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- There is a code of conduct in each institution confirmed by 93% of the respondents in the survey.

From a different perspective the studies and the evaluations performed in the last years regarding the public policies management highlight a number of weaknesses closely linked to the administrative capacity issues analysed above including the following:

- Weak execution of the public policy management ²⁷
- Poor inter-institutional cooperation
- The control system is based on process, costs and activities rather than objectives and results.
- Avoidance of accountability and a lack of policies, systems and tools to measure performance and integrate it into the institutional and management processes.
- A lack of trust within the administration that leads to major risk aversion, blockages in processes and endless controls.
- Politicisation of the public administration reflected in the mobility of staff (management positions) in rhythm with the political cycle. There is evidence that this kind of mobility has extended to lower levels in recent years (Ecorys, 2010).

Studies and evaluations²⁸ have identified as key problems related to the efficiency and effectiveness of the civil servants the following:

- The reward system does not meet the minimum requirements such as merit-based internal and external equity and therefore acts as a demotivating factor.
- A non-motivating appraisal system
- HR system is perceived from inside and outside as less effective, formalised but lacking content
- The lack of analyses studies and researches for public administration and within the organisations to document the decisions.

Effectiveness of the measures addressing corruption is low. Corruption remains a concern and a constraint in developing an effective and efficient public system, according to European Commission 2013a. Our research indicated for, example, introduction of the code of conduct which did not produce improvements. Interviews revealed this is more a formal compliance to the legal requirements than an effective tool able to improve the ethical behaviour in the public administration.

4.3 Conclusions and recommendations regarding the administrative capacity of the authorities

The structures designated for the EU fund management are to a very large extent embedded in the existing structures of the public administration system, largely influenced by the systemic weaknesses regarding the poor **inter-ministerial cooperation, excessive bureaucracy, under staffing, lack of skills, poor transparency in staff recruitment and management, and corruption risks.**

²⁷ Functional Review, Center of Government, World Bank, 2010

²⁸ Assessment of administrative and institutional capacity building interventions and future needs in the context of European Social Fund, Country monograph, Romania, DG Employment 2010.



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The challenge for the Romanian authorities is to find the appropriate solutions to improve the administrative capacity and performance in the system responsible for EU funds management, while the progress in improving the entire public system is slow and uncertain.

The measures to improve the administrative capacity of the EU funds management system are hindered by the systemic weaknesses of the Romanian public administration.

The 2007-2013 experience proves that the legal, institutional framework, set up of the organisation structures, formal allocation of responsibilities, internal rules of procedures, the Monitoring Committees etc., comply with the requirements. However, **the key issue is the proper functioning of the structures, reflected in the bottlenecks of the processes, poor use of resources and delivery of outputs and ultimately the poor performance of the operational programmes.**

Romania is doing well in terms of formal compliance, setting up structures, formalising cooperation, creating tools and systems, but functioning remains poor.

The coordinating bodies (e.g. ACIS) and a number of the MAs did not have sufficient authority to ensure consistent approaches, simple and coherent procedures, the avoidance of overlaps of responsibilities, and the effective implementation of the action plans across institutions in order to resolve the key problems. The MA for ROP located in the Ministry of Regional Development and Public Administration and NRDP MA located in the Ministry of Agriculture and Rural Development proved to have better capacity to manage the programmes than other MAs, being the best performers and benefiting from having extended territorial structures.

A particular challenge was the approach adopted by most of the OPs, based on a very large number of small projects. The alternative of using strategic large projects has benefits in terms of workloads and fixed costs in the IBs and MAs, but need organisations with sufficient capacity to implement such projects. An additional condition for these organisations is the role as development actors and links to the national / regional policies implementation.

The experience of the current programming period indicates the fact that increased authority of the management and coordinating bodies, stability of the organisations' structures and the whole overall framework have to be ensured, in order to improve the institutional performance and the inter-institutional cooperation.

The partnership principle is formalised and well promoted in both programming periods, but with **limited inputs from the social partners** during programming and also during implementation through the participation in the Monitoring Committees. The Monitoring Committees tended to be limited to discussions regarding the programme implementation between the EC and the MAs and IBs with limited meaningful inputs from other members.

Limited capacity in policy management, ineffective communication and cooperation tools are among the factors influencing the effective participation of the partners in the programmes management cycle.

During the 2007-2013 periods, the system had **difficulties in ensuring the adequate human resources both quantitatively and qualitatively**. The austerity measures undertaken in 2010 blocked the resourcing that was required by the volume of work and the increasing number of contracts in implementation. The significant salaries cuts in the whole public system generated a high turnover, high vacancy rates and the resultant increased workloads on the existing staff. The measures undertaken improved the resourcing, however, in a number of MAs the problem still needs to be resolved.



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The **management and the human resources function** in the organisations were not able to find solutions to these problems, through better planning and allocation of tasks, management of the workloads, performance management, retention and stimulating employees. The technical assistance resources were not used sufficiently to cover the internal lack of resources mainly due to the difficulties of the public procurement processes.

The assessment indicated a number of issues that need to be addressed to ensure proper functioning and an adequate level of performance of the staff including:

- workloads analysis and other organisational development tool are not systematically used to support HR planning and optimal allocation of responsibilities,
- limited effectiveness of the performance management,
- a reward system unable to attract, retain and motivate good professionals,
- An ineffective training function unable to provide the training opportunities for specific critical skills and the continuous professional development of the staff.

Largely the HR function is limited to compliance with the requirements to set up specific HR processes but their effectiveness is limited.

The organisations do not have a sufficient capacity to effectively use HR policies and practices to ensure adequate resourcing and to respond to the challenges.

The overall low performance of the operational programmes diminishes the perceived level of performance of the staff, despite the fact that, in many areas, there are good professionals making efforts to achieve their tasks. The current performance management system does not make the difference between good and poor performers in terms of results and contributions to the operational programme achievements.

*There is a need to align people performance levels with the organisation's performance translated into a shift from a competences and process based approach to **"results based" performance management one is needed to better orient efforts toward the OPs performance targets.***

The training system has to be strengthened using the past good practice such as the training mechanism managed by ACIS, the training practice from ROP MA, reinforcing the coordination and renewing the approaches and methods according to the best practices in the training world.

The training function has to ensure **the continuous development of the staff** in all areas and **specific interventions for the areas expertise representing success factors for the OPs performance.**

The critical areas of expertise identified at this stage are state aid, environment regulations, risk management, internal audit, public procurement, financial management and control, EU and national legislation and management skills. These areas of expertise should be considered indicative, and the training function has the role to identify the real and evolving training needs. Technical assistance should be available for the cases where it is not efficient or possible to build the expertise needed in-house.

It can be seen from 2007-2013 that the organisations where the capacities were built on the previous experience and with stable human resources at management level and critical positions, dealt better with the demanding performance requirements and the constraints of the economic and social environment.

The surveys have revealed contradictory results and significantly more positive assessments or opinions than what is indicated by other sources. In many situations the answers were based only



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on opinion or rough assessments in the organisations, because the lack of analysis and data available regarding the human resources and organisational processes.

The experience of the current programming period shows that the **systems and tools** were created and put in place, covering the necessary processes in all phases of the programme cycle, but **many of them are not properly used and are not effective**.

The delegation of tasks is formalised through agreements, but the proper functioning is affected in some area by lack of clarity of responsibilities, overlapping of responsibilities, unclear allocation and different interpretation of the procedures. Revision of the division of responsibilities is a source of simplification in the whole system.

As a general feature, the system looks overregulated with complicated and in many cases unclear procedures, excessive bureaucracy and high administrative burden which have slowed down and even blocked the processes, mainly at the expense of the beneficiaries.

The system has to be streamlined and simple procedures maintained, to be stable and uniform as many as possible across programmes. The assistance to beneficiaries has to be targeted on developmental issues such as quality of the projects, while the simplified administrative requirements could be addressed through more effective guides, tutorials, e-tools.

The allocation of responsibilities at all levels has to be reviewed and procedures simplified reducing the administrative burden. The tools used in programme implementation in all phases have to be clear, useful and user friendly for beneficiaries.

The 2007-2013 periods has shown that the creation and the management of the indicators is a difficult task. The future programming period with the new approach to indicators raises additional challenges. Coordination from the MEF level and training at all programme and project level is needed. Production of data to be used for the calculation of the statistical indicators has to be ensured.

The potential of the electronic systems is not fully used, and improvements are needed in terms of reliability and user friendliness. The electronic systems used in the current programming period fulfil minimum requirements in terms of data reliability, security and user friendliness. Significant higher needs for improving the electronic systems has NRDP. For 2014-2020 more useful features for the users are required. Implementation of the e-cohesion concept will enhance a simplification, administrative burden reduction and transparency.

The key problem encountered in the 2007-2013 exercise is **the reliability of the management and control systems**. The irregularities identified in the management and control of public procurement would appear to be of a systemic nature, while other system irregularities in the activities of project appraisal and selection, fraud (in the case of one IB), suspicion of conflicts of interest and coercion in another, led to interruptions of payments, suspensions and pre-suspensions of Operational Programmes, some of which are still in force.

Despite the positive opinions in the surveys, the procedures for payment flows, expenditure forecasts and certification of expenditure need significant improvements being **excessively bureaucratic with prolonged processes**, and **low predictability** of the forecasts.

The **internal audit appears ineffective** as it does not appear to contribute to early detection of system irregularities. Risk management is not properly used as a management tool, and the management of irregularities has significant gaps in terms of prevention and correct recording of the current and future management.

A snapshot of the current situation of the capacity on the three dimensions analysed is presented in the figures below produced with a selection of data and information registered in the database created within this assignment.

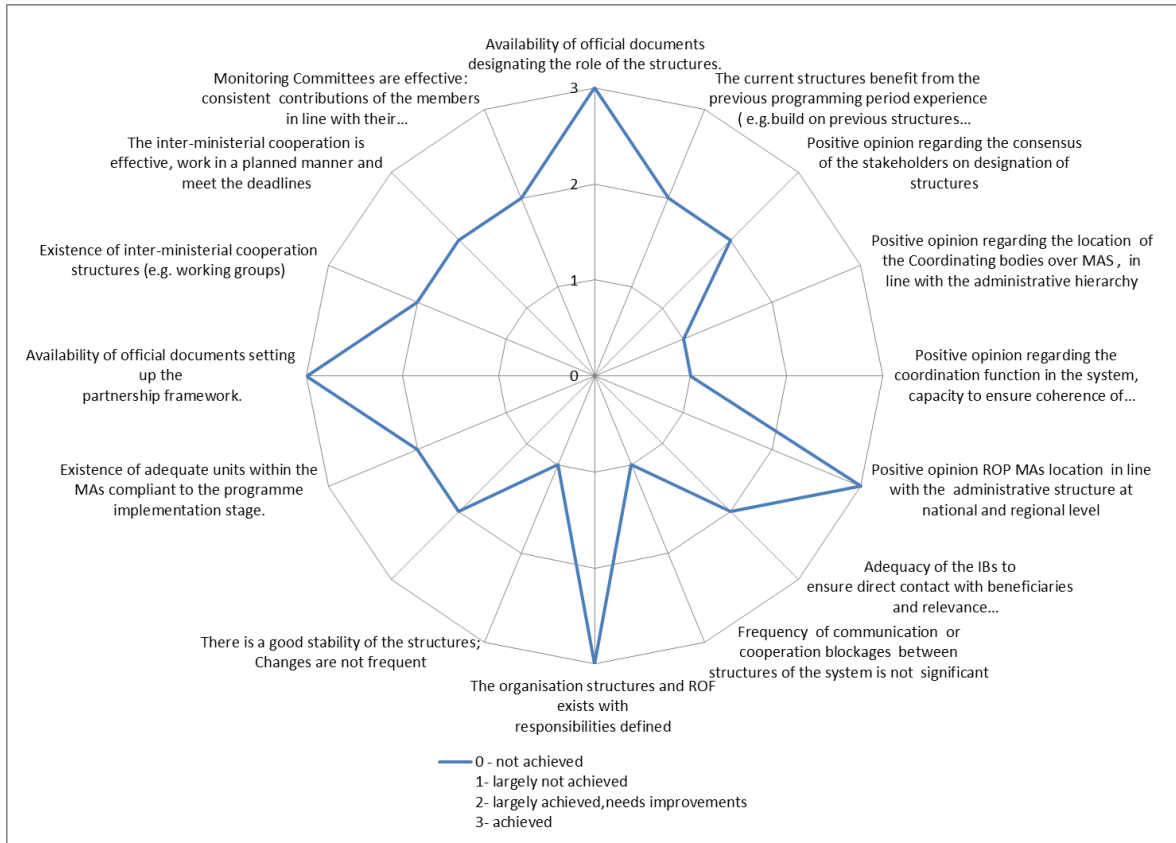


Figure 2 Administrative capacity from the Structures perspective 2007-2013

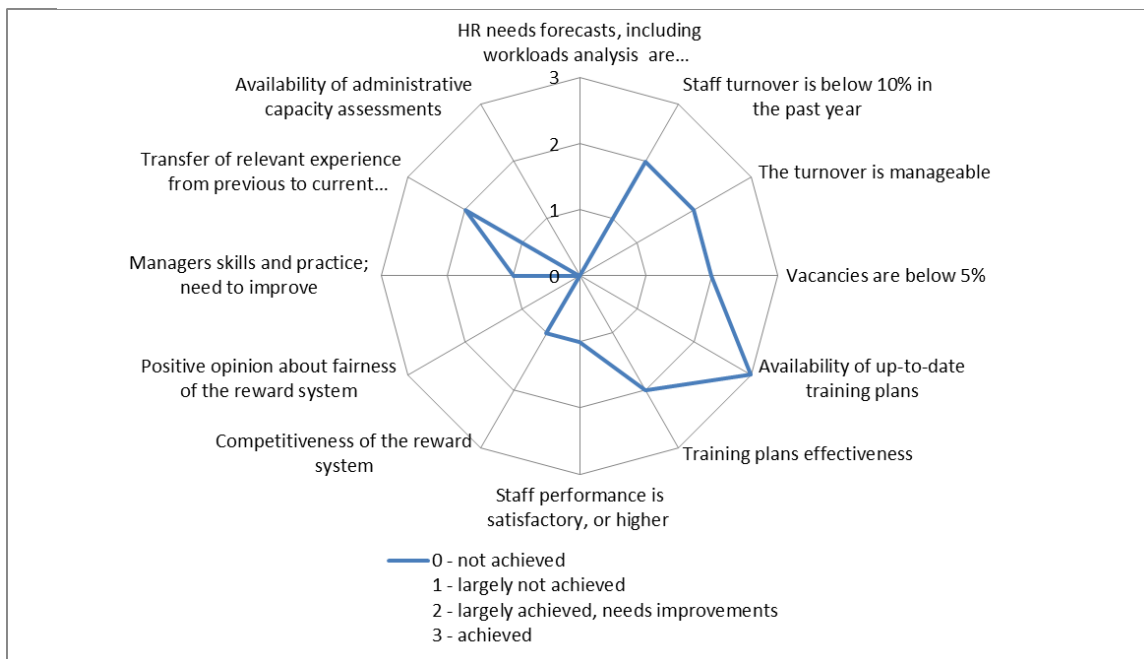


Figure 3 Administrative capacity from the Human resources perspective 2007-2013

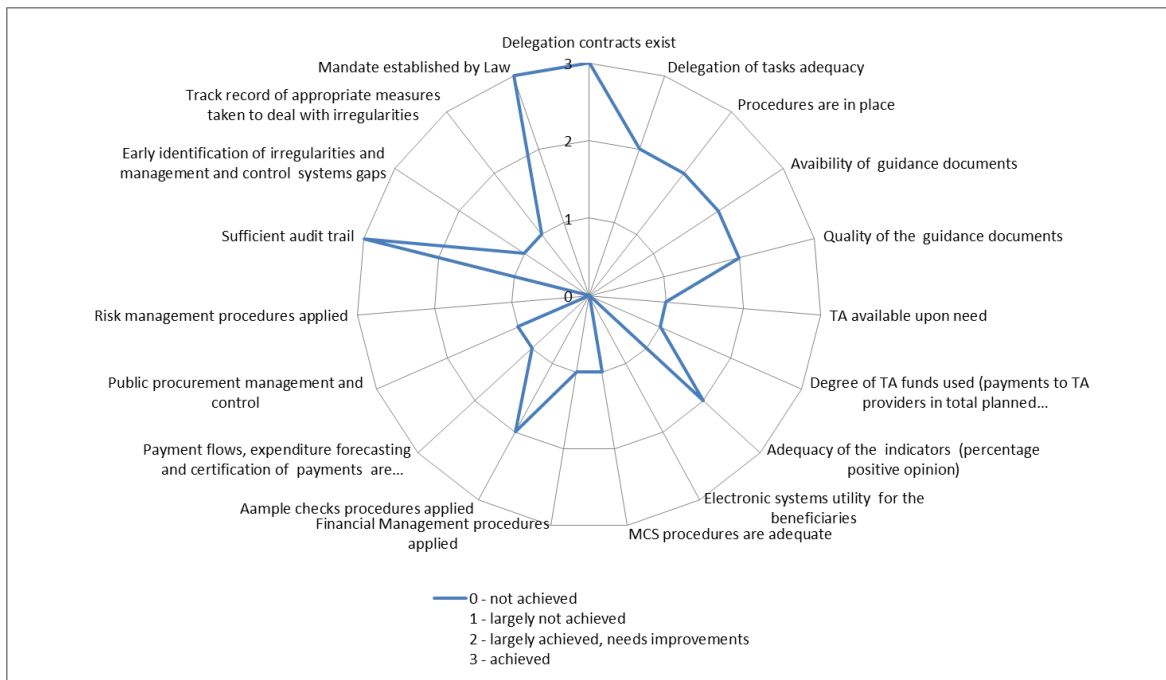


Figure 4 Administrative capacity from the Systems & Tools perspective 2007-2013

Recommendations

R1. Redesign the institutional framework and position the national coordination structure and the MAs within the public administration system in order to boost their authority and ability to promote inter-institutional and multi-sectoral cooperation. This : (1) measures addressed to the structures which proved to have difficulties in the 2007-2013, (2) location of the structures in line with the hierarchy in the administrative system, (3) location of the MAs/IBs difficult to be coordinated in dedicated structures, considering the additional administrative costs, (4) the National coordinator, i.e. MFE to be empowered by the Prime Minister to enforce the rules in the whole system (5) ensure IBs are designated to structures that ensure adequate contact with the targeted beneficiaries. (6) Stability of the organisations' structures and the whole framework has to be ensured, in order to improve the institutional performance

R2. Develop participation of the social partners in the programming process and the monitoring committees; this could be achieved through better coordination of the cooperation, guidelines and plans, updated information and training.

R3. Development of the HR function in the system of the CSF funds; this could be achieved through an intervention designed for the long term over the whole programming period and with the aim of designing and implementing HR policies including HR planning, an optimal allocation of responsibilities and workloads, review of the performance management system with integration of results based approaches, improve the reward system, strengthen the training function. Capacity for the management of the HR function has to be created with centralisation at the level of MEF and the cooperation with the HR departments of the ministries and integration with their processes as many as possible. Outsourcing using TA resources will enhance efficiency.

Analysis should be performed on particular features of the HR function in order to monitor effectiveness of the function and progress in development of the administrative capacity



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R4. Revisions of the whole management system in order to simplify procedures, clarify allocation of responsibilities, and reduce the administrative burden. A study on the minimum requirements generated by the regulations and legislation should be contracted.

The simplification should have in view; optimal use of grant schemes calls for proposals, reasonable/minimum documents requirements in all phases, levels of controls, clarity and agreement on the interpretation of the procedures by all control bodies, use of standard costs and lump sums, etc.

R5. Develop user friendly guidelines, manuals, helpdesks, tutorials, with an extended use of ICT, in order to ensure easy access of all beneficiaries

R6. Ensure development of an effective indicators system in line with the EC methodology, adequate capacity at project and programme level to use the indicators and production of data for the calculation of the indicators. This needs to be implemented through coordination from MEF level, with provision of guidance and training to all users of the system. MEF have to ensure the data providers have the capacity and assume production of data.

R7. Extend the e-cohesion concept in all processes of data exchange with the beneficiaries.

R8. Strengthen the management and control systems of the authorities. This should be implemented through improved competences in internal control, risk management, prevention, detection and management of irregularities. To be explored are modalities of how evaluation criteria linked to the MCS can be included in the performance appraisal of the managers, and additionally sanctions on cases of lack of discipline to be applied. The improvement of the procurement procedures has to continue.

Other measures to support the strengthening of the administrative capacity of the authorities.

Implementation of the public administration reform to create a favorable environment for the development of the administrative capacity of the authorities involved in the management of the EU funds.

- Specifically improved capacity of the policy design and implementation is needed
- Improvement of the effectiveness and efficiency of the public administration system.
- Addressing corruption in a more effective way,