaints procedure is in the documents described in details. No fees are charged for lodging complaints in the first instance, however, fees may apply to appeal procedures before the Administrative Court and cassation appeal before the Supreme Administrative Court. Complaints can be lodged in the national language only (Polish). Access for disabled/disadvantaged groups is ensured in different ways, e.g. there are guidelines defining accessibility standards for people with disabilities. Therefore, the aspect of **accessibility** scored also well.

Another aspect that scored well in Poland is **fit for purpose**. For Polish OPs, the possibilities for a complaint’s submission (post, online gateway, in person) are the same as the channels through which regular communication takes place. On average, the MAs handle more than 100 complaints per year (in some cases up to 400), out of which less than 50% are considered relevant.

The aspect of **review** scored acceptably. In Poland, further administrative appeal is possible for about 60% types of complaints. Appeals can be lodged with a court for judicial review. The information on appeals procedures is available to stakeholders in the communication of the final administrative decision.

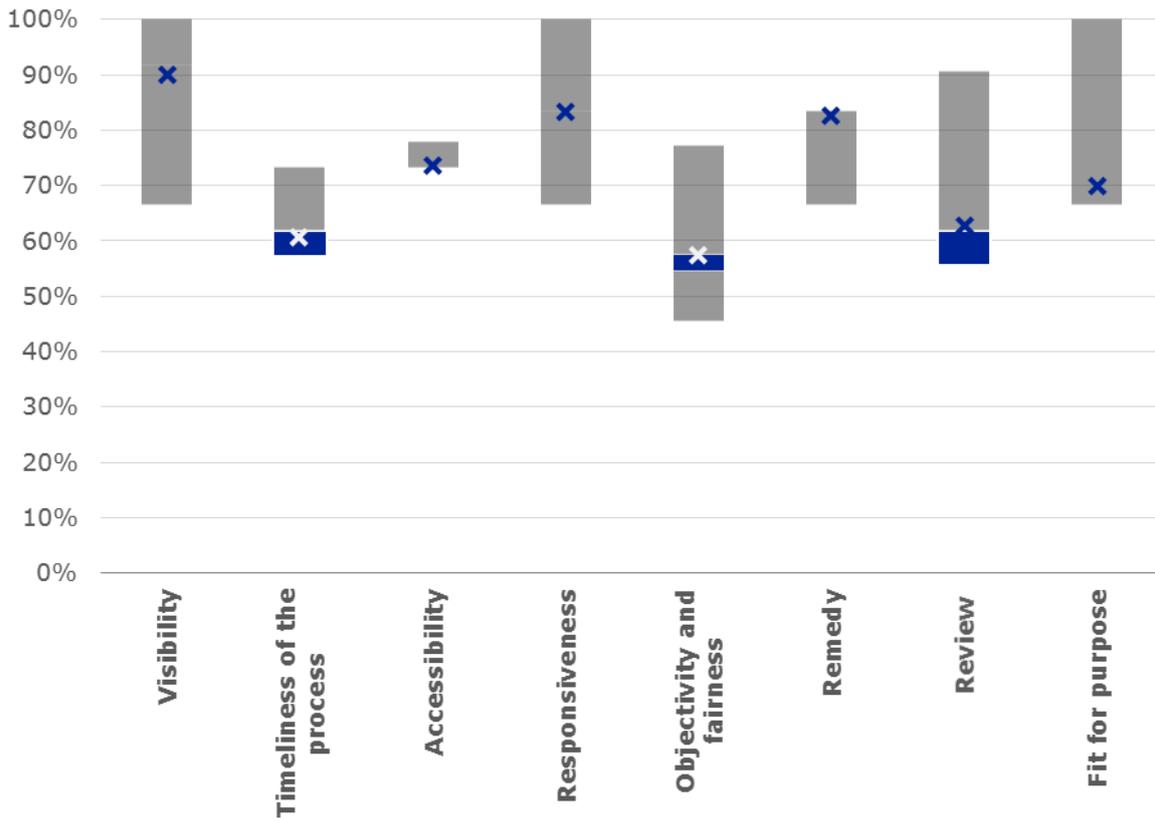
Deadlines for lodging complaints differ among types of complaints. Deadlines for lodging complaints are set quite short (2 weeks after the beneficiary has been officially notified about the results). Deadlines for resolving complaints differ between types of complaints from 2 weeks to 1 month. The timeframe of complaints usually cannot conflict with the timeline of the OP administration process. Therefore, **timeliness** of the process also scored acceptably.

The aspects that scored the lowest, but still acceptably, is the **objectivity and fairness**. A complaint is handled by a different person than the person which produced the act against which the complaint is lodged. The complainant is given the opportunity to present

his/her position through the initial written submission, and for some types of complaints also by a formal hearing process.

For Poland, the above information is highly consistent and the OPs have quite similar rules and procedures, as depicted in **Chart 46**. Short boxplots suggest that overall, information about OPs were similar. The assessment of effectiveness described above is applicable in general.

Chart 46 Distribution of scores among aspects



22.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling system differed in the 2007-2013 programming period compared to the 2014-2020 programming period.

In the 2007-2013 programming period, the complaints handling procedures were included mainly in the law on the principles of conducting development policy (OJ 2006 No. 227 item 1658). According to this law, complaints could only be lodged against selection process, therefore, there was room for the MAs to decide some matters by themselves. For this reason, some MAs had specific internal procedures complementing the laws as well.

In contrast, in the 2014-2020 programming period, there is the Act on the rules for the implementation of the programmes of the Cohesion Policy financed under the financial perspective 2014-2020 (the so-called Implementation Act). According to this law, complaints can be lodged not only against selection process but also against processing of claims, the conduct or outcome of random checks and the outcome of audits. For this reason, it is not necessary for Managing Authorities to have extensive internal documents on complaints-handling procedures.

However, the above-mentioned information is not very widespread among MAs. Out of the 11 MAs who responded the questions on differences in complaints-handling procedures between the two programming periods, only 4 MAs indicated that the systems between the two programming periods have changed, while 7 MAs indicated that the complaints-handling system in 2014-2020 is the same as in the previous programming period.

Overall, the complaints-handling system is more unified and centralised in the current programming period compared to 2007-2013, as the new law covers more types of complaints.

22.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Specific, standardised procedures for complaints-handling are in place for one of the analysed national funding programmes.³⁸ The other national programmes have no specific guidelines available and follow the general rules of national laws.³⁹ **The national laws providing a general description of complaints-handling are applicable for both ESIF and national programmes.**

Chart 47 The comparison between national programmes and ESIF - Poland

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↓ | ↓ | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **Lider**, managed by Narodowe Centrum Badań i Rozwoju
 - The LIDER Programme is aimed at encouraging scientists to cooperate with businesses while performing economically valuable and implementable studies and research and enhancing mobility and exchange between research sectors, universities and research units.
- **Narodowy Programme Mieszkaniowy**, managed by Ministerstwo Inwestycji i Rozwoju
 - The National Housing Programme defines the state's housing policy in the medium-term horizon. Housing policy introduces solutions that increase the availability of housing, especially for families with average and low incomes.
- **Programme wspierania inwestycji o istotnym znaczeniu dla gospodarki polskiej na lata 2011–2023**, managed by Polska Agencja Inwestycji i Handlu and Ministerstwo Przedsiębiorczości i Technologii
 - The objective of the Programme is to increase the innovation and competitiveness of the Polish economy by supporting new investments carried out by Polish and foreign companies.
- **Prosument**, managed by Narodowy Fundusz Ochrony Środowiska i Gospodarki Wodnej
 - The programme supports development of civil power engineering from renewable energy sources.

³⁸ Programme Lider

³⁹ Four national programmes were analysed in the case of Poland.

Documents codifying the procedures

The Code of Administrative Procedure of 14 June 1960 is applicable to all complaints against any public administration decision in Poland, including national programmes and ESIF. However, the ESIF have more detailed rules in place based on the Implementation Act of 11 July 2014 than the national funding programmes, which lack specific guidelines.

Only one of the analysed national funding programmes, Lider, has a complaints handling procedure further described in the specific guidelines.

Types of procedures

Based on the national law applicable to ESIF and national programmes, complaints may be lodged against a negligent or inappropriate performance of duty by the proper body or its employees, breaches of the rule of law or the interests of the complainant, or a lengthy or bureaucratic processing of cases, which is relevant to any phase during a project's implementation. In Lider, applicants/beneficiaries may lodge an appeal after each stage of the project implementation.

Details about specific phases (the selection process, the processing of claims, the conduct or outcome of random checks, the outcome of audits) are codified, only for ESIF, in the Implementation Act of 11 July 2014 (compared to national funding programmes).

Submission of complaints

The complaints handling procedure is specified in the guidelines for the Lider programme, in which the written appeal may be delivered via postal services. For the rest of the analysed programmes, the procedure of submission of complaints is not specified.

For ESIF, complaints are generally submitted via postal services and/or a proprietary online gateway. Thus, the possibilities are wider for ESIF than for the national programmes.

Deadlines

Deadlines for lodging and resolving complaints vary by the type of complaint for ESIF. For the Lider programme the deadline for lodging a complaint is 14 days from receipt of rejection and for resolving a complaint is 3 months from the date of its submission. The other programmes have no available information regarding deadlines.

In general, the deadlines for complaints' submission are similar for Lider and ESIF. Deadlines for resolving complaints are shorter for ESIF (2-4 weeks), thus, making the ESIF more effective for the complainants.

Fees

No fees are applicable for the national programmes or ESIF.

Remedy

According to the MAs, correction of a decision is the most common remedy provided for ESIF. Similarly, correction of decision is also remedy provided for the Lider programme.

Further appeal

Further appeal is possible as is judicial review for both national programmes and ESIF.

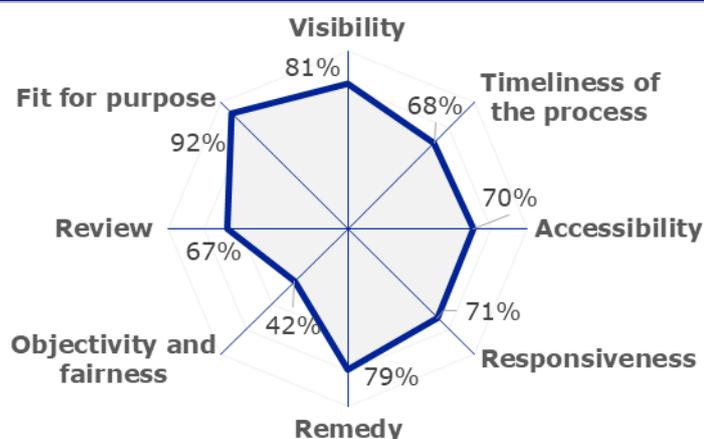
23 PORTUGAL (PT)

23.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs in Portugal. There are procedures that are applied **generally to all complaints** of any character according to national legislation (*Code of the New Administrative Procedure*), **procedures applied across all OPs** in Portugal (*Beneficiary's Curator*) and **OP specific procedures** (*Programme Procedures Manuals*).

Overall, Portuguese OPs **scored adequately** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The effectivity of the complaints-handling system **improved significantly** between the two programming periods. In the 2014-2020 period, beneficiaries can newly lodge complaints on any matter through the *Curator of the Beneficiary* or the *Agency for Development and Cohesion*. The procedure of lodging complaints is **easier** and covers **more types of complaints** in the 2014-2020 period.

3. Comparison of the national and ESIF complaints-handling procedures

Procedures are **more unified for nationally funded programmes** as they heavily rely on the general administrative legislation, while ESIF relies mainly on programme-specific manuals. Procedures in ESIF are **tailored to a specific programme, more detailed and developed**.

23.2 Detailed description of the arrangements

23.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|--|
| Competitiveness and Internationalisation OP | Autoridade de Gestão do Programa Operacional Competitividade e Internacionalização |
| OP Technical Assistance | Ministry of Infrastructure and Development |
| Regional OP Alentejo | Comissão de Coordenação e Desenvolvimento Regional do Alentejo |
| Regional OP Algarve | Comissão de Coordenação e Desenvolvimento Regional do Algarve |
| Regional OP Azores (Autonomous Region) | Região Autónoma dos Açores Direção Regional do Planeamento e Fundos Estruturais |
| Regional OP Centro | Comissão de Coordenação e Desenvolvimento Regional do Centro |
| Regional OP Lisboa | Autoridade de Gestão do Programa Operacional Regional de Lisboa 2014-2020 |
| Regional OP Madeira (Autonomous Region) | Instituto de Desenvolvimento Regional |
| Regional OP Norte | Comissão de Coordenação e Desenvolvimento Regional do Norte 2020 |
| Sustainability and Resource Use Efficiency OP | PO SEUR |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all OPs in Portugal. There are procedures that are applied generally to all complaints of any character according to national legislation, procedures applied across all OPs in Portugal and OP specific procedures.</p> <p>The complaints system is established on the basis of national laws (DL n.º 4/2015 – the New <i>Code of the Administrative Procedure</i>). It is further developed by specific provisions for beneficiaries of particular OPs (Programme Procedures Manuals - <i>Manual do Procedimentos do Programa</i>) issued by the departments in charge of particular OPs. These specific provisions are in line with the national legislation mentioned above.</p> <p><i>The Programme Procedures Manuals</i> generally adapt complaints procedures found in relevant national laws to</p> |

| | |
|--|---|
| | <p>the context of the Operational Programme, and they further specify information on deadlines and complaint-handling bodies. The manuals generally develop specific types of complaints procedures, mostly complaints against the selection process, processing of claims and the conduct or outcome of audits and random checks.</p> <p>Furthermore, some OPs describe complaint procedures in other documents (e.g. OP Centro - Description of the Management and Control System). Some OPs have their own gateways for handling complaints (e.g. OP Centro).</p> <p>The manuals and other related documents can usually be found on the websites of the OPs or on the websites of the respective MAs. Not all OPs publish the manuals online (OP Madeira, OP Norte), however, the documents can be requested directly from the MA. National laws are published in the Diário da República and they can also be found transcribed on third-party websites.</p> <p>Complaints can also be lodged with the Beneficiary's Curator (Curador do Beneficiário), who receives and solves complaints presented by the beneficiaries of programs co-financed by any of the European structural and investment funds. The curator will either solve the problem, or redirect the complainant to a corresponding institution/body. Similarly, a complaint can also be lodged within the Agency for Development and Cohesion (<i>Agência para o Desenvolvimento e Coesão</i>).</p> |
| Level of the complaints-handling systems in place | National and OP specific |
| Description of the types of procedure | <p>Complaints on the selection process, processing of claims, the conduct or outcome of audits and random checks - <i>Programme Procedures Manual</i> of the specific OP</p> <p>Complaints can also be lodged against administrative acts by reference to <i>DL No. 4/2015 (Código do procedimento administrativo novo)</i>.</p> |

Detailed description of the complaints-handling system:

- | | |
|--|---|
| 1. Channels for lodging complaints | Complaints are generally submitted via postal services or e-mail . |
| 2. Deadlines for lodging and resolving complaints | Deadlines for lodging and resolving complaints vary by the type of complaint. |
| 3. Fees | No fees are charged for lodging complaints. |
| 4. Languages | Complaints can usually be lodged in Portuguese language only. |

| | |
|--|--|
| 5. Opportunities to present the position of the complainant | The complainant is given an opportunity to present their position through written submission only |
| 6. Appeal within the complaints system | No information available. |
| 7. Independence of the complaints review | Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint. |
| 8. Further appeal | The matter may be submitted to the judiciary or a higher authority for an independent review . Lodging complaints is restricted to an applicant and a beneficiary . |
| 9. Other details | Only the correction of a decision is provided as a remedy. Decisions on remedy are made according to structured procedures . Based on the information from the MA, information from complaints received is, in general, further analysed by formal internal review boards. |

Assessment of effectiveness of the Member State

In Portugal, 10 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Portuguese OPs scored in between the 41st and the 60th percentile (i.e. about 41-60% of countries scored worse in analysed characteristics than Portugal). The score is displayed in the radar chart in the Summary above.

In **the radar chart above**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a quite high score can be observed in “visibility” and “remedy”.

Fit for purpose is assessed as the best aspect in which Portugal scored very well, as in Portuguese OPs, the possibilities for a complaint’s submission (post, e-mail, online gateway, in person) are wider compared to the channels through which regular communication takes place (post, e-mail, online gateway). On average, the MAs handle 0-5 complaints per year, more than half of which are considered relevant.

The information about the complaints-handling arrangements is permanently available online (national laws and some OP specific manuals for beneficiaries). Information for self-study is provided to frontline officers to disseminate up-to-date knowledge of the complaints procedures. Therefore, the aspect of **visibility** scored well.

Only a correction of the decision is provided as a remedy, however, decisions on remedy are made according to structured procedures. Therefore, **remedy** also scored well.

Responsiveness scored well in Portugal. Depending on the OP, the MAs inform the complainants throughout the complaints process or at different stages of the complaints-handling procedure about any changes. The complaints are dealt with as they come, i.e. first in and first out, as opposed to being prioritised.

Another aspect that scored well is Portugal is the **accessibility**. The complaints can be lodged in the Portuguese language only, and the desk research showed that the relevant authorities do not communicate in English. However, the workflow of the complaints procedure is documented in relevant details, and no fees are required when submitting a complaint.

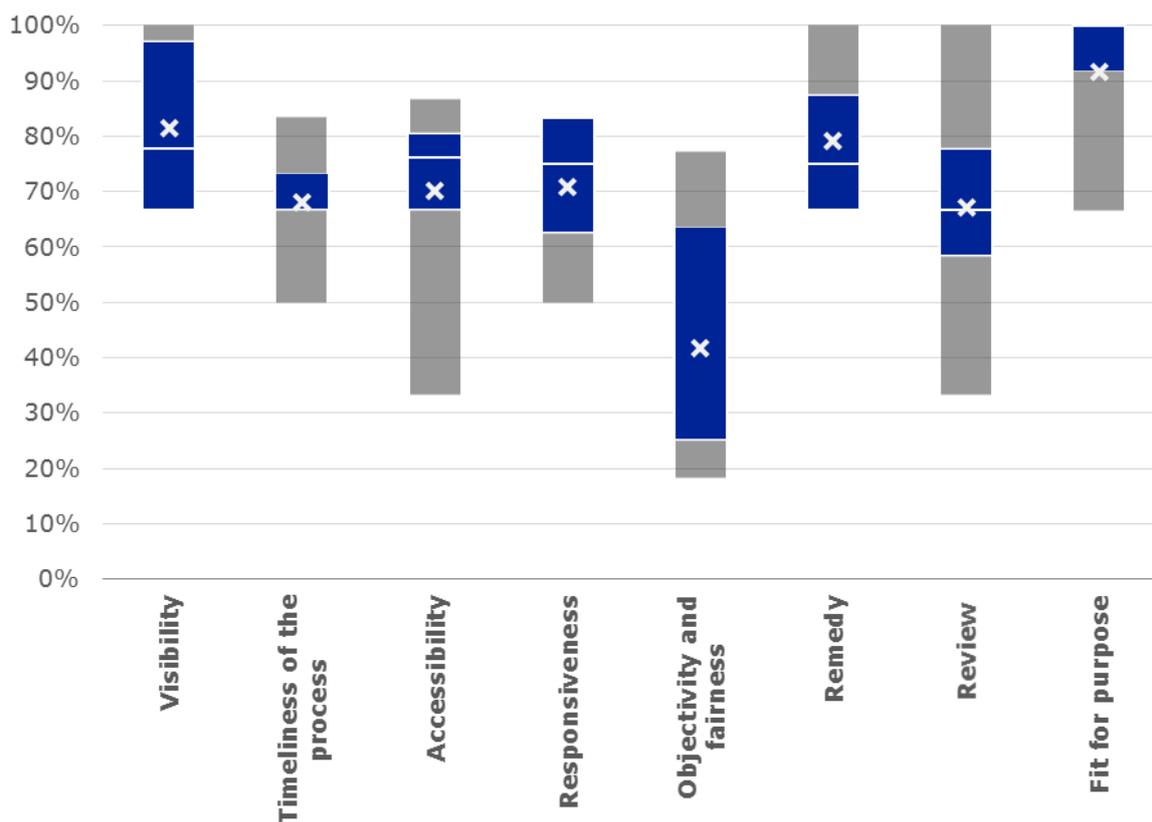
Deadlines for lodging complaints differ among types of complaints from 2 weeks to one month, deadlines for resolving complaints also vary considerably from 40 days to no set deadlines. When the timeframe of complaints conflicts with the timeline of the OP administration process, complaints are resolved as usual, or complaints are prioritised, depending on the OP. Therefore, **timeliness of the process** scored acceptably.

Review also scored acceptably in Portugal. Appeals can be lodged with the court or they can be escalated to a higher authority. Information on the appeals procedure is provided to the stakeholders in the communication of the final administrative decision only for some OPs. Further administrative appeal is usually possible.

The aspect that scored the lowest is **objectivity and fairness**. In Portugal, the independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint. The complainant's position can only be presented in written form.

As depicted in **Chart 48**, the above information is reasonably consistent and the OPs have quite similar rules and procedures, with the exception of the aspect of the objectivity and fairness. For objectivity, the distribution of values is quite wide. On the other hand, there was a high level of agreement of the data with respect to the aspect of the timeliness of the process. Overall, the assessment of effectiveness described above is applicable in general, with the exception of the aspect of objectivity and fairness.

Chart 48 Distribution of scores among aspects



23.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling system in the 2014-2020 programming period differs substantially compared to the 2007-2013 programming period. The ESIF laws were in place in both periods (a new law was adopted for the 2014-2020 period), however, they did not refer to the complaints-handling procedures in the 2007-2013 period.

In the 2007-2013 programming period, the beneficiaries could only lodge complaints based on the Code of the New Administrative Procedure and the information provided in Programme Procedures Manuals (if they were available).

[Law no. 137/2014](#) (Art. 62 and 63) establishes the function of the [Curator of the Beneficiary](#) and his duties for the period of 2014-2020. The law is applicable only for the 2014-2020 programming period, and a similar role was not available in the previous programming period. The Curator receives and assesses complaints sent by the applicants or beneficiaries of ESIF that are directly related to acts or omissions of the governing bodies, and issues recommendations on them. Complaints are decided on an ad hoc basis, i.e.

they are not based on legislation or other documents. They can be lodged via phone, e-mail or the online gateway on the webpage of the curator.

Furthermore, a system for dealing with complaints was set up and implemented within the national coordination authority for ESIF in Portugal, the Agency for Development and Cohesion (Agência para o Desenvolvimento e Coesão). The Agency was founded in 2013 by [law no. 140/2013](#) as the main coordination body for the 2014-2020 programming period. Whenever a complaint is submitted to the Agency (by any means of communication), it is addressed to the legal service, which is responsible for its analysis. All complaints are archived by the legal service for future reference. In contrast, in the previous programming period, coordination was fragmented among 3 institutions and no centralised system for handling complaints was developed.

The effectivity of the complaints-handling system improved significantly between the two programming periods, especially since in 2014-2020, beneficiaries can lodge complaints on any matter through the Curator of the Beneficiary or the Agency for Development and Cohesion, and the procedure of lodging complaints is easier.

23.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Procedures are **more unified for nationally funded programmes**⁴⁰ as they heavily rely on the general administrative legislation, while ESIF relies mainly on programme-specific manuals. **Procedures in ESIF are tailored to a specific programme and therefore more detailed and developed.**

Chart 49 The comparison between national programmes and ESIF - Portugal

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **Programa Interface**, managed by the National Innovation Agency
 - The aim of the Interface Programme is to enhance Portuguese products through innovation, increased productivity, value creation and the

⁴⁰ Two national programmes were analysed in the case of Portugal.

incorporation of technology into the productive processes of national companies.

- **Decarbonisation of Industry: Process Emissions in the Industry**, managed by the Environmental Fund
 - Portugal has committed to achieving carbon neutrality by 2050 and has already set greenhouse gas (GHG) emission reduction targets for 2020 and 2030 and identified policies and measures capable of ensuring compliance with these targets, with a view to decarbonising the economy. It is important to encourage the awareness of the entities to the issue of GHG emissions from industrial processes, and to promote actions that mitigate these emissions.

Documents codifying the procedures

Both ESIF and nationally funded programmes are governed by the *Code of the New Administrative Procedure*, which is the general administrative law in Portugal. While for the nationally funded programmes, the *Code* is the crucial codification containing all the important provisions and rules regarding complaints, for ESIF the most important documents are the *Programme Procedures Manuals*. The *Manuals* generally adapt complaints procedures found in relevant national laws to the context of the Operational Programme, and they further specify information on deadlines and complaint-handling bodies. Even though each nationally funded programme generally also has a programme-specific Regulation, such a regulation would refer to the *Code* in terms of information relevant to complaints.

Types of procedures

Due to more specific codification in the *OP Manuals*, **ESIF applicants may complain at clearly defined stages of the proceedings**. On the other hand, nationally funded programmes do not have any specific procedures defined; they rely on general procedures available under the *Code*. In Programa Interface, applicants may complain against any decision issued or foreseen which negatively affects their rights or interests. When no decision has been issued or foreseen yet, applicants can complain only on the grounds of a breach of law, constitutional law and principles, or public interest. In Decarbonisation of Industry, applicants can complain at any stage, including against the funding decisions.

While nationally funded programmes seemingly favour the applicants more by providing a broader possibility for complaint, the fact that specific procedures are not defined lowers legal certainty and makes the rules less user-friendly and harder to navigate for a regular applicant than the specific rules in the ESIF *Manuals*.

Submission of complaints

In both ESIF and nationally funded programmes, a complaint may be submitted by e-mail or by post. Additionally, in Programa Interface, the applicant may also present a complaint in person.

Deadlines

In both ESIF and nationally funded programmes, the deadlines vary according to the type of complaint. Unless there is a specific provision, an applicant in Programa Interface has 10 working days to file a complaint. In Decarbonisation of Industry, the deadline to file a complaint is generally 15 working days and 30 working days to resolve a complaint.

Fees

There is no fee involved in ESIF or in nationally funded programmes.

Remedy

In ESIF, applicants have an additional possibility to seek remedy, which is to file a complaint with the Beneficiary's Curator.

In nationally funded programmes, applicants may seek correction of the decision, reinstatement into their original position and also, based on the law on non-contractual liability of the State and other public bodies, compensation for damage. During judicial review, the court may render the decision totally or partially null and void and the consequent remedy mirrors the ruling (issuing a new decision or partly correcting it).

Further appeal

In both ESIF and nationally funded programmes, judicial review is possible. Less information is available regarding further administrative appeal against a decision on the complaint but such an administrative appeal is available at least in Programa Interface.

Other comments

An interesting feature of complaints handling both in ESIF and nationally funded programmes is the opportunity to rebut an unfavourable draft decision. Applicants are informed about the content of the planned decision and have a final possibility to influence it and turn it into a favourable decision; this procedure is called the right of prior hearing.

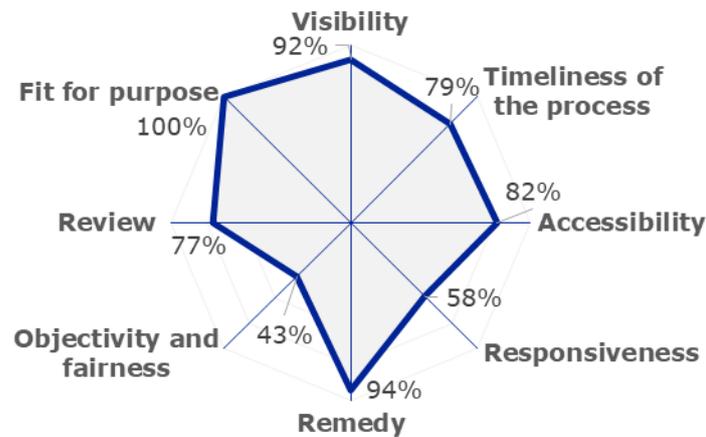
24 ROMANIA (RO)

24.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs in Romania. The complaints system is established on the **basis of national laws**, and it is further developed by specific **provisions for beneficiaries of particular OPs**. Any kind of complaints can be presented via **online gateways**.

Overall, Romanian OPs **scored very well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The complaints-handling system **differed significantly** in the 2007-2013 programming period compared to the 2014-2020 period. The complaints-handling system is **more developed and centralised** in the 2014-2020 programming period. In the 2014-2020 period, complaints are **handled by the MAs instead of intermediary bodies**, and **procedures manuals** were created for most OPs.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are unified at a general level for the analysed national programmes of Romania. The **national law** applies also for the national programmes.

Except for a slight difference in deadlines, **the procedures** for the OPs and for the national funding programmes are **the same**.

24.2 Detailed description of the arrangements

24.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|---|
| Competitiveness Operational Programme | Ministry of Regional development, Public Administration and European Funds |
| Large Infrastructure Operational Programme | Ministry of Regional development, Public Administration and European Funds |
| Operational Programme 'SME Initiative' Romania | Ministry of Regional development, Public Administration and European Funds, <i>done by EIS</i> |
| Regional Operational Programme | Ministry of Regional development, Public Administration and European Funds |
| Technical Assistance Operational Programme | Ministry of Regional development, Public Administration and European Funds |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all OPs in Romania. The complaints system is established on the basis of national laws (Emergency Ordinance No. 66/2011 and law No. 554/2004). It is further developed by specific provisions for beneficiaries of particular OPs (Applicant's Guidelines - <i>Ghidul Beneficiarului</i>) issued by the departments in charge of particular OPs.</p> <p>Applicant's Guidelines generally develop the specific types of complaints procedures; mostly complaints on the selection process or the conduct or outcome of random checks. Some departments in charge of particular OPs also describe complaints procedures in their internal documentation.</p> <p>The Guidelines can be found on the websites of the OPs or on the websites of MA; national laws are published in The Official Gazette of Romania and may also be found transcribed on third-party websites.</p> <p>There are some minor exceptions applicable to specific provisions of particular OPs, but not at the level of the MA. Lodged complaints are always redirected to the corresponding departments in charge of particular OPs.</p> <p>There are online gateways for presenting any kind of complaints at the Romanian webpage of ESIF and at the webpage of the Ministry of Regional Development and Public Administration. Applicants can also lodge their complaints regarding the selection process through the</p> |

| | |
|--|---|
| | monitoring tool (online platform for beneficiaries) MySMIS2014 . |
| Level of the complaints-handling systems in place | National and OP specific procedures |
| Description of the types of procedures | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u> <i>Applicant's Guidelines, source: webpage of particular OPs.</i></p> <p><u>The processing of claims</u> <i>Internal documents issued by the departments in charge of particular OPs.</i></p> <p><u>The conduct or outcome of random checks</u> <i>Applicant's Guidelines, source: webpage of particular OPs & Government Emergency Ordinance no. 66/2011 on preventing, detecting and penalising irregularities occurring during the granting and use of European funds and/or the corresponding national public funds (Chapter V).</i></p> <p><u>Other</u> <i>Complaints can also be lodged against administrative acts by reference to the Law of Administrative Litigations no. 554/2004.</i></p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints** Complaints are generally submitted via e-mail, postal services or proprietary online gateway.
- 2. Deadlines for lodging and resolving complaints** Deadlines for lodging and resolving complaints vary by type of complaint and by OP, mostly from 10 to 30 days after the lead beneficiary has been officially notified about the results for lodging complaints, and from 20 to 30 days from the receipt of complaint for their resolution.
- 3. Fees** **No fees are charged** for lodging complaints.
- 4. Languages** Complaints may usually be presented in Romanian language only.
- 5. Opportunities to present the position of the complainant** The complainant is given the opportunity to present his/her position through the initial written submission or formal hearing process.

- 6. Appeal within the complaints system** No information about the further appeal is available.
- 7. Independence of the complaints review** Independence is ensured by having, at a minimum, a different person than the person originally involved in deciding on a complaint.
- 8. Further appeal** In most cases, **judicial reviews** are available to the complainant as appeal processes based on law.
- In general, lodging complaints is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims only with the explicit authorisation of the eligible complainant.
- 9. Other details** According to the MAs (questionnaire), information from complaints received is further analysed in **formal internal and external reviews**.
- Correction of the decision or reimbursement are provided as a remedy. Decisions on remedy are made **according to structured procedures** (see OP sheets).

Assessment of effectiveness of the Member State

In Romania, 4 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Romanian OPs scored in between the 81st and the 99th percentile (i.e. about 81-99% of countries scored worse in analysed characteristics than Romania). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of “fit for purpose”. Similarly, a high score can be observed in “remedy”, “visibility” and “accessibility”.

Fit for purpose is assessed as the best aspect, as in the Romanian OPs, the possibilities for the submission of a complaint (post, online gateway, e-mail, in person) are wider than for the regular communication taking place (post, online gateway, e-mail). On average, the MAs handle more than 100 complaints per year. According to the MAs, the percentage of relevant complaints varies significantly from 15% to 90%.

Remedies provided are a correction of decision or the reimbursement of costs incurred. The decision is made according to structured procedures. Therefore, **remedy** scored very well.

The information about the complaints-handling arrangements is usually available online (for national laws and some OP specific manuals for beneficiaries), or it is given to the beneficiary at the start of the administrative process. Furthermore, the information on how and where to complain is rather well publicised (on the webpages of the MAs and the OPs). Non-mandatory training or information provided for self-study are provided to frontline officers to disseminate up-to-date knowledge of the complaints procedures. Therefore, the aspect of **visibility** also scored very well.

The workflow of the complaints procedure is documented with relevant details, no fees are required when submitting a complaint. The complaints can be lodged in the national language only (Romanian), however, desk research showed that the relevant authorities communicate in English as well. Therefore, the aspect of **accessibility** also scored well.

Deadlines for lodging and resolving complaints vary by type of complaint and by OP. Deadlines for lodging are set somehow short (10-30 days after the beneficiary has been officially notified about the results for lodging complaints), but deadlines for resolving are set quite reasonably (20-30 days from the receipt of complaint for their resolution). Depending on the OP, the timeframe of complaints either cannot conflict with the timeline of the OP administration process, or the complaints procedure is prioritised. Therefore, the aspect of **timeliness** scored well.

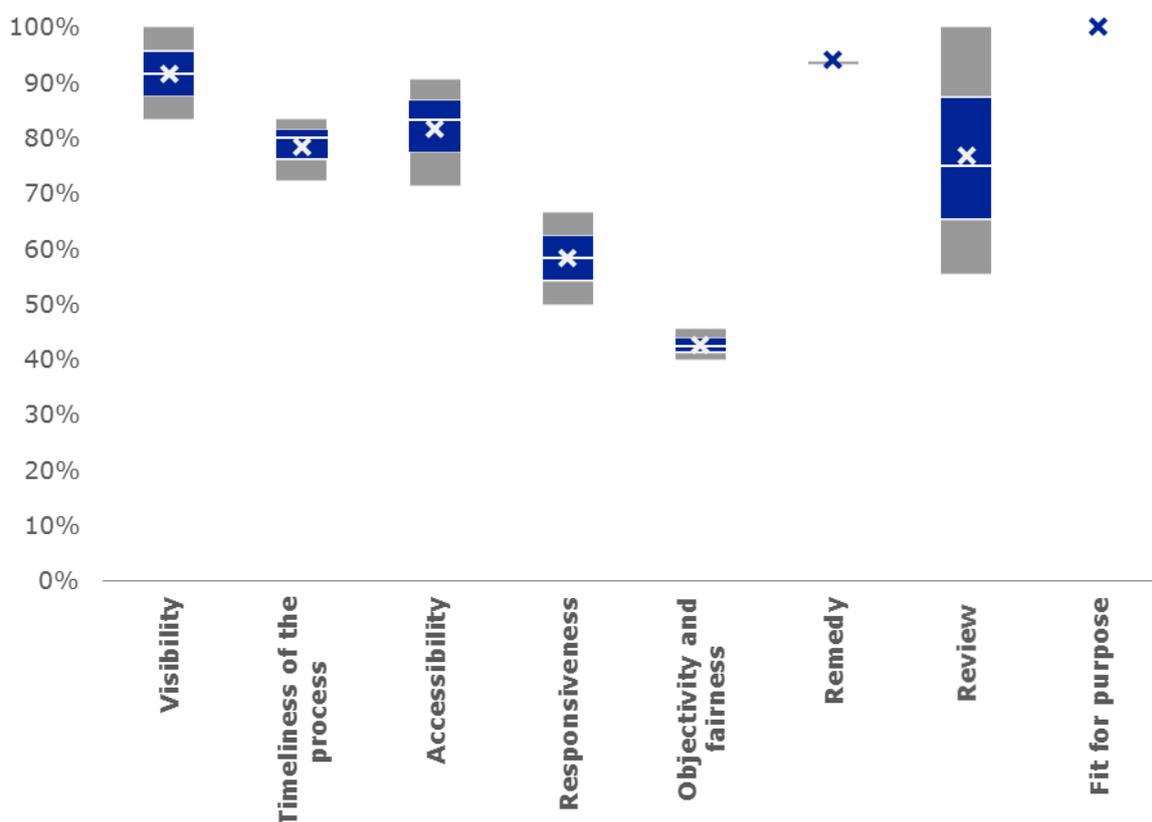
Administrative appeal is usually possible for the Romanian OPs. Appeals can be lodged with a court for judicial review. Information on the appeals procedure is available to the stakeholders in the communication of the final administrative decision. Therefore, the aspect of **review** also scored well.

Responsiveness scored acceptably as the MA usually informs the complainants only at the end of the process about any changes, and complaints are addressed based on the first-in first-out basis, as opposed to being prioritised.

The aspect that scored the lowest and needs improvement is **objectivity and fairness**. In Romania, independence is ensured by having, at a minimum, a department other than that which the complaint involves decide on its resolution. The complainant's position can only be presented in written form.

For Romania, the above information is reasonably consistent and the OPs have quite similar rules and procedures, as depicted in **Chart 50**. Relatively short boxplots suggest that overall, information about OPs were similar. All observations of the aspects of fit for purpose have the exact same values, suggesting exactly the same procedures among analysed OPs. On the other hand, the distribution of values of the aspect review is wider, signalling slightly different review procedures across Romanian OPs. The assessment of effectiveness described above is applicable in general.

Chart 50 Distribution of scores among aspects



24.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling system differed significantly in the 2007-2013 programming period compared to the 2014-2020 programming period. The complaints-handling system is more developed and centralised in the 2014-2020 programming period.

Compared to the 2007-2013 programming period, when complaints were handled by intermediary bodies, they are currently handled by the Managing Authorities (based on suggestions provided by the intermediary bodies). Furthermore, there is a special unit within the Managing Authorities dedicated to complaints. This unit sends notifications to beneficiaries regarding complaints. The complaints-handling system is, therefore, more centralised than in the previous programming period.

Second, for most of the programmes there is currently a Procedures manual, which did not exist in the previous programming period. In this manual, there is information for beneficiaries on how to proceed in case they want to lodge a complaint. In terms of

accessibility, the system is more effective in the 2014-2020 period as the comprehensive information is available for the potential complainants in the manuals.

Deadlines on lodging and resolving complaints are in the Emergency Ordinance No. 66/2011 and Law no. 554/2004, and they have been the same for the two periods.

24.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are unified at a general level for the analysed national programmes of Romania.⁴¹ The national law providing a general description of the complaints-handling procedures that is **applicable for the ESIF applies also for the national programmes**. The complaints-handling procedures are based on the Law of Administrative Litigations no. 554/2004 and applicant's guidelines specific for each programme. All of the guidelines contain the same general information of what complaints shall include, the only minor differences among the analysed programmes can be found in deadlines for resolving complaints. The guidelines are publically available.

Chart 51 The comparison between national programmes and ESIF - Romania

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **National Programme for Craft and Craft Support** (Programului național multianual pentru susținerea meșteșugurilor și artizanatului), managed by the Atragere de Investiții și Promovare a Exportului Brașov & Ministerul pentru Mediul de Afaceri, Comert și Antreprenoriat
 - The programme is a multi-annual programme to encourage and stimulate the setting up and development of small and medium-sized enterprises.
- **Programme for woman manager** (Programul Femeia Manager), managed by the Atragere de Investiții și Promovare a Exportului Brașov & Ministerul pentru Mediul de Afaceri, Comert și Antreprenoriat
 - The multi-annual national programme for the development of entrepreneurship among women in the small and medium enterprises sector.

⁴¹ Three national programmes were analysed in the case of Romania.

- **Micro industrialization programme** (Programul de microindustrializare), managed by the Atragere de Investiții și Promovare a Exportului Brașov & Ministerul pentru Mediul de Afaceri, Comerț și Antreprenoriat
 - The Micro industrialisation Programme supports companies that have a history of at least 12 months to obtain a non-refundable grant for the establishment or development of small factories.

Except for a slight difference in deadlines, the procedures of the OPs and of the national funding programmes are the same.

The subject of a complaint is not limited. The complainant is given an opportunity to present their position through written submission only and the complaints are usually submitted via e-mail, a proprietary online gateway and postal services. No fees are charged for lodging complaints. Independence is ensured by having, at a minimum, a different person from the original decision maker involved in deciding on a complaint.

The only difference in procedures can be found in deadlines for lodging and resolving complaints. For ESIF the deadlines vary by type of complaint and by OP, mostly from 10 to 30 days after the lead beneficiary has been officially notified about the results for lodging complaints, and from 20 to 30 days from the receipt of complaint for their resolution. For the national funding programmes the deadlines for both procedures are shorter and vary from 5 to 10 days. ESIF have more flexible deadlines compared to the stricter deadlines applicable for the analysed national programmes.

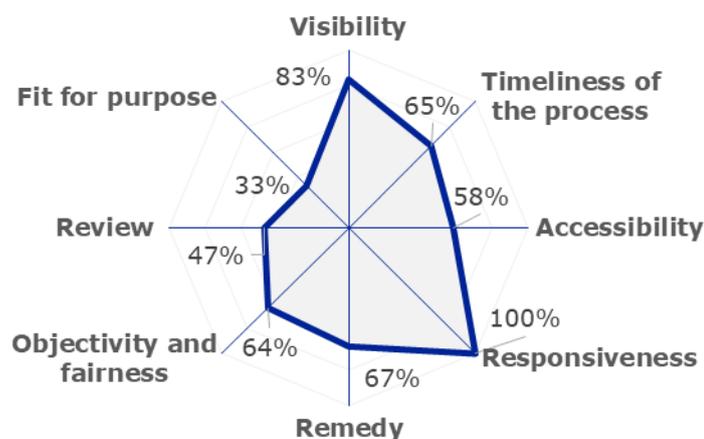
25 SWEDEN (SE)

25.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established in Sweden and publically available. The complaints system is established on the basis of national laws (*Management Act, 1986* and *2017, Regulation on ESIF, 2014*). The system is further developed by specific non-public internal rules.

Overall, Swedish OPs **scored acceptably** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

Procedures in **nationally funded programmes are typically less standardised than in ESIF**. Some responsible authorities have specific internal rules for complaints-handling and those contain the core of the regulation. However, for the responsible authorities not managing ESIF, if any internal rules are in place, then they are very brief. **ESIF has more comprehensive internal documents**; therefore, the predictability of the complaints procedure is higher in ESIF than in nationally funded programmes.

25.2 Detailed description of the arrangements

25.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities (MA) |
|--|---|
| Community-led local development programme with support from ERDF and ESF 2014-2020 | The Swedish Board of Agriculture - Jordbruksverket |
| National regional fund programme for investments in growth and jobs 2014-2020 | Swedish Agency for Economic and Regional Growth (Tillväxtverket) |
| OP South Sweden | Swedish Agency for Economic and Regional Growth |
| OP Småland and islands | Swedish Agency for Economic and Regional Growth |
| OP West Sweden | Swedish Agency for Economic and Regional Growth |
| OP East-Central Sweden | Swedish Agency for Economic and Regional Growth |
| OP Stockholm | Swedish Agency for Economic and Regional Growth |
| OP North-Central Sweden | Swedish Agency for Economic and Regional Growth |
| OP Central Norrland | Swedish Agency for Economic and Regional Growth |
| OP Upper Norrland | Swedish Agency for Economic and Regional Growth |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established in Sweden and publically available. The complaints system is established on the basis of <i>national laws</i> (Management Act, 1986 and 2017, Regulation on ESIF, 2014).</p> <p>The system is further developed by specific <i>internal rules</i>. Internal rules are not publically available, but each time a decision is made, the beneficiaries are informed about the details of the possibility of lodging a complaint. The internal rules specify deadlines for lodging and handling complaints and further processes.</p> <p>National laws specify the types of procedures that can be appealed (Management Act §21-30 (1986) and § 32, § 40-49 (2017), Regulation on ESIF §45). Based on the appeal</p> |

| | |
|--|---|
| | <p>procedures, the OPs complaints systems are established and further developed.</p> <p>The national laws are published in Swedish on the website of the Swedish parliament.</p> |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>Complaints can be lodged in the following phases:</p> <ul style="list-style-type: none"> • The processing of claims • The conduct or outcome of random checks • The outcome of audits <p>The <i>internal documents issued by the Managing Authority</i> establish the option to complain in the above mentioned phases.</p> <p>Further appeal is possible for the identical phases of the project implementation mentioned for the complaints above, i.e., processing of claims, conduct or outcome of random checks and outcome of audits. Appeal possibility is based on the national laws <i>Management Act</i> and <i>Regulation on ESIF</i>.</p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints**

The complaints can be lodged via email or post.
- 2. Deadlines for lodging and resolving complaints**

The deadline for lodging complaints is two weeks after the beneficiary is officially informed of the decision. The deadline for resolving a complaint is one month.
- 3. Fees**

No fees are charged for lodging complaints.
- 4. Languages**

Complaints can be lodged in Swedish.
- 5. Opportunities to present the position of the complainant**

The complainant is given an opportunity to present their position through written submission only (via post or email).
- 6. Appeal within the complaints system**

Further administrative appeal is not possible.
- 7. Independence of the complaints review**

Independence is ensured by having a different department (legal unit) assess the complaints.
- 8. Further appeal**

The beneficiaries have an opportunity **to escalate the complaints** to a higher instance – the general Administrative Court, High Court and Supreme Court, based on the national laws mentioned above (Management Act, Regulation on ESIF). The complainants have to lodge the appeal within three

weeks after the appealed decision is received. No deadlines for resolving the appeal exist.

Lodging complaints is **restricted to a beneficiary**.

The only remedy provided is correction of decision.

According to the MAs (questionnaire), information from complaints received is further analysed by **informal internal reviews**.

9. Other details

As the number of complaints in Sweden is very low, there is usually no need to have any system to further analyse the complaints process.

Assessment of effectiveness of the Member State

In Sweden, 10 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Swedish OPs scored in between the 21st and the 40th percentile (i.e. about 21-40% of countries scored worse in analysed characteristics than Sweden). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspect of the “responsiveness”. Similarly, a high score can be observed in “visibility”.

Sweden scores the best in **responsiveness**, as the MA informs complainants throughout the complaints process about any changes.

The information about the complaints-handling arrangements is permanently available online. For some types of complaints, the possibility of complaining is communicated to the applicant each time a decision is made that could elicit a complaint. Information is provided for self-study to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored well.

The remedy provided is a correction of decision. However, no information on how decisions to provide remedy are made. Therefore, the **remedy** aspect also scored acceptably.

An interesting aspect in Sweden is **timeliness** which scored acceptably. The deadline for lodging complaints is 2 weeks since the decision is communicated to the complainant, and the deadline for resolving complaints is one month since the decision is made. For the analysed OPs, the timeline of the OP implementation process is considered in the standard procedure for handling complaints, for which reason the timeframe of complaints cannot conflict with the timeliness of the OP administration process.

Objectivity and fairness also scored acceptably. In Sweden, independence is ensured by having, at a minimum, a different unit than the unit which produced the act against which the complaint is lodged. The complainant’s position can only be presented in written form or during formal hearing.

The aspect of **accessibility** also scored acceptably in Sweden. The workflow of the complaints procedure in the documents is not described in detail, only basic information is provided to the complainants. No fees are required when submitting a complaint. Complaints can usually be lodged in all relevant national languages and it is not possible to submit a complaint in English.

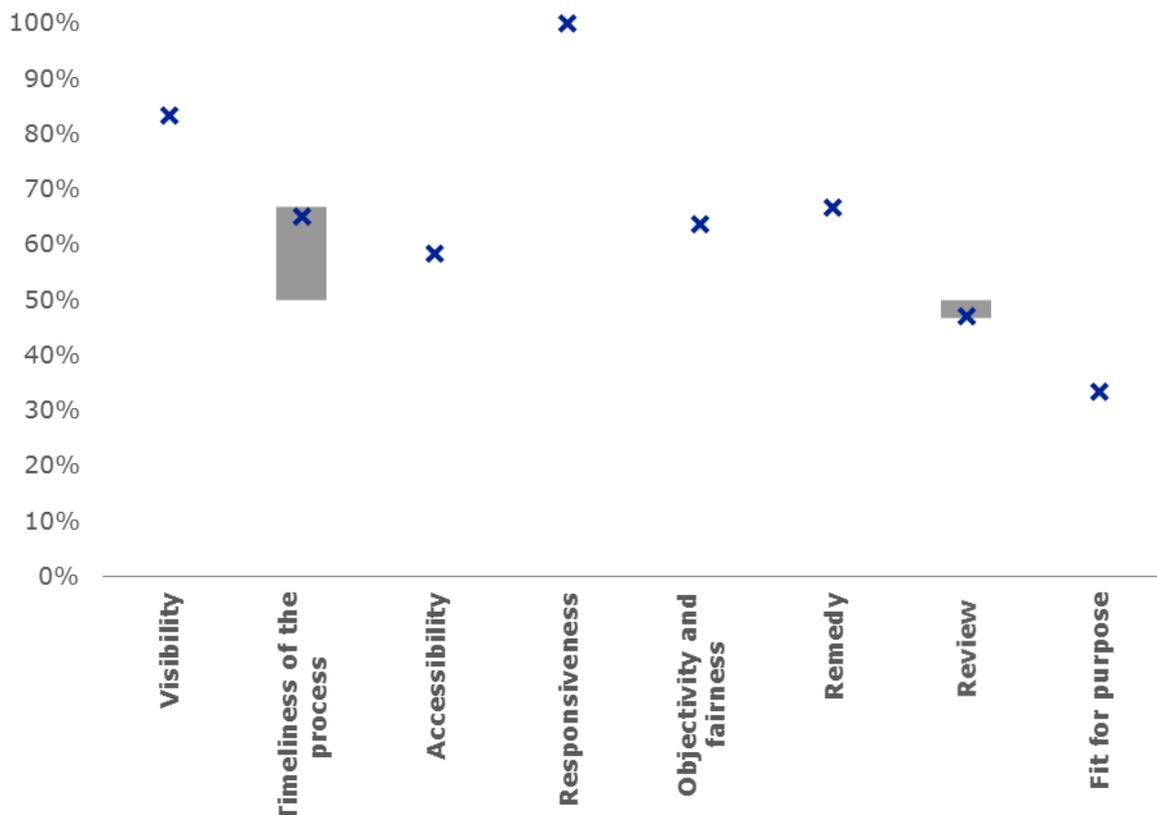
The aspect of **review** needs improvement as further administrative appeal is usually not possible in Sweden, and appeals can only be escalated with a higher authority for a review. Information on the possibility of appeal is provided to stakeholders in the communication of the final administrative decision.

The aspect that scored the lowest is **fit for purpose**, since in the analysed Swedish OPs, the possibilities for a complaint’s submission are narrower compared to the channels through which regular communication takes place. However, it should be noted that the number of observations for this aspect is lower than for other aspects in Sweden. Additional desk research revealed that for some missing OPs, possible channels for lodging complaints are wider than those indicated by the MAs. For these reasons, the aspect of fit for purpose may not reflect the situation for Swedish OPs.

The numbers on submitted complaints in Sweden are not available.

The following boxplot (**Chart 52**) shows the distribution of each of the aspects of effectiveness among the analysed OPs. Even though 10 OPs were analysed, 9 of these 10 OPs the same MA, and the collected responses from this MA were all the same for every question. Therefore, the distribution of different parameters appears as crosses. It can be seen that the values of analysed aspects are fairly consistent with the exception of fit for purpose and responsiveness.

Chart 52 Distribution of scores among aspects



25.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The same national laws were in place during the previous programming period (Management Act, 1986 and 2017, Regulation on ESIF, 2014 and 2009). The MA follows additional internal documentation for the detailed procedures, which is also unchanged. Based on the information from the MA, the complaint management system is well developed and is no different than the previous programme period.

25.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Procedures in **nationally funded programmes**⁴² are typically less standardised than in ESIF. Some responsible authorities have specific internal rules for complaints-handling and those contain the core of the regulation. However, for the responsible authorities not managing ESIF, if any internal rules are in place, then they are very brief. **ESIF has more comprehensive internal documents**; therefore, the predictability of the complaints procedure is higher in ESIF than in nationally funded programmes.

Chart 53 The comparison between national programmes and ESIF - Sweden

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ● | ↓ | ● | ● | ↓ |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following national programmes were analysed:

- **Research in New Nuclear Technology, area NE = Natural and Engineering Sciences**, managed by the Swedish Research Council
 - The main focus of the programme is to promote advanced competence within the area of new nuclear technology for fourth generation nuclear power, to maintain safety competence at the highest level and make it possible for Swedish researchers to become engaged with the major international research programmes within the area.
- **Demo Environment Programme**, managed by the Swedish Agency for Growth
 - Grants are awarded to help entrepreneurs explore new markets and research their technology's impact on the environment and poverty reduction.

⁴² Four national programmes were analysed in the case of Sweden.

- **Machine Learning for the Automotive Industry - Vehicle Strategic Research and Innovation**, managed by the Sweden's Innovation Authority
 - Research and innovation projects that strengthen knowledge-sharing between academia and industry in the field of machine learning for the automotive industry.
- **National Research Programme on Climate: Roads Forward**, managed by the Swedish Research Council for Sustainable Development
 - This climate research programme will help achieve Sweden's goal of being a fossil-free welfare society and the ambition of being a leader in global efforts to realise the Paris agreement's objectives.

Documents codifying the procedures

Documentation about complaints-handling differs significantly among the responsible authorities, consequently differing for ESIF and nationally funded programmes. Interestingly, complaints handling is the same for ESIF and for the Demo Environment Programme, this is because both are managed by the same Managing Authority, *i.e.*, the Swedish Agency for Growth, and covered by the same documentation.

ESIF and all nationally funded programmes are in general covered by the Management Act, the Swedish administrative law. However, each programme also has its own Regulation providing for adjustments to the general regime of the Management Act, especially regarding appeals. Except for the Machine Learning programme and the Research Programme on Climate, every programme also has its own internal rules, with the Research in New Nuclear Technology having significantly less developed internal rules than both ESIF and the Demo Environment Programme. The internal rules are the most important document regarding complaints-handling procedure, as they specify the crucial details regarding possible complaints or deadlines.

Types of procedures

In the Research in New Nuclear Technology, applicants can **rely on the general principle of the functioning of the Swedish government**, which grants them the right to contact the Managing Authority with any complaints or questions anytime during the proceedings. As a reaction to such contact, the Swedish Research Council has drafted a very short internal guide to facilitate complaints handling. The Machine Learning programme relies on the same general principle, however, without drafting any internal guide as a result. According to the Management Act, applicants can also initiate a specific procedure and ask for correction or reconsideration of the funding decision; it is, however, reserved for obvious or technical errors only. Generally, it is not possible to question a funding decision.

On the other hand, **ESIF and the Demo Environment Programme have comprehensive internal rules**, where three phases of possible complaints are clearly distinguished. Consequently, ESIF and the Demo Environment Programme give applicants greater legal certainty regarding possible submission and subsequent handling of their complaint than the three other nationally funded programmes.

Submission of complaints

In both ESIF and nationally funded programmes, complaints can be submitted by e-mail or by post.

Deadlines

ESIF and the Demo Environment Programme have clear deadlines both for filing and resolving complaints. Conversely, due to informal handling of complaints and little rules in

place, the Research in New Nuclear Technology, Machine Learning and the Research Programme in Climate **do not stipulate any specific deadlines.**

Fees

In both ESIF and nationally funded programmes, there is no fee for submitting a complaint.

Remedy

In Research for New Nuclear Technology, in Machine Learning and in the Research Programme in Climate, the appropriate remedy depends on the content of the filed complaint and is provided only in case the responsible authority, after having studied the complaint, agrees that it committed an error. Then the relevant error is corrected. However, as the applicants for funding are not automatically entitled to receive a grant, the assessment of complaints is discretionary and subsequent appeal is very limited.

Further appeal

In ESIF and the Demo Environment Programme, the possibilities to appeal in court are wider. In Research for New Nuclear Technology, in Machine Learning and in Research Programme in Climate, the appeal possibility is very limited to very few and very specific and technical situation. The general rule in these three nationally funded programmes is that an applicant cannot appeal.

Other comments

In Sweden, it is **not very common to receive complaints.** The handling of complaints is usually informal and on an *ad hoc* basis when no rules are in place. If anyone has complaints regarding the funding process and is not given a satisfying answer by the responsible authority, he or she may file a complaint at the Parliamentary Ombudsmen who may then approach and also criticise the responsible authority (based on the information from one responsible organisation).

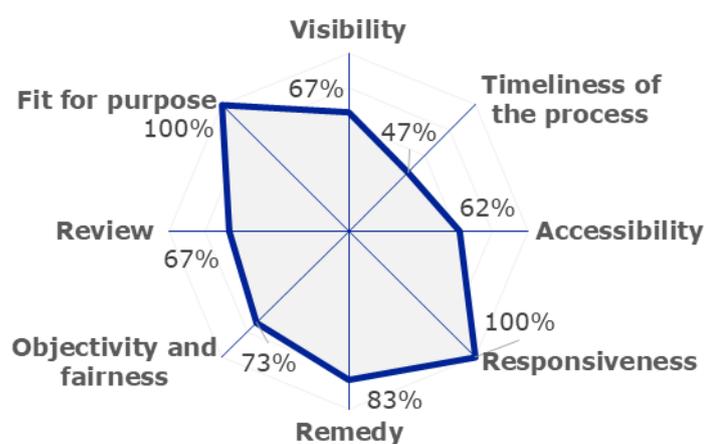
26 SLOVENIA (SI)

26.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established for the only OP of Slovenia. Procedures on complaints are generally applied to all complaints of any character in Slovenia according to national legislation (*General Administrative Procedure Act, Contentious Civil Procedure Act, Administrative Dispute Act, Legal Protection in Public Procurement Procedures*); special complaint procedures do not exist on the level of the MA or OP.

Overall, Slovenian OPs **scored very well** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The arrangements for complaints-handling remained **the same** over the 2007-2013 and 2014-2020 programming periods.

3. Comparison of the national and ESIF complaints-handling procedures

The complaints-handling system is **the same** for national programmes and for the ESIF programmes.

26.2 Detailed description of the arrangements

26.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| Operational Programme for the Implementation of the EU Cohesion Policy in the period 2014 – 2020 | Republic of Slovenia Government Office for Development and European Cohesion Policy |
| Structure of complaints-handling systems | Description |
| <p>General description of country arrangements</p> | <p>Formal, codified procedures are established for the only OP of Slovenia. Procedures on complaints are generally applied to all complaints of any character in Slovenia according to national legislation; special complaint procedures do not exist on the level of the MA or OP.</p> <p>Therefore, complaints are handled according to different national laws (<i>General Administrative Procedure Act</i>, <i>Contentious Civil Procedure Act</i>, <i>Administrative Dispute Act</i>, <i>Legal Protection in Public Procurement Procedures</i>).</p> <p>National laws in Slovenia are published in the government gazette <i>Uradni List</i>, and may also be found transcribed on third-party websites.</p> |
| <p>Level of the complaints-handling systems in place</p> | National |
| <p>Description of the types of procedure</p> | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The preparation of the call for application submission and the call for application submission</u></p> <p><i>Legal Protection in Public Procurement Procedures</i> (available in Slovenian and English)</p> <p><u>The selection process</u></p> <p><i>General Administrative Procedure Act</i> (available only in Slovenian)</p> <p><u>Other types of complaints</u>, such as the processing of claims, the handling of change requests, the change of grant conditions, the conduct or outcome of random checks, the conduct of audits, the outcomes of audits, are handled according to the <i>Civil Procedure Act</i> and the <i>Administrative Dispute Act</i> (both available in Slovenian only).</p> |

Further appeal is possible in the form of judicial review or independent administrative review by ombudsman.

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints**

Complaints are generally submitted via e-mail, proprietary online gateway or in person.
- 2. Deadlines for lodging and resolving complaints**

The complaints vary for different types of complaints. The deadlines for lodging a complaint are set between 2 weeks (preparation of call, call for application), 1 month (selection process) and more than 6 months (processing of claims, the handling of change requests, the change of grant conditions, the conduct or outcome of random checks, the conduct of audits, and the outcomes of audits).

Deadline for resolving the complaints vary also, from 1 week, less than a month and more than 6 months.
- 3. Fees**

No fees are charged for lodging complaints handled by the [Civil Procedure Act](#) or [General Administrative Procedure Act](#). However, for the complaints defined by [Legal Protection in Public Procurement Procedures](#) there are fees for some operations (the pre-audit and audit fees, if necessary).
- 4. Languages**

Complaints may be presented in both Slovenian and English languages.
- 5. Opportunities to present the position of the complainant**

The complainant is given the opportunity to present his/her position through the initial written submission of formal hearing process.
- 6. Appeal within the complaints system**

No information about the further appeal is available.
- 7. Independence of the complaints review**

Complaints are ascribed for resolution to specific departments. In some cases, it is ascribed ad hoc (preparation of call).

Complaints against audits are handled by a different institution.
- 8. Further appeal**

Appeals can be lodged with a court for judicial review, with the Ombudsman for independent administrative review, and with the European Court of Human Rights.
- 9. Other details**

In general, lodging complaints is **restricted to an applicant/beneficiary**, with a third party entitled to make claims.

Based on the information provided by the MA, the complainant is informed about the process and the

outcomes at the start, end, and at different phases throughout the process. Information from complaints received is further analysed in an **informal internal review** only, i.e., no formal review processes exist to revise the ESIF system based on the complaints received.

Assessment of effectiveness of the Member State

In Slovenia, 1 operational programme (national) was analysed during the assessment of effectiveness. Overall, the Slovenian OP scored in between the 81st and the 99th percentile (i.e. about 81-99% of countries scored worse in analysed characteristics than Slovenia). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe that the best score is in the aspects "fit for purpose" and "responsiveness". Similarly, a high score can be observed in "remedy".

Fit for purpose is assessed as the best aspect, since in Slovenian OP, possibilities for a complaint's submission (post, e-mail, online gateway, in person) are wider compared to the channels through which regular communication takes place (online gateway). The MA has not handled any complaints yet.

Slovenia also scores very well in **responsiveness**, as the MA informs complainants throughout the complaints process about any changes. Furthermore, complaints are dealt with on the basis of their priority.

The remedy provided in Slovenia is a correction of decision, and the decision is made according to structured procedures. Therefore, Slovenia scores well in **remedy**.

In Slovenia, independence is ensured by having, at a minimum, different institution than the institution which produced the act against which the complaint is lodged. The complainant is given the opportunity to present his/her position through a formal hearing process and a written submission. Therefore, the aspect of **objectivity and fairness** scored well.

Slovenia scored acceptably in the aspect of **visibility**. The general information about the complaints-handling arrangements is permanently available online (laws). Information is provided only for self-study to disseminate up-to-date knowledge of the complaints procedures among frontline officers.

Appeals can be lodged with a court for judicial review and with the Ombudsman for independent administrative review. Information on the appeals procedure is provided to the stakeholders in the communication of the final administrative decision. However, no information on further administrative appeal is available. Therefore, the aspect of **review** also scored acceptably in Slovenia.

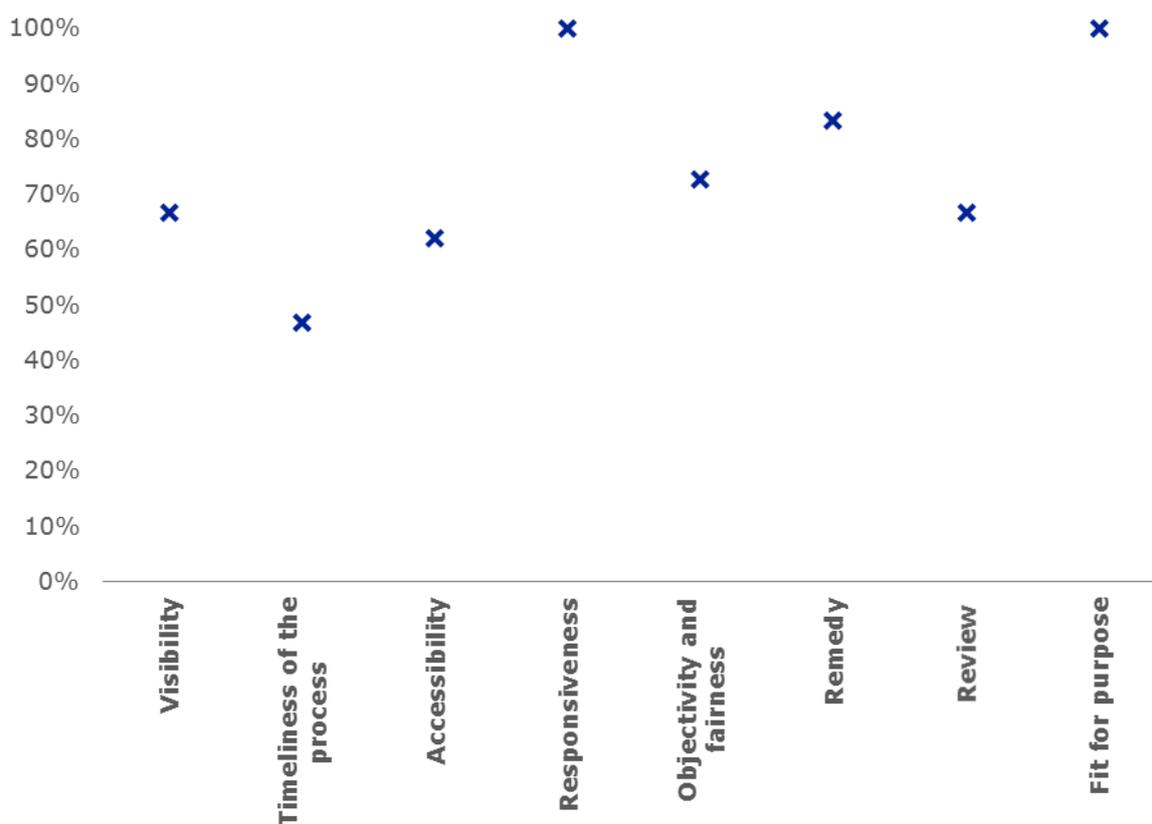
The aspect of **accessibility** also scored acceptably in Slovenia. The workflow of the complaints procedure in the documents is not described in detail, only basic information is provided to the complainants. No fees are required when submitting a complaint. Complaints can usually be lodged in all relevant national languages and in English.

The aspect that scored the lowest and needs improvement is **timeliness**. For some types of complaints, deadlines for lodging complaints are longer than 2 months since the decision

is communicated to the complainant, however, for other types of complaints (the preparation of the call for proposals and the call for proposals), the deadline is shorter than 2 weeks. For the two last mentioned types of complaints, the deadlines for addressing complaints are as short as one week since the complaints is received, however, for other types of complaints, the deadlines are longer than 2 months, which is unreasonably long.

The following boxplot (**Chart 54**) shows the distribution of each of the aspects of effectiveness for the analysed OP. It should be noted that, as there is only one OP in Slovenia, the values of each analysed parameter apply to this OP only.

Chart 54 Distribution of scores among aspects



26.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The Civil Procedure Act, the General Administrative Procedure Act (both since 1999) and the Administrative Dispute Act (since 2006) were in place for the whole of the previous programming period. The Legal Protection in public procurement procedures has been in place since 2011. Therefore, most of the general national laws were already in force during the programming period of 2007 - 2013, enabling complaints to be lodged against the selection process, the processing of claims, the handling of change requests, the change of grant conditions, the conduct or outcome of random checks, and the conduct and outcomes of audits.

It was confirmed by the MA that the complaint-handling system was the same in the previous programming period.

26.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Formal, codified procedures are established for the analysed national programme in Slovenia.⁴³ **The complaints-handling system is the same for national programmes and for the ESIF programmes.** The procedure is based on different national laws, which are permanently available online on the website of the government gazette. All the laws are available only in Slovenian ([General Administrative Procedure Act](#), [Civil Procedure Act](#), [Administrative Dispute Act](#), [Legal Protection in Public Procurement Procedures](#)).

Chart 55 The comparison between national programmes and ESIF - Slovenia

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programme was analysed:

- **Programme Pomurje region**, managed by the development centre Murska Sobota
 - This programme's goal is to stimulate general development in the Pomurje region and to support the entrepreneurial and economic development of the municipality and region.

The complaints are only dealt with in the Slovenian language, whereas in the case of OP it was also possible to submit a complaint in English. The complaints are handled according to the "first in first out" principle; they must be submitted in writing, i.e., via email or postal service. No fees are to be paid when lodging complaints. Further appeal is possible in the form of judicial review, i.e. the same rules are applicable to both national and European programmes. Lastly, there is no system that registers the complaints.

⁴³ One national programme was analysed in the case of Slovenia.

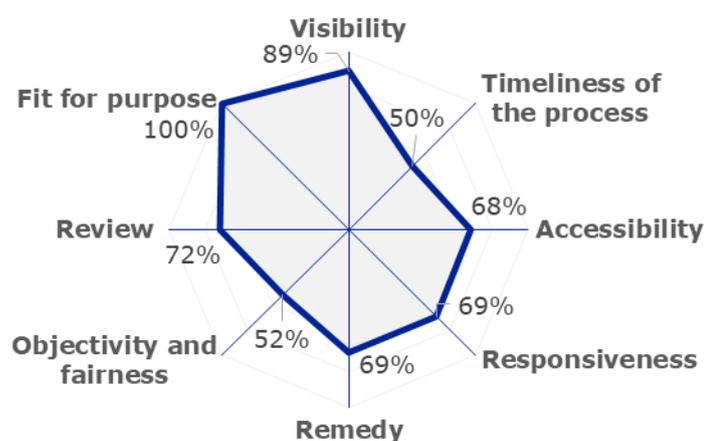
27 SLOVAKIA (SK)

27.1 Summary of the complaints-handling arrangements

1. Complaints–handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all OPs of Slovakia. The complaints system is established on the **basis of national laws** (*Act no. 292/2014 Coll., on Contributions Provided from ESIF, Act no. 9/2010 Coll., on Complaints, and Act no. 357/2015 Coll., on Financial Checks and Audits*). Furthermore, information is often presented in the *Handbook for Applicants* and *Handbook for Beneficiaries*. The documents generally adapt procedures already established at national level.

Overall, Slovakian OPs **scored adequately** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

The ESIF law codifying the basic complaints handling was in place in both periods (a new law was adopted for the 2014-2020 period). In the 2007-2013 period, detailed information about complaints handling was different for each of the OPs. In the 2014 – 2020 programming period, the complaints-handling system is **unified for all OPs** and it is **easier** to orient oneself in the complaints arrangements.

3. Comparison of the national and ESIF complaints-handling procedures

Standardised procedures are **not unified for** the three analysed **national programmes in comparison with the ESIF programmes**. The same national laws apply for some of the phases of the project implementation (audit, controls, behaviour of the public institution), other procedures differ for the specific national programmes and in some cases, no possibility to complain is available. The ESIF programmes have unified procedures. The codification of the complaints-handling system is more developed for ESIF.

27.2 Detailed description of the arrangements

27.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|---|--|
| Integrated Infrastructure | Ministry of Transport and Construction of the Slovak Republic |
| Integrated Regional Operational Programme | Ministry of Agriculture and Rural Development of the Slovak Republic |
| Operational Programme Human Resources | Ministry of Labour, Social Affairs and Family of the Slovak Republic |
| Quality of Environment | Ministry of Environment of the Slovak Republic |
| Research and Innovation | Ministry of Education, Science, Research and Sport of the Slovak Republic |
| Technical Assistance | Government Office of the Slovak Republic |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all Operational Programmes (OPs) of Slovakia. Information is often presented in the form of two programme documents: the <i>Handbook for Applicants</i> and <i>Handbook for Beneficiaries</i>. The documents generally adapt procedures already established at national level.</p> <p>The complaints system is established on the basis of national laws, most importantly, Act no. 292/2014 Coll., on Contributions Provided from ESIF. This baseline law governs the fundamental provisions of ESIF funding and paragraphs § 22 - § 24 cover information on appeals and decision review.</p> <p>Special applicability regimes are established for Territorial Cooperation Programmes and Technical Assistance Programmes, however, these do not prejudice the established complaints handling systems.</p> <p>The other relevant national laws are Act no. 9/2010 Coll., on Complaints, and Act no. 357/2015 Coll., on Financial Checks and Audits. The former applies generally to all complaints against the State Administration, while the latter establishes the possibility of objecting to the reported findings of checks and audits.</p> <p>National laws are published in the Official Journal and may also be found transcribed on third-party websites. The handbooks for applicants/beneficiaries are made available</p> |

| | |
|--|--|
| | on the websites of the OPs, or on the websites of Managing Authorities (MAs). |
| Level of the complaints-handling systems in place | National |
| Description of the types of procedure | <p>Complaints can be lodged in the following phases. The documents for presenting and establishing a complaint are indicated in italics under each individual phase.</p> <p><u>The selection process</u> <i>Act no. 292/2014 Coll., on Contributions Provided from ESIF</i></p> <p><u>The processing of claims</u> <i>Act no. 357/2015 Coll., on Financial Checks and Audits</i></p> <p><u>The conduct or outcome of random checks</u> <i>Act no. 357/2015 Coll., on Financial Checks and Audits</i></p> <p><u>The outcomes of audits</u> <i>Act no. 357/2015 Coll., on Financial Checks and Audits</i></p> <p><u>Other</u></p> <p>Additionally, complaints can also be lodged against all acts of the State Administration or the conduct of state employees by reference to <i>Act no. 9/2010 Coll., on Complaints</i>. Complaints according to this law are admissible where no proprietary local complaints procedure can be invoked.</p> <p>Every ESIF related decision by an OP administration body can also be reviewed "outside of appeal proceedings" on the basis of <i>Act no. 292/2014 Coll., on Contributions Provided from ESIF</i>. Review according to this law is admissible where suspicion exists that the decision taken by the administrative body is in conflict with the <i>Law on Contributions Provided from ESIF</i>.</p> <p>These two procedures cover the remaining phases and instances we identified.</p> <p>A further administrative appeal is possible. A complaint can be lodged against the handling of a complaint via the <i>Act no. 9/2010 Coll., on Complaints</i>. This is then considered to be a new complaint.</p> <p>An appeal against the final decision taken in the complaints-handling proceedings can be lodged with the Administrative Court (an administrative fee is charged) and the national ombudsman (no fees are charged).</p> |

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints**

Complaints are generally submitted via **postal services and/or a proprietary online gateway**. Emails are potentially admissible, but only if undersigned with a recognised electronic signature.
- 2. Deadlines for lodging and resolving complaints**

Deadlines for lodging and resolving complaints vary by type of complaint.
- 3. Fees**

No fees are charged for lodging complaints.
- 4. Languages**

Complaints can be filled only in Slovak.
- 5. Opportunities to present the position of the complainant**

The complainant is given an opportunity to present their position through written submission only.
The exception to this are complaints as lodged according to *Act no. 357/2015 Coll., on Financial Checks and Audits*, where the complainant's position may be communicated in an informal hearing process (including personal contact)
- 6. Appeal within the complaints system**

In most cases, no further **administrative appeal** is possible.
- 7. Independence of the complaints review**

Independence is ensured by having, at a minimum, a different person handle the complaint than the person originally involved in deciding on a complaint.
- 8. Further appeal**

The matter may be submitted to the judiciary and the ombudsman for an independent review.

In general, the lodging of complaints is **restricted to an applicant and a beneficiary**, with a third party entitled to make claims with the explicit authorisation of the eligible complainant. Any party can lodge a complaint via *Act no. 9/2010 Coll., on Complaints*.
- 9. Other details**

Only the **correction of a decision is provided as a remedy**.

According to the MAs, information from received complaints is further analysed by informal internal review only, i.e., no formal review processes exist to revise the ESIF system based on the complaints received.

Assessment of effectiveness of the Member State

In Slovakia, 7 operational programmes (national) were analysed during the assessment of effectiveness. Overall, Slovakian OPs scored in between the 41st and the 60th percentile (i.e. about 41-60% of countries scored worse in analysed characteristics than Slovakia). The score is displayed in the radar chart in the Summary above.

In **the radar chart above**, we can observe that the best score is in the aspect of the “fit for purpose”. Similarly, a high score can be observed in “visibility” and “review”.

Fit for purpose is assessed as the best aspect, since in Slovakian OPs, the possibilities for a complaint’s submission (post, online gateway, e-mail, in person) are wider compared to the channels through which regular communication takes place (post, e-mail, online gateway). Statistics on number of complaints handled per year differ substantially among MAs; one MA indicated that it handles more than 200 complaints per year, out of which 10% were relevant, other MAs do not handle any complaints.

The information about the complaints-handling arrangements is permanently available online. Information is provided for self-study to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored very well

In most cases, further administrative appeal is possible. However, appeals can be lodged with a court for judicial review and with the Ombudsman for independent administrative review. Information on the possibility of appeal is provided in the final administrative decision. Therefore, the aspect of **review** scored well.

Responsiveness scored acceptably as the MA usually informs the complainants only at the end of the process about any changes, and complaints are addressed based on the first-in first-out basis, as opposed to being prioritised.

The remedy provided is a correction of decision. The decision is made according to structured procedures in about 66% of types of complaints. Therefore, the **remedy** aspect also scored acceptably.

The aspect of **accessibility** scored acceptably in Slovakia. The workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in the national language only (Slovakian).

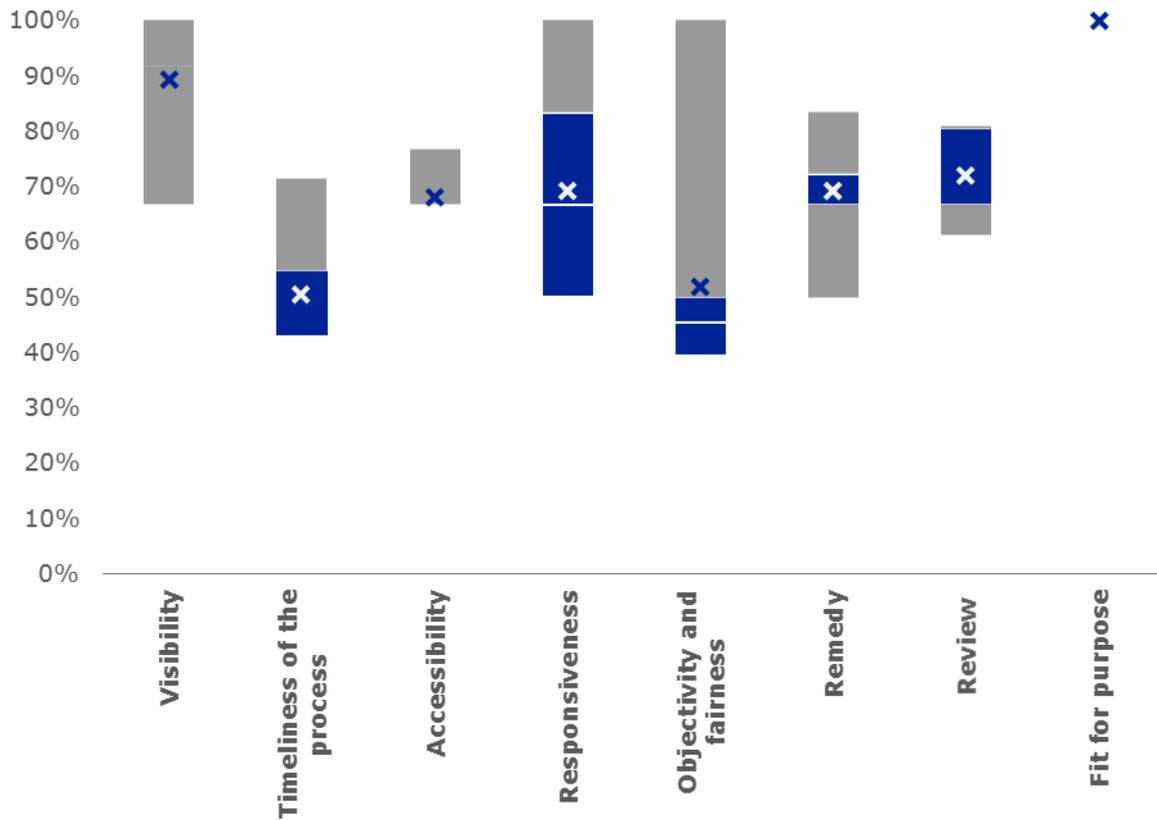
The aspect that scored the lowest, but still acceptably, is **timeliness**. In Slovakia, when the timeframe of complaints conflicts with the timeline of the OP administration process, the complaints procedure continues as usual (there is no action from the MA). Deadlines for lodging complaints are, in most cases, shorter than 2 weeks since the decision is made, on the other hand, deadlines for addressing complaints are longer than one or two months since the complaint is received, depending on the type of complaint.

Another aspect with low score is the **objectivity and fairness**. At a minimum, complaint is handled by a different person than the person which produced the act against which the complaint is lodged, indicating a tier 1 separation of the process from the original act. The complainant can usually present his/her position in written form only. Therefore, Slovakia scored acceptably at this aspect.

For Slovakia, the above information is quite consistent with the exception of the aspect of responsiveness and objectivity and fairness, as depicted in **Chart 56**.

All observations of the aspects of fit for purpose have the exact same values, which is represented by a cross without whiskers. Overall, the assessment of effectiveness described above is applicable in general.

Chart 56 Distribution of scores among aspects



27.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

The complaints-handling system in the 2007-2013 programming period was different in some points compared to the 2014-2020 programming period. The [ESIF law](#) codifying the basic complaints handling was in place in both periods (a new law was adopted for the 2014-2020 period). However, detailed information about complaints handlings was different for each of the Ops, and no further centralised arrangements and documents were in place as in the 2014-2020 period.

The 2007-2013 ESIF law established basic methods for lodging complaints about the selection process. Additionally, some of the OPs codified complaints handling about some other processes, based on the programme documentation (internal rules or publically available). On the other hand, some of the OPs had no programme documents describing complaints handling.

Programme documents usually described the possibilities to complain about the selection process (i.e., further developed the arrangements set in the ESIF law). Moreover, the OP Competitiveness and economic growth allowed complaints about any processes to be lodged. Some OPs (Environment and Science and research) allowed complaints about outcomes of the control provided by the Managing Authority to be lodged. The beneficiary was able to lodge a complaint against the behavior of the public institution in any phases of the project based on [Irregularities law](#).⁴⁴

Based on the [Financial control law](#), the beneficiaries were able to lodge a complaint against outcomes of financial control. The law is applicable for both the 2007-2013 and 2014-2020 programming periods.

As the complaints-handling system was established only in some OPs and for some processes, the complainant had less comprehensive information about deadlines for lodging or resolving complaints, remedies and the process of reviewing the complaint compared to the 2014-2020 programming period.

The complainant received correction or confirmation of the decision at the end of the review process of the complaint. In case of misconduct by the Managing authority, the decision could be corrected. No further remedy was available.

It was free of charge to lodge a complaint in the 2007-2013 period, similarly in the 2014-2020 period.

Complaints could be submitted in writing (email, post). On the contrary, in the 2014-2020 period, the complainants have a possibility to submit complaints via an online gateway (ITMS2014+).

In the 2014 – 2020 programming period, the complaints-handling system is unified for all OPs and easier to orient oneself in the complaints arrangements.

⁴⁴ Law from 2010 available online here: <https://www.noveaspi.sk/products/lawText/1/46709/1/2>

27.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Standardised procedures are not unified for the national programmes analysed⁴⁵ in comparison to the ESIF. However, the same national laws apply for some of the phases of the project implementation (audit, controls, behaviour of the public institution), i.e., [Act no.9/2010 Coll., on Complaints](#), [Code of administrative procedure](#) and [Act on Financial control and internal audit](#). The other procedures and possibilities to complain differ for the specific national programmes and in some cases, no possibility to complain is available. On the contrary, the operational programmes (ESIF) have unified procedures. The codification of the complaints-handling system is more developed for ESIF.

Chart 57 The comparison between national programmes and ESIF - Slovakia

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ↓ | ↓ | ↓ | ↓ | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signalises the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **Incentives for research and development**, managed by the Ministry of Education
 - The programme supports general research, applied research and experimental development and feasibility studies. The programme supports improving the position of the Slovak Republic in the global context of the industry.
- **Environmental fund**, managed by the Ministry of Environment
 - The programme is designed as a complementary programme to the OPs in order to support the reaching of goals in the environmental policy of the Slovak Republic. The programme is funded from fines compensating harm to the environment.
- **Support for energy audits of micro, small and medium-sized enterprises based in the Bratislava region**, managed by the Slovak innovation and energetic Agency
 - The programme supports small and medium-sized enterprises in increasing energy savings.

Documents codifying the procedures

Documentation about complaints-handling differs within the national programmes and is not unified as in the case of ESIF. With the exception of the

⁴⁵ Three national programmes were analysed in the case of Slovakia.

common national laws applicable for all programmes, some of the national programmes analysed have specific programme documentation and rules.

Programme Incentives for research and development (IRD) and the Environmental fund (EF) codified complaints-handlings procedures in specific laws ([IRD](#), [EF](#)).

The programme Support for energy audits has no specific documents for complaints-handling. Decisions made by the subsidy provider are not an administrative decision. The applicants/beneficiaries are not allowed to lodge a complaint about any process (except for those codified by the national law).

Types of procedures

For both national programmes and ESIF, it is possible to complain about the outcome of the audit and behavior of the public institution at any phase, in accordance with the national law. For other phases, different rules apply for each of the national programmes analysed. The system is different to ESIF, where the arrangements are unified and the same procedures are in place for all OPs.

In all analysed programmes, an applicant/beneficiary can lodge a complaint against the behavior of the public institution in any phase based on Act no.9/2010 Coll., on Complaints. Also, beneficiaries can complain about the outcome of the audit, based on The Act on Financial control and internal audits.

In IRD, the complaints can be lodged against the selection process.

Submission of complaints

Similar channels are used to lodge complaints about the national and European programmes. Complaints are generally submitted via written submission (via e-mail or post). In ESIF, also a possibility to use an **online gateway** is in place.

Deadlines

The system is different to ESIF where the deadlines are unified. The analysed national programmes have its own rules for deadlines, established in the programme documents/applicable laws.

In IRD the deadline for lodging complaints against selection process is 15 days. Compared to the complaints against selection process in ESIF (10 days), the deadline is **more flexible** in the IRD. Deadline for resolving is not set.

Deadlines for lodging or resolving complaints against the outcome of audits and against the behavior of the public institution is **not set**.

Fees

No fees are to be paid when lodging complaints, i.e. the same rules are applicable to both national and European programmes.

Remedy

The same rules are applied to national programmes and ESIF. In case of acceptance of the complaint, subsidy provider corrects his decision. No further remedy is possible.

Further appeal

The rules are the same for national programmes and ESIF. The decision of the financial control can be appealed to the administrative court. The decision of the review of the behavior of the public institution can be appealed to the administrative court.

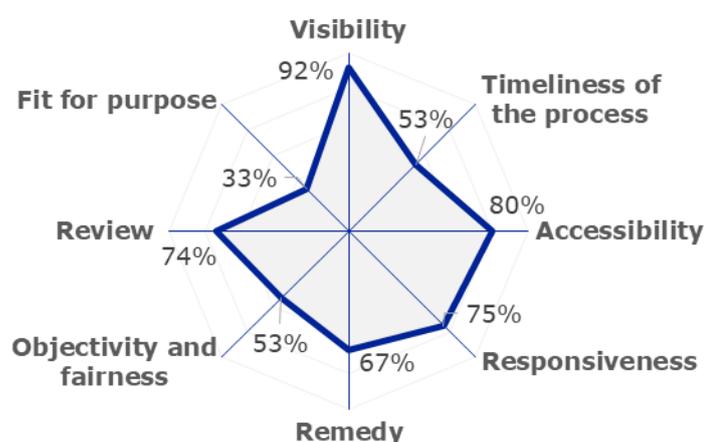
28 THE UNITED KINGDOM (UK)

28.1 Summary of the complaints-handling arrangements

1. Complaints-handling procedures of the ESIF in the 2014-2020 period

Formal, codified procedures are established and publically available for all but one of the OPs in the UK. The complaints-handling **procedures differ among the individual regions** of the UK. For ERDF East Wales and ERDF Northern Ireland, the procedures are applied generally to all complaints within the institution of the MA. For ERDF Scotland and ERDF England, specific procedures are established for the particular OPs. With regard to the Gibraltar OP, no standardised procedure is established.

Overall, the UK OPs **scored acceptably** in the assessment of effectiveness of analysed characteristics compared to other EU countries.



2. Comparison with procedures of the ESIF in the 2007-2013 period

Only in the case of **ERDF Northern Ireland and ERDF England**, differences were identified between the procedures of the 2007-2013 period and the 2014-2020 programming period. In general, the steps to a **greater centralisation** on the regional level were made.

3. Comparison of the national and ESIF complaints-handling procedures

The system of national programmes is in general **similar to ESIF as the procedures are not unified by national legislation or other rules at a national level and differ** among the individual regions of the UK, individual responsible authorities or, in rare cases, of individual OPs.

28.2 Detailed description of the arrangements

28.2.1 Complaints–handling procedures of the ESIF in the 2014-2020 period

| List of OPs in Member State (2014 – 2020, ERDF, CF) | List of relevant Managing Authorities |
|--|--|
| ERDF East Wales | Welsh European Funding Office |
| ERDF England | Department for Communities and Local Government - ERDF Programmes |
| ERDF Gibraltar | European Union Programmes Secretariat HM Government of Gibraltar |
| ERDF Northern Ireland | European Support Unit Department of Enterprise, Trade & Investment |
| ERDF Scotland | Scottish Government |
| ERDF West Wales and The Valleys | Welsh European Funding Office |
| Structure of complaints-handling systems | Description |
| General description of country arrangements | <p>Formal, codified procedures are established and publically available for all but one of the OPs in the UK. The complaints-handling procedures differ among the individual regions of the United Kingdom.</p> <p>In the case of ERDF East Wales and ERDF Northern Ireland the procedures are applied generally to all complaints within the institution of the MA. For ERDF Scotland and ERDF England specific procedures are established for the particular OPs. With regard to the Gibraltar OP, no standardised procedure is established.</p> <p>The individual procedures are specified on the MAs' websites or in the OPs' guidelines. The information is provided online in general guidelines on complaints (e.g. Customer Complaints Guide of the MA for ERDF East Wales, DfE Complaints Procedure for ERDF Northern Ireland) or in the specific complaints guidelines for OPs (e.g. Complaints Procedure for ERDF England or the Dispute Resolution Process and Appeal Process of ERDF Scotland). For ERDF Gibraltar there is a general instruction with a contact for complaints in the ERDF Citizens' Summary.</p> <p>The guidelines are available on the MAs' websites.</p> |
| Level of the complaints-handling systems in place | Regional and OP specific |

| | |
|---|--|
| <p>Description of the types of procedure</p> | <p>Complaints can be lodged in the following phases. The documents presenting and establishing the option to complain are indicated in italics under each individual phase.</p> <p><u>The selection process</u></p> <p>ERDF Gibraltar – <i>ERDF Citizens’ Summary</i></p> <p>ERDF Scotland - <i>Strategic Intervention and/or Operation Application Appeals Process</i></p> <p><u>The processing of claims:</u></p> <p>ERDF Scotland – <i>Dispute Resolution Process</i></p> <p><u>Other:</u></p> <p>Complaints can be lodged against administrative acts in general by reference to:</p> <p>ERDF East Wales – <i>Customer Complaints Guide</i></p> <p>ERDF Northern Ireland - <i>DfE Complaints Procedure</i></p> <p>Any complaint can be lodged with reference to the OP:</p> <p>ERDF England - <i>Complaints procedure for the Growth Programme Board, the Local Enterprise Partnerships area European Structural and Investment Funds subcommittees and national sub-committees.</i></p> |
|---|--|

Detailed description of the complaints-handling system:

- 1. Channels for lodging complaints**

In general, complaints can be submitted in **any written form**, i.e., via postal services, email or via a proprietary online gateway (e.g. [Welsh Government complaint form](#)).
- 2. Deadlines for lodging and resolving complaints**

Deadlines for lodging complaints are specified only for the specific procedures related to the selection process or processing of claims within ERDF Scotland. Within ERDF Gibraltar there are no deadlines set. With reference to the general complaints procedures, usually **no deadlines** are specified or, as specified for ERDF East Wales and ERDF Northern Ireland, should be submitted no later than **within 6 months** of the respective decision. The deadlines for resolving complaints **vary between 10 – 20 working days**.
- 3. Fees**

No fees are charged for lodging complaints.
- 4. Languages**

The complaints can be lodged in English.
- 5. Opportunities to present the position of the complainant**

In most cases, the complainant can present the position only in written form. In some OPs (ERDF Gibraltar, ERDF Northern Ireland, ERDF Scotland and ERDF East Wales), the formal and informal hearing is also an option to present the position.

6. Appeal within the complaints system

In some cases (ERDF England, ERDF Northern Ireland and ERDF Scotland), further **administrative appeal** is possible.

7. Independence of the complaints review

Usually, at least a different person handles the complaints. ERDF Northern Ireland does not have any guidelines for independence.

The Welsh Government's procedure involves a special Complaints Advice Team.

8. Further appeal

The matter may be submitted to the judiciary and the ombudsman for an independent review, except for the case of ERDF Gibraltar where no escalation of the subject matter is possible.

9. Other details

With regard to the general complaints procedures of the MAs, it is not specified as to who can lodge a complaint. It is therefore assumed that any party affected by the subject matter can lodge a complaint. Complaints within the specific procedures of the OPs can be lodged by the applicants/beneficiaries.

Assessment of effectiveness of the Member State

In the UK, 6 operational programmes (national) were analysed during the assessment of effectiveness. Overall, the UK OPs scored in between the 21st and the 40th percentile (i.e. about 21-40% of countries scored worse in analysed characteristics than United Kingdom). The score is displayed in the radar chart in the Summary above.

In **the radar chart**, we can observe the best score is in the aspect "visibility". Similarly, a high score can be observed in "accessibility", "responsiveness".

The possibility of complaining is communicated to the applicant through the information permanently available online, usually through guidelines for beneficiaries. Information is provided for self-study to disseminate up-to-date knowledge of the complaints procedures among frontline officers. Therefore, the aspect of **visibility** scored very well.

The workflow of the complaints procedure is in the documents described in relevant details, no fees are required when submitting a complaint. The complaints can be lodged in all national languages, including English. Therefore, the aspect of **accessibility** scored well.

Responsiveness scored well as the MAs usually inform the complainants throughout the complaints process about any changes, or at least at the start and in the end of the process. The complaints are dealt with as they come, i.e. first in and first out, which is a standard process how to handle any received queries.

The aspect of **review** scored acceptably. Appeals can be lodged with a court for judicial review, and with the Ombudsman for independent administrative review. Information on the possibility of appeal is provided in writing to the applicants or beneficiaries.

The remedy provided is a correction of decision or, depending on the case and outcome, other (non-specified) remedies are provided. The decision to provide remedy is made both according to structured procedures and ad hoc, depending on the type of complaint. Therefore, the **remedy** aspect scored acceptably.

Timeliness of the process also scored acceptably. Deadlines for lodging complaints differ considerably among types of complaints and they are set either unreasonably short (10 days) or no deadlines are set. Deadlines for resolving complaints vary from 10 to 20 days from the receipt of the complaint.

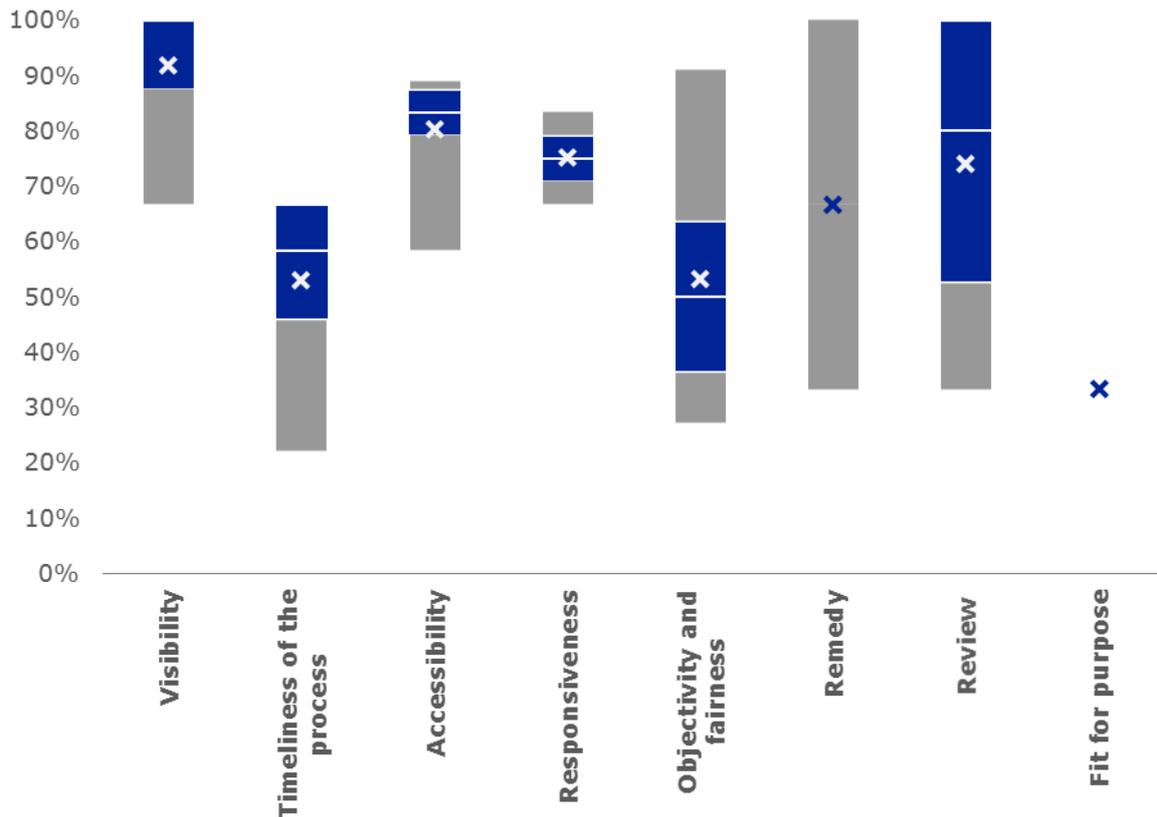
Objectivity and fairness also scored acceptably. In the UK, independence is ensured by having, at a minimum, a different person than the person which produced the act against which the complaint is lodged. The complainant's position can be presented in written form or during formal or informal hearing, depending on the type of complaint and OP.

The aspect that scored the lowest is **fit for purpose**, since in the analysed UK OPs, the possibilities for a complaint's submission are narrower compared to the channels through which regular communication takes place. However, it should be noted that the number of observations for this aspect is lower than for other aspects in the UK. Additional desk research revealed that for some missing OPs, possible channels for lodging complaints are wider than those indicated by the MAs. For these reasons, the aspect of fit for purpose may not reflect the situation for the UK OPs.

On average, the MAs handle less than 10 complaints per year. According to the MAs, the percentage of relevant complaints varies significantly from 10% to 100%.

For the UK, the above information is less consistent for some aspects (e.g. review and objectivity and fairness), as depicted in **Chart 58**. Relatively short boxplots for accessibility, responsiveness and fit for purpose suggest that the provided information about these aspects was quite similar. Information is inconsistent probably due to low unification of complaint handling procedures, which is not based on laws in the UK, but rather on OPs specific documents, which also differ among regions. Overall, the assessment of effectiveness described above is applicable in general, but it must be borne in mind that many of the aspects differ on the level of OPs or regions.

Chart 58 Distribution of scores among aspects



28.2.2 Comparison of the procedures in the 2007-2013 period and 2014-2020 period in ESIF

Complaints-handling procedures differ among the individual regions of the United Kingdom. In some regions, the procedures remained the same in the 2014-2020 period as in the 2007-2013 programming period. In the case of ERDF Northern Ireland and ERDF England, differences were identified between the procedures of the 2007-2013 period and the 2014-2020 programming period. Only the regions with identified differences in the complaints-handling arrangements are further described.

- **Northern Ireland**

Only a small difference in the arrangements was identified in the ERDF Northern Ireland. The process of complaints handling was codified by the Operating Manual of the OP, and thus the procedures were specific for the programme. In the 2014-2020 period, the complaints are described in the "DfE" (Department of Economy) complaints procedure, and therefore also applicable for other programmes. The specific arrangements remained the same.

- **England**

The complaints-handling system was different in the 2007-2013 period compared with the current programming period.

ERDF England transformed from 10 ERDF regional OPs in the 2007-2013 programming period (ERDF Cornwall Isles of Scilly, ERDF East Midlands, ERDF East of England, ERDF North East, ERDF North West, ERDF South East, ERDF South West, ERDF West Midlands, ERDF London and ERDF Yorkshire and Humber) into a single OP in the 2014-2020 programming period.

The MA of all the above-mentioned 10 ERDF programmes was the MA of the current ERDF England, i.e., Department for Communities and Local Government (DCLG), but the programmes were delivered by Regional Development Agencies, which also managed related complaints. Based on the information from the current MA, the regional agencies decided whether or not to allow complaints. However, the Regional Development Agencies were abolished in 2011.

Based on the information from the ERDF Closure Team, Regional Development Agencies operated their own complaint procedures for ERDF issues. The Closure Team does not have detailed information about each of them, but assumes that the general complaints procedure of each of the agencies was applied. Since the abolition of the Regional Development Agencies and the movement of ERDF work to the Department for Communities and Local Government (now Ministry of Housing, Communities and Local Government), complaints have been handled in line with the department's complaints policy.

28.2.3 Comparison of the national and ESIF complaints-handling procedures with the ESIF 2014-2020

Complaints within the examined national programmes are handled according to the general complaints procedures of the individual responsible authorities.⁴⁶ No specific procedures are codified for the individual national programmes unlike some of the ERDF programmes, namely for ERDF England and ERDF Scotland. With reference to the above-mentioned information, the **system of national programmes is in general similar to ESIF as the procedures are not unified by national legislation or other rules at a national level and differ** among the individual regions of the United Kingdom, individual responsible authorities or, in rare cases, of individual OPs.

Chart 59 The comparison between national programmes and ESIF - UK

| Documents | Types of procedures | Submission | Deadlines | Fees | Remedy | Further appeal |
|-----------|---------------------|------------|-----------|------|--------|----------------|
| ● | ● | ● | ● | ● | ● | ● |

The **circle** represent the same arrangements.

The **arrow** shows that there is a difference in the complaints-handling between the national programmes and ESIF.

- **Direction downwards** shows that the national programmes are less codified compared to ESIF.
- **Direction upwards** shows that the national programmes are more codified compared to ESIF.

The **blank cell** signals the arrangements cannot be compared / information is not available.

The following programmes were analysed:

- **Water Environment fund**, managed by the Scottish Environment Protection Agency (SEPA)
 - Funding received from Scottish Government to restore the condition of Scotland's water environment will be used by SEPA to support partnership projects with third parties.
- **Coastal Communities Fund**, managed by the Big Lottery Fund on behalf of the UK and Welsh Governments
 - CCF aims to support the economic development of coastal communities by promoting sustainable economic growth and jobs, so that people are able to respond better to the changing economic needs and opportunities of their area.
- **Analysis for innovators round 2: brokerage**, managed by Innovate UK (Innovation Funding Service)
 - These projects should help UK companies solve analysis and measurement problems, to improve their productivity and competitiveness. The aim is to

⁴⁶ Four national programmes were analysed in the case of the UK.

match the best UK scientists and cutting-edge facilities with companies that have analysis or measurement problems.

- **Estate Regeneration Programme**, managed by Homes England
 - The £150 million Estates Regeneration Programme is designed to kick-start and accelerate the regeneration of large estates through fully recoverable loans, helping to boost housing supply. It should help to improve the quality of life for residents in some of the most run down estates in London and nationwide.

Documents codifying the procedures

Similarly to ESIF, the general complaints procedures are available online on the website of each individual MA.

Types of procedures

The subject of a complaint is not limited. In the case of all the responsible authorities there are at least three stages of the complaints procedure (in case of Innovate UK there are four stages described), i.e.:

- **Stage 1** – In the first place, a complaint is managed by the person/team to which it relates.
- **Stage 2** – If the complainant is not satisfied with the result of Stage 1, they can submit it to a further review within the MA (legal service team, complaints manager, independent senior official etc.).
- **Stage 3** – Complaint can be escalated to an independent review (Ombudsman or Centre for Effective Dispute Resolution in case of Homes England).

In the case of Innovate UK there are four stages of the complaints procedure since at Stage 3 the complaint should be referred to an Innovate UK director before being escalated to an independent review (Stage 4).

The above-described multiple-stage process is applied also in ESIF.

Submission of complaints

The channels for submission of complaints are the same for all the responsible authorities, i.e., via telephone, email or by postal services.

Deadlines

The procedures differ especially in deadlines for complaints submission:

- No specific deadline (Innovate UK)
- As soon as possible (Big Lottery Fund)
- 3 months (Homes England)
- 6 months (SEPA)

With reference to the general complaints procedures within ESIF, usually no deadlines are specified or, as specified for ERDF East Wales and ERDF Northern Ireland, complaints should be submitted **no later than within 6 months** after the respective decision.

There are differences also in deadlines for resolving complaints:

- 5 days at Stage 1, 20 days at Stage 2 (SEPA)
- 10 working days (Innovate UK and Big Lottery Fund)
- 20 working days (Homes England)

The deadlines for resolving complaints within ESIF **vary between 10 – 20 working days**.

Fees

No fees are applicable for the national or ESIF.

Remedy

The same arrangements are in place for both national programmes and ESIF, i.e. correction of the decision.

Further appeal

The same possibility to further appeal the decision is in place for both national programmes and ESIF, i.e. Stage 3 or 4 (see above) refers to an independent review by the Ombudsman (SEPA, Innovate UK), Centre for Effective Dispute Resolution (Homes England) or an independent complaints reviewer (Big Lottery Fund).

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Good practice in complaints-handling

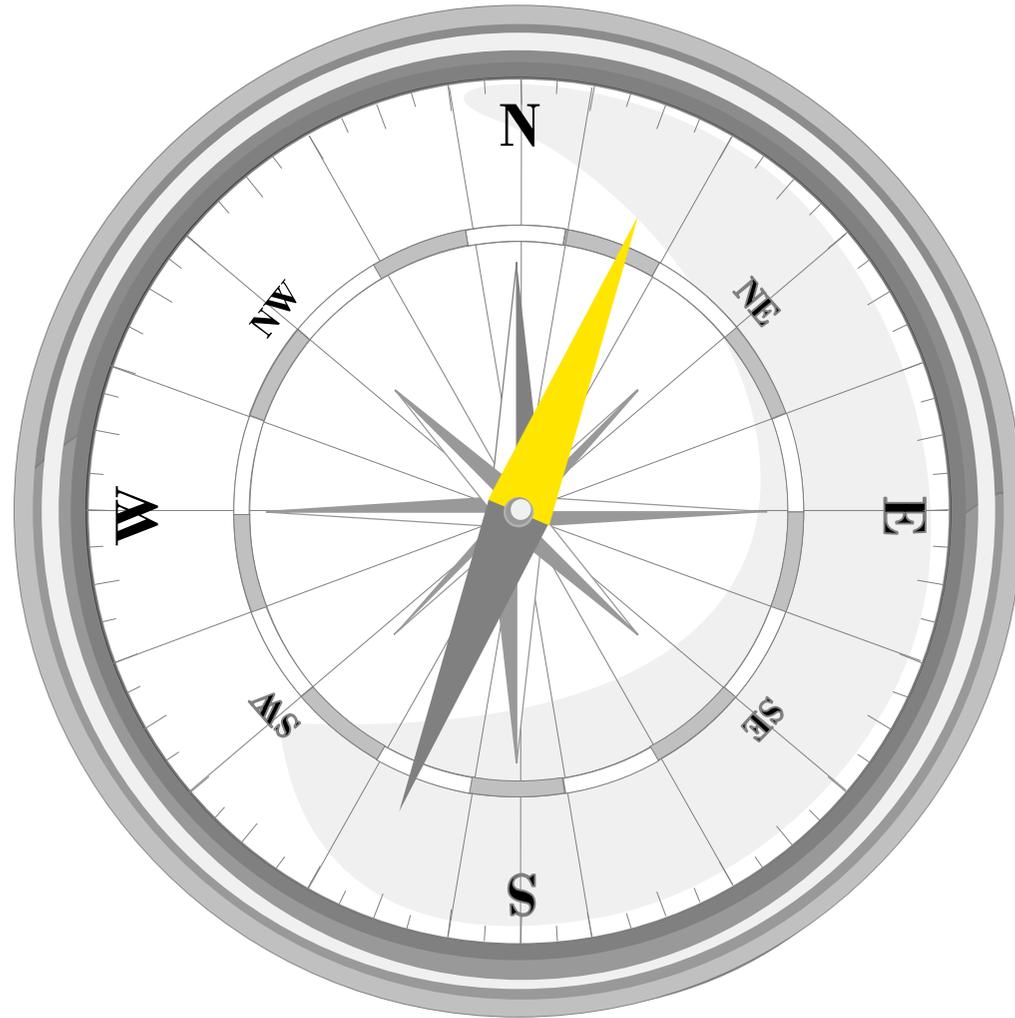
Study on the complaints-handling systems in Member States for dealing with complaints concerning ESIF



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Good practice in complaints-handling arrangements



This booklet aims to present examples of good practice in the complaints-handling arrangements. The examples provide inspiration for how the specific aspects of the complaints-handling process can be established and developed.

The booklet is based on the Project „*Study on the complaints-handling systems in Member States for dealing with complaints concerning the European Structural and Investment (ESI) Funds*“.

First, key information and findings from the Project are introduced, then the good practice examples are presented.

The good practice examples were set based on the experiences gained during the Project, analysis of different international systems and further EY experience with other projects in similar areas. An overview of the standards (summary of the good practice procedures in complaints-handling) is summarized on one page.

Then, each standard is further explained with examples of good practice from the operational programmes and national funding programmes.

The booklet is part of the Project and should be interpreted in the context of the whole study, not separately. The Final report is available on the website of the European Commission.

Information about the Project

The aim of the "*Study on the complaints-handling systems in Member States for dealing with complaints concerning the European Structural and Investment (ESI) Funds*" was to find out how EU Member States ensure that **effective arrangements for complaints-handling** are in place in the European and Structural Investment Funds (ESIF) in the context of Regulation (EU) No 1303/2013 laying down common provisions on the ESIF.

The **goal of the Project** was to describe:

- ▶ The complaints-handling arrangements within the EU Member States in ESIF operational programmes in the 2007-2013 programming period.
- ▶ The complaints-handling arrangements within the EU Member States in ESIF operational programmes in the 2014-2020 programming period.
- ▶ Comparison of the arrangements in the ESIF operational programmes with the arrangements in the national funding programmes of the Member States.
- ▶ Good practice in the complaint-handling systems of the EU Member States.

The focus of the Study is the analysis of complaints-handling systems for the operational programmes (OPs) co-financed from European Regional and Development Fund (ERDF) and Cohesion Fund (CF). Where it is referred to "ESIF", it should be borne in mind that the analysis relates only to ERDF and CF programmes.

The Project was based on Service contract No 2017CE16BAT061 between the European Commission, Directorate-General for Regional and Urban Policy ("DG Regio") and Ernst & Young, s.r.o. ("EY"). The contract was signed on 29 August 2017.

The Project took place from August 2017 to September 2018.

Key findings of the Project

Regulation (EU) No 1303/2013 sets the basic rules for the Member States relating to ESIF in 2014-2020 period, including a requirement that effective arrangements for the examination of complaints are in place (Article 74 (3) of the Regulation).

The **main and general information** collected during the Project includes the following:

- ▶ All EU Member States have in some way standardised the complaints-handling procedures, either in national laws or programme documents in the ESIF in the 2014-2020 period.
- ▶ In some Member States, the arrangements developed from the 2007-2013 period and resulted in (more) standardised and detailed systems in the 2014-2020 period.
- ▶ The national funding programmes have generally less standardised complaints-handling procedures compared to the ESIF.
- ▶ The examples of good practice are based on the specific arrangements in the Member States or in the international organisations.

The outcomes of the Project are based on **desk-research, a questionnaire and direct contact with the responsible authorities**, as well as on analytical work.

Disclaimer

The information and views set out in this Report are those of the author and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

Summary of the good practice procedures in complaints-handling

The following chart presents key aspects of effectiveness in the complaints-handling systems. For each aspect, a description of its specific applications is included.

Exemplary preferred procedures in the complaints-handling system

Visibility

The potential complainants (beneficiary, applicant, any other party) have access to clear and complex information about the complaints-handling.



The relevant personnel of the MAs know how the complaints-handling process works.

Timeliness of the process

The deadlines for lodging and resolving the complaints are set reasonably and enable the potential complainants to submit a complaint and to resolve the issue in a timely manner.



The complaints timeframe does not interfere with the timeframe of the OPs implementation.

Accessibility

Access to the procedures is inclusive to different stakeholders.



Admission of complaints is in line with the modern technology and free of charge.

Responsiveness

The complainants have up-to-date information about the status of the submitted complaints.



The complaints are prioritized in case of major or sensitive issues.

Objectivity and fairness

The independence of the decision-making body from the original decision-maker is ensured.



The complainants have a variety of possibilities to present their position about the submitted complain.

Remedy

The appropriate remedy is guaranteed if the complaint is relevant.



Standardized procedures are followed.

Review

Further appeal possibilities are in place and the complainants are informed about the mechanisms.



Fit for purpose / replicability

The complaints-handling procedures are in line with the common procedures in the responsible organization.



ESIF and national programmes

Based on the described exemplary procedures for the complaints-handling systems, the principles are further examined in the context of the analysed operational programmes and the national funding programmes. The analysis lists examples of good practise among the programmes.

The good practice examples are assigned to the each of the aspects that were described in Part 3.1 above. For each aspect, the following information is included:

- ▶ The meaning and purpose of the aspect is presented at the beginning of the page.
- ▶ The key principles of the aspects are then further described.
- ▶ Afterwards, the examples of the OPs / Member States are listed with a brief explanation of the practice.

Visibility means that the information about complaints-handling systems is easily available to the potential complainants.

The high visibility ensures the potential complainants are encouraged to lodge a complaint based on having sufficient information about it. Transparent process increases the trust between the responsible authorities and the complainants and ensures that no misconducts occur.



1

The information about the complaints process is publically available, easy to find and understandable

The information is clearly visible on the website of the OP/MA so that the potential complainants can find the relevant information easily and decide about lodging the complaint.

The transparent provision of information promotes the trustworthiness of the programme and increases the interest of the potential applicants to apply for the programme. Moreover, the transparent information lower the potential for conflicts arising from a lack of information.

If the complainants want to ask the MA directly for information about the complaints process, the relevant and informed person is easy to identify (through a website, front-desk) and easy to contact (email and phone are available).

2

The frontline officers are well informed as to how to deal with the complaints

When communicating with the representative of the MA, the front-line officers are well-informed about the process and is available for further explanation and details.

Well-informed officers can help to ensure that common and unified processes are followed within the organization, making the activities of the public sector more consistent.



In Belgium OP (OP Flanders) a link to the complaints information site is included on the main webpage of the MA (Flemish government). The complaints are described in a well-structured text including key information and details. Moreover, the webpage includes an "FAQ" and links to other possible means of complaints.



In Sweden, web page of the Managing Authority (Swedish Agency for Growth) provides detailed contact information about the responsible personnel, who are well informed about complaints.

In Spanish OPs, learning is mandatory for the front-line officers so that (i) the potential complainants can be well informed about the processes and (ii) the process is clear to those who handles the complaints.



In the Netherlands, training of frontline officers of the complaints handling procedures is usually provided, but it is not mandatory.



Visibility

Timeliness of the process



The complainants and the responsible MAs have clear and defined periods of time to lodge and resolve complaints. The timeliness of the complaints-handling process plays a significant role within the system of complaints-handling as the stakeholders need to have a clear understanding of the possible length of the process. Secondly, the deadlines reflect the timeframe of the OPs, thus, corrections and changes to the decisions do not then interfere with the OP timeframe. Moreover, the MAs have enough time to change the OPs implementation if any deficiencies are discovered during the complaints process.

1 The deadlines for lodging the complaints and resolving the complaints are set and reasonably long so that the topic of the complaint is still relevant and the issue can be resolved and appropriate remedy sought.

The deadlines for lodging complaints are set as flexibly for the complainants as possible, however, with a reasonable limit. In this case, the complainants have sufficient time to decide about lodging the complaint and fulfill all the formal requirements for submitting it. On the other hand, the deadlines for resolving complaints should be set as short as possible in order to keep the process responsive and remain the timeframe of the OP's implementation. Moreover, the process should be flexible. The MAs should be able to categorize the complaints and set longer deadlines for resolving the complaint if the issue needs further investigation. Such prolongation needs to be justified and announced in advance.

2 Significant issues regarding the OP's implementation do not interfere with the timeframe of the OPs

The timeline of the OP implementation process is taken into account in the rules for handling complaints and potential conflicts of collision of the deadlines for resolving the complaints and the OP implementation time frame are avoided. If the complaint is received and the deadlines for its resolution conflict with the time frame of the OP's implementation, the complaints are prioritised and resolved before the deadline so as to avoid conflict.



In Hungarian and UK OPs, the time for resolving complaints can be extended when further verification is needed (HU) or due to complexity of the issue (UK).



In the UK, the complainant is always informed in case more time is needed.

In Ireland national programme, if a complainant sends a complaint (they consider all the complaint as queries/inquiries) about the Regional Enterprise Development Fund (responsible authority), the Client Charter ensures that all written communications from clients are acknowledged within 24 hours. All these queries (complaints) are reacted to within 5 working days of receipt. If it is not possible to reply conclusively, the Enterprise Ireland will send an interim answer.



A clear procedure without unreasonable barriers is available for the potential complainants. The complaints system is accessible for impulses from the different stakeholders, including disadvantaged persons, involved in/by the OP's implementation. Different needs and views of various stakeholders and deficiencies are communicated to the responsible MAs and can be reflected in the OPs' implementation afterwards.



1

The complaints-procedures are easily accessible for different stakeholders

The programme documents / documents setting rules to the complaints-handling are available in the appropriate languages and information is easily accessible and understandable on the website of the relevant OP. The information

The information about the complaints-handling process is presented clearly so that it is comprehensible to a wide range of the potential complainants.

2
3

The complaints can be submitted via common communication mean

The responsible MAs reflect different needs of the complainants and try to encourage dialogue using modern tools for informing about the complaints process and for submission of the complaints.

The complaints-procedures are free of charge

No fees are charged for lodging the complaints. In general, all Member States provide the service free of charge.



The complaints-process of the OP of French Guyana (Regional programme Guyane Conseil Régional 2014-2020) is accessible and understandable on its [website](#), including the reference to the EU Regulation 1303/2013 and the relevant Administrative Code valid in France. The procedure is clearly explained, including a chart of the whole process for better understanding of the system. Furthermore, it is possible to lodge a complaint via an online form or to download a template of the complaint and send it via post, enabling the complainants to use the channels that are the most suitable for them.

In Romania, the [common website for the EU funds](#) enables lodging a complaint through an online tool. The tool enables selecting the appropriate OP when submitting the complaint. Thus making it easy for the complainants to find the information and to lodge a complaint via a user-friendly platform.



In the Czech Republic OPs, the most of the communication is done via an online gateway MS2014+, including lodging complaints.



Accessibility

Responsiveness



The complaints-handling process is responsive when the complainant has an overview of the status of the complaint during key phases of the complaints process. High responsiveness improves the transparency of the complaints-handling, increases the credibility of the system and supports the complainants to understand the process. Furthermore, transparency allows the complainants monitor if the procedures are correct (and raise a complaint if not) and be appropriately involved in the process.

1

The complainant has continuous information on the stage and status of its complaint

The result of the complaint process can significantly impact the progress of a project, thus, providing regular information about any change to the status of the complaint is crucial.

Regardless of the channel through which the complaint is lodged, it is important to acknowledge that the query was successfully delivered to the competent person and should be resolved in the relevant amount of time.

2

The complainants have an opportunity to intervene during the complaints process if they do not agree with the process/results

The complainants are informed about the complaints process and if they want to disagree with some procedure, they have an opportunity and right to do so. It is more effective to solve the issues during the process than at the end of the complaints process when the issue is closed.



All MAs in the UK confirm reception a complaint within a fixed time period (usually 3 - 5 days depending on the MA). The MA of OPs in Wales also informs the complainant on how the complaint is intended to be handled.



In Austria and Denmark OPs, the Managing Authorities confirmed that their received complaints are prioritized and not handled according to the common "first in first out" principle.

In Portugal, an interesting feature of complaints handling both in ESIF and nationally funded programmes is the opportunity to rebut an unfavourable draft decision. Applicants are informed about the content of the planned decision and have a final possibility to influence it and turn it into a favourable decision; this procedure is called the right of prior hearing.



The complaint is decided on by someone independent of the original decision to ensure the objectivity of the new decision.

The objectivity is a crucial determinant for the trustworthiness of the complaint-handling system for the complainants. In addition, it is essential to demonstrate to the public that the independence is guaranteed as the credibility of the programme can increase the willingness and interest of potential applicants to apply for support from the programme.



1

The independence of the decision-maker from the original decision is ensured

The person who decides about the complaint should be institutionally independent from the person who issued the decision in the first place.

Establishing an independent committee composed of the different stakeholders appear as appropriate option to guarantee the objectivity. In case the committee consists of the representatives of different departments of the responsible authority, the complaints-handling process also helps the committee members to take various aspects into consideration when deciding about the issue and further incorporate the experience into their usual practices.

2

The complainants have a wide-range of possibilities to present their position after submitting the complaint

Apart from lodging the complaint via post/email etc., the complainants should have an opportunity to further explain the issue (their position) to the relevant MA.



In the Cyprus OP, independence is ensured by establishing a Complaints Committee, initiated by the Chief Officer of the MA.

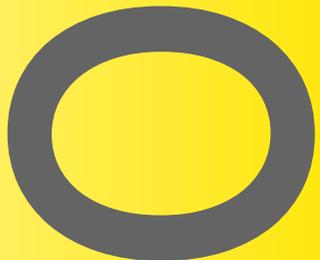


In Malta OP, the complaints are usually handled by the Project Selection Appeals Board, independent of the Project Selection Committee and the Managing Authority.

In Lithuania, the independence of the complaints-handling in the national programme is established by the General rules. The examination of the complaints is made by an Appeal Board. The board consists of seven members who are approved by the Chair of the Council. The decision of the Board is then presented to the Chair of the Council, who can amend the primary decision and notify the appellant of the change.



In Germany, in both OPs and national programmes, the complainant is given an opportunity to present their position through a formal hearing process (according to §28 of VwVfG) or a written submission.



Remedy



The complainants submit complaints in order to change a situation they faced and were not satisfied with. The remedy option is the reason why they lodge the complaints. It is important to rectify the possible irregularities and mistakes to improve the credibility of the relevant MAs (in case irregularities occurred) and remain the legal liability. Furthermore, appropriate remedy options improve the trustworthiness of the programmes among the public and potential applicants.

1

The remedy should be guaranteed in case the irregularity occurred

The complainants should have a guarantee that if their complaint is relevant they will receive a remedy. If the irregularity is connected to higher costs compared to the standard situation, the reimbursements should also be part of the remedy.

2

The remedy is guaranteed equally to the complainants based on structured procedures

All complaints are treated equally when reviewing the issues and it should be guaranteed that similar complaints receive similar remedies. Thus, the remedy procedures should be codified.



In Denmark OP, correction of decision or reimbursement are provided as a remedy.



In Ireland OP, correction of a decision is provided as a remedy and any other options of remedy would be discussed on a case by case basis.

In Lithuania OP, correction of a decision is provided as a remedy, and in case of positive response, a beneficiary shall be entitled to recover costs incurred.



The complainants can disagree with the final decision of the responsible MA about their complaint. Thus, further review possibilities should be in place to reconsider the case. The aim of the further review is to resolve the complaint in an unbiased manner so that the complainant has a clear understanding that the result is valid and legitimate. The better the review mechanism is advertised, the more transparent the whole process is. The review mechanism increases the credibility and trustworthiness of the programme among the public. Moreover, it is a useful mechanism for the responsible organizations to take into consideration for an independent view of its process.



1

The possibilities of further appeal are in place

If the complainants wants to further appeal the complaint's decision, the appropriate procedures should be in place to enable the appeal. The further appeal should further examine the issue and confirm/disprove the previous decision. An independent authority should be in charge of the appeal procedure, in the last instance the judicial review and/or ombudsman should be included in the review, based on the national law.

2

The complainants have a clear understanding of the process and are informed about the further appeal possibilities

The information about the possibilities and rules are clear and well publicized and responsible MAs communicate the options to the complainants.



In Portugal OPs, the complaints can be lodged with the Beneficiary's Curator (Curador do Beneficiário), who receives and solves complaints presented by the beneficiaries of programs co-financed by any of the ESIF. The curator will either solve the problem, or redirect the complainant to a corresponding institution/body.



In the UK - OPs East/West Wales or in the Belgium - OP Flanders ombudsmen for the public service were established. The ombudsmen are not directly established for ESIF, but deal with different topics. However, the complaints-handling system in these particular OPS is based on the general administrative procedures.

In the case of the UK national programme "Analysis for innovators round 2: brokerage", the complaints process enables escalation of the complaint within the organization before it is submitted for an independent review by the Ombudsman, i.e., if the complainant is not satisfied with the decision of the Complaints Officer (formal complaints procedure), the complaint can be referred to a relevant Innovate UK director.



Review

Fit for purpose



The complaints-handling procedures are in line with the common procedures in the responsible organization. The procedures for lodging complaints should follow the common procedures of the responsible organization. The wider the possibilities for lodging complaints, the better for the accessibility of the process and trustworthiness of the responsible organization and the programme. The aspect “fit for purpose” is significantly dependent on the particular Member State and its common public procedures. The following aspects are examples of the possible solutions.

1

Common approach towards the complaints in the Member State

The complaints-handling arrangements are the same or similar for all relevant programmes in the Member State. The potential complainants then do not have to know different complaints systems when operating in one Member State.

2

The channels used for communication with the beneficiaries are also used for lodging complaints

The responsible organizations should enable the submitting of the complaints via at least the same communication channels as the usual communication is conducted. In order to lower any barriers for lodging complaints for the potential complainants, the MAs should provide the widest possible options for submission of complaints.



In Hungary in the national and ESIF programmes, the complaint handling procedure is based on national legislation (the documents for the national programmes are based on the legislation, which is different to the law codifying the ESIF). However, the principles are similar (i.e. same deadlines, no fees, way how to submit the complaint, remedy in form of the correction of decision).



In Germany, both national and ESIF programmes are based on the same national law, enabling the complainants to follow the common procedures of the Member State.

In Greek national funding programmes, the complaints procedures are not standardized in the contrast to ESIF. However, the national authorities are developing new management and control system, based on the ESIF System. The new procedures should guarantee the common approach across the Greek programmes.



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