Rule rigidity in face of public pressure: The case of Romania

The manner in which educational service delivery under the European Social Fund (ESF) is managed is best understood in terms of a welfare market or quasi-market (Gingrich 2011). However, we may expect significant differences from one country to another, namely a variation which is strategically articulated by political decision-makers. In the particular context of EU structural funding, the main mechanisms for strategically manipulating the market for educational service delivery are programming decisions, which include all aspects concerning the set up of the programmes created to pursue the ESF social and educational objectives, as well as the integration of these programmes with national educational policy. Deriving from these, the programming decisions made by the authorities managing the ESF funded programmes, further shape and direct the market for educational service-delivery. Most of these aspects are actually matters of domestic policy concerning ESF implementation, which suggests extremely different results obtained by very similar programmes in different EU countries might be explained by looking at the content of national policies and national policy-making processes.

From a governance perspective, the introduction of market-based mechanisms for educational service delivery implies more than what is
normally labeled as market governance (see Meuleman 2011, Peters 2011, 2006). The particular structure of EU structural funding makes it necessary to combine market governance with the more traditional style of hierarchical governance, and with the more recent governance of networks. Such a combination is an uneasy one, since it involves both formalized and informal aspects at the same time, so it becomes important to assess its impact on the effectiveness of ESF funded programmes in achieving policy-defined social and educational goals. The informal aspects are particularly important in EU structural policy, they are actively encouraged by the EC in order to improve programming and implementation and help cope with the democratic deficit of the EU (Peters 2006, Piattoni 2006).

From this perspective, the present chapter details the main findings concerning ESF implementation in Romania since 2007. It focuses on the Sectoral Operational Programme Human Resources Development (RO-SOPHRD) and its components directed at the ISCED 0–3 levels of the national education system and the access to education of disadvantaged and/or vulnerable groups. It highlights aspects of domestic policy which are relevant for the achievement of ESF goals in Romania and attempts to characterize the quasi-market for educational service delivery created by the above mentioned programme, emphasizing the empowerment of certain categories of public service providers and the lack of empowerment of the users. In the following section, the RO-SOPHRD is briefly described.

The Sectoral Operational Programme Human Resources Development

Among other EU funded programmes in Romania, the Sectoral Operational Programme Human Resources Development (RO-SOPHRD) is apparently the most problematic (KPMG 2011), despite the fact that it seems to have been the most successful in terms of disbursement of funds (measured as percentage of total available funds contracted at the end of 2012). Its shortcomings were widely debated in Romanian mass media in the past
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years, with a clear emphasis on the low absorption rate (placed at less than 10 per cent at the end of 2012, including only funds already reimbursed by the European Commission) and related financial and administrative aspects. Beyond these, the story of RO-SOPHRD is much more complicated and should be seen in a broader framework of policy learning, policy failure and blame avoidance (see Howlett 2012).

The RO-SOPHRD debuted under not so favourable auspices in 2007, with a not-so-favourable ex-ante evaluation report (Panteia 2007) and some delay in getting the approval of the European Commission. The ex-ante evaluation report stresses out shortcomings in the analysis of the social and economic conditions and the SWOT analysis behind the strategy proposed, the lack of co-ordination between the different operational programmes, the insufficient attention given to sectoral approaches and the involvement of social partners, and the complexity of the proposed management structure. Several aspects are of particular relevance for the educational selectivity issues approached by this project. First, the evaluators notice that the social and economic analyses single out low participation in continuing vocational training (CVT) and the backwardness of the rural areas, yet there is little reliable (statistical) information on CVT, the job market for school leavers or even educational attainment. Second, the evaluators believe the analysis is missing out on the very important challenges of changing the structure of education and strengthening vocational education and training (VET) and research and development (R&D) in higher education.

The programme’s debut was marred by the discontent expressed by coalitions of third-sector organizations (TSOs), whom complained about the fact that programming did not take into account the need of the sector for a replacement to the defunct pre-accession funding for TSO projects. However, given the structure of the programme, TSOs soon found out that, unless working on education issues or being certified providers of professional training, their sole possibility to access funding was the social economy component of the programme. This became obvious by 2010, when 1,816 applications were submitted in response to a call for projects aimed at developing the social economy in Romania. This call for projects was closed in January 2011. Later, this call for applications was unilaterally cancelled by the managing authority of the RO-SOPHRD.
The first implementation problems appeared as soon as the first calls for applications were launched, due to the initial reliance on strictly the employees of the management authorities for assessing applications (AMPOSDRU 2008). Delays in the assessment of applications submitted in 2008 developed into a cascade of delays affecting the launch of calls, assessment of applications, signing of contracts, and reimbursements to contractors. The interim evaluation report stated that the average time between the submission of an application and the signing of a contract is forty weeks (KPMG 2011). Moreover, the MA admitted that the average delay in processing a reimbursement request is about forty days (RO-RAI, 2011), while also admitting that some projects might be delayed for as long as eighty-six days. Stakeholders (Public Policy Institute 2012, Council for National Co-ordination of Regional Pacts for Employment and Social Inclusion 2013) and the mass media report even longer delays.

The delays in assessing applications, signing contracts and reimbursing contractors have had significant social and economic consequences. The Romanian media reported cases of large projects catering to the needs of disadvantaged children shutting down in the middle of the implementation period and of private companies providing goods or services to contractors experiencing cash-flow problems (for one example, see Toma 2012). Large projects catering to the needs of disadvantaged children were shut down in the middle of the implementation period; private companies providing goods or services to contractors went unpaid and experienced cash-flow problems.

Moreover, media coverage of implementation repeatedly stressed that very expensive and very ineffective projects received funding and identified several cases of misuse of money involving politicians and their families or business partners. There was a widespread perception that RO-SOPHRD was a waste, spending huge amounts of money on less significant projects. This was helped by the inability of the Romanian government to promote the programme and showcase its potentially huge positive impact on Romanian society and economy. Monitoring by the EC discovered that the problems facing the programme were dominantly structural ones, deriving from the (in)actions of the Romanian government in general, and the managing authority in particular (KPMG 2011). The structural problems
are further enhanced by what the contractors believe to be an abusive attitude and deficient communication in the relationship of the MA with the contractors and a ‘criminalization’ of the contractors (Council for National Co-ordination of Regional Pacts for Employment and Social Inclusion 2013).

In terms of national policy concerning ESF implementation, in Romania several key issues which should have been solved from the beginning actually produced serious problems. First, implementation was hindered by the failure of the central government to properly regulate relevant areas. These situations cover both financial and administrative aspects, such as provisions concerning procurement, or the eligibility of applicants with debts to the state, the status of civil servants working on project implementation or problems derived from the fact that Romania still uses annual budgeting. At the same time, such situations also cover educational policy aspects, such as the creation of a national agency in charge of qualifications, or the differentiated status of schools in terms of budget execution. The annual implementation reports repeatedly identify such situations. Second, problems arise from the institutional structure, mainly the role and functions of the intermediate bodies and their relationship with the managing authority. Third, there is lack of a regionally differentiated approach: the Bucharest-Ilfov Development Region, by far the most affluent in Romania, is treated equally along with the North-East Development Region, which is the EU’s poorest region. While the entire Romanian territory is covered by EU convergence objectives, a regional approach was definitely needed given the social and economic discrepancies between Romanian regions.

The context in which EU structural funding is being disbursed in Romania is defined by the persistent framing of the topic in terms of money spent/degree of absorption, specific to both political discourse and media coverage. This persistent framing actually works as an incentive for the management authorities for all EU funded programmes to direct their actions towards maximizing the amount of money spent, disregarding aspects concerning goal achievement and programme effectiveness. At the same time, there is public pressure, from the EC, the central government, some politicians and the mass media, to ensure the money is spent properly, which seemed to lead to a disproportionate attention given to administrative and financial aspects.
An important aspect of ESF implementation in Romania, obvious in the case of the RO-SOPHRD, is the difficulty in admitting policy failure and the blame-avoidance strategies of the managing authority. Policy failure is obvious if we observe that the management authority failed to take into account aspects such as the fact that is physically impossible for seventy people to assess applications for a EUR four billion programme, or that the indicators’ system must account for individuals or organizations that benefit from multiple activities financed by this programme. The analysis of documents issued by the MA for this particular operational programme reveals a quite positive tone, emphasizing achievements, despite the seriousness of the issues affecting programme implementation, and the continuous blaming of the contractors and central government policy-makers (see also Council for National Co-ordination of Regional Pacts for Employment and Social Inclusion 2013). Blame avoidance goes as far as failing to explain why the European Commission has repeatedly rejected requests for changes to the programme, because they were found to be poorly supported by factual arguments and situation analyses.

The progress in implementation was quite slow. After the initial push from 2008, when seventy-two calls for applications were launched, in the following four years the managing authority managed to launch a total of forty-two calls for applications (twenty-six in 2009, thirteen in 2010 and three in 2011). Up until December 2011 the success rate of applications was 35.68 per cent, while 598,324 beneficiaries were recorded (out of a programme target of 1,650,000). At the same moment, the managing authority reported worryingly low figures for several macro-indicators associated with the programme: 20.32 per cent of the overall target for students/pupils supported in their transition from school to active life, 14.16 per cent of overall target for participants in second chance programmes. Approximately 6 per cent (EUR 166 million) of the amounts contracted by December 2011 are for ‘measures for the increase of participation in education and lifelong training, including through the reduction of early school leaving and gender segregation’ (EU intervention field code 73). At the same time, a number of 102 contracts for a total of EUR 83.76 million were annulled, due to contractors declaring it is impossible to ensure the financial resources necessary, sometimes because of the changes in regulations concerning pre-financing of projects.
The institutional set-up of ESF in Romania

This segment of the analysis is dominantly a meta-analysis of data and findings of the MA of the RO-SOPHRD and of the external evaluators of the programme. It puts available data and information on programme implementation in the analytical framework of this book.

Formal decision-making

According to national rules, the managing authority of the RO-SOPHRD has large decision-making powers concerning the programme and its implementation, going as far as being given the prerogative to initiate changes to the programme, to draft and, if necessary, to change the general implementation framework, to draft the assessment criteria, to monitor and evaluate (jointly with the Authority for the Co-ordination of Structural Instruments, RO-ACIS) the programme. The MA has dominantly used its prerogatives in the areas concerning administrative and financial aspects of implementation, monitoring, and assessment. It has to be noticed that the MA has attempted to make changes to the programme proposing reallocations of funds between and within different priority axes. However, the EC has found the arguments insufficient to justify the reallocation of funds and rejected the proposal.

One important aspect is the degree of formalization the MA attempts to introduce even within those parts of day-to-day activity which require a governance of networks approach. It is the case of the workgroup created to approach the issue of Roma access to ESF funding, which was not operational for more than a year after its creation was approved because some formal regulations needed to govern its activity were not yet approved. Another symptom of excessive formalization lies in the manner in which the issue of co-ordination with other structural instruments is approached. The only course of action the MA followed was that of formally requesting the Authority for the Co-ordination of Structural Instruments (RO-ACIS) to act in this direction. Formalization or bureaucratization of the programme
is the most contentious issue in the relationship between the MA and the contractors. An analysis made by a national structure which groups together the Regional Pacts for Employment and Social Inclusion points out unilateral changes of sensitive aspects of contracts, especially those concerning pre-financing of projects, alongside ambiguity and divergent interpretations of the legal framework by different employees in the MA, resulting in diverging solutions given to contractors for the same problem and a focus on producing documents rather than results, reflected in how the MA deals with the contractors and assesses the impact of the programme (Council for National Co-ordination of Regional Pacts for Employment and Social Inclusion 2013).

Monitoring and evaluation are relatively separate activities within the MA, being the responsibility of distinct units. This is partially due to the fact that evaluation of EU funded programmes in Romania is largely centralized in the hands of the RO-ACIS. This is also reflected in the separation of the advisory boards, the RO-SOPHRD having two distinct boards, one in charge of evaluation and one in charge of monitoring. There is some communication between the two boards, yet it is unclear to what extent it results into better linking monitoring and evaluation activities. Monitoring is deeply connected to the process of reporting and reimbursement requests, a fact which was also pointed out by the interim evaluation (KPMG 2011). This actually results in frequent mentions in the annual implementation reports (especially in AMPOSDRU 2008, 2009, and 2010) that there is more progress in reaching the quantitative targets of the programme than reflected by numbers, because interim reports of the contractors were not yet processed by the MA. This fact is due to the initial reliance on printed reports, an online reporting system was proposed only in 2011.

Programming within the RO-SOPHRD happens at MA level, where a special unit for drafting calls exists. In 2008, the personnel in this unit received training on this topic (see AMPOSDRU 2008). However, this unit has a very long list of prerogatives, which includes extensive supervision of the activity of the intermediate bodies, all activities related to the technical assistance component of the RO-SOPHRD, drafting of assessment criteria, and a significant workload of administrative and financial aspects (such as procurement for technical assistance projects). This suggests drafting of calls unavoidably became a minor activity. However, very little information is actually available on how the process of drafting calls
happens and whose decision is it to launch a call or another. It can be said with certainty that programming of calls happens strictly within the MA (and possibly IBs), without communication with stakeholders or even the monitoring committee of the programme.

The MA is largely unreflective on the impact of the calls for applications until very late (see AMPOSDRU 2011), when the first mentions of using call content to better adapt the programme to the social and political context appear. This is mentioned in relation to two very problematic education-related components of the programme, namely the teacher training component (with low achievements in terms of numbers of people trained, just 14,507 people by 2011 out of a programme target of 75,000) and the number of CVT programmes developed (45 by 2011 out of a target of 700). Changes to the programme are reduced to some changes to the calls, yet these changes usually go in the direction of further bureaucratizing the programme (changes to eligibility criteria, lists of activities, and provisions concerning the applicant’s contribution to the budget of a project).

The MA of RO-SOPHRD describes its vision in the following terms:

... we focus on reaching a high degree of absorption of ESF funding and ensuring a technically and administratively efficient management of projects to support of developing human resources in Romania and to effectively contribute to social and economic cohesion in an enlarged European Union. The mission of the MA is ‘to strengthen [its] administrative capacity in order to be able to fulfil its role generated by Romania’s accession to the EU, ensuring full compliance with EU legislation.’

It is obvious from how the vision and mission of the MA are formulated that it assumes a purely technical and administrative role of implementer of a governmental policy. The mention of the degree of absorption of funds into the vision of the MA suggests the unwillingness (of the policy-maker or of the MA) to assume greater responsibility in shaping ESF implementation in Romania. The programme description is very much regarded as fixed, despite the changing context of implementation.

\[1\] Information available on the MA website, translated into English by the author. <http://www.fonduri-ue.ro/posdru/index.php/posdru/informatii-generale/autoritatea-de-management#care_este_misiunea_si_organizarea_amposdru>
Representation of stakeholders

Stakeholders are formally represented in both the monitoring and evaluation boards of the programme. Yet it can be observed that dominant on both boards are the representatives of central government institutions and agencies. The monitoring committee is comprised of representatives of 37 different stakeholders, some of them with several representatives; yet only seven are non-governmental entities, out of which a trade union, an organization representing employers, three Bucharest-based NGOs, and the Civil Society Development Foundation (FDSC), an NGO involved directly in the disbursement of PHARE funding in Romania.

While stakeholders are formally represented, their impact on the programme can only be as high as the impact of the board they are members of. The monitoring committee of the RO-SOPHRD is a particularly weak structure, which seems to be completely dominated by the executive leadership of the MA. The committee meets only twice a year, even after the programme enters into crisis and is suspended by the EC. Reports of the meetings published by the MA, as well as details included in the national implementation reports, show that the committee is ‘told’, ‘trained’ and ‘briefed’, rather than consulted or allowed to make suggestions of adjustments to the programme. It is also the role of the monitoring committee to legitimize the introduction of new rules and procedures, when the MA feels it cannot legitimize them simply by using the argument that they are required by the EC.

Stakeholders are not involved in implementation of the programme in other ways than as contractors, the MA choosing not to involve them in programming, monitoring and evaluation of the programme.

Promotion of partnership

The definition of partnership used in national policy documents makes reference to the ‘principles of partnership, as defined in community [EU] regulations’ (RO-RAI 2007), which suggests a formalized view of partnership, resulting from how the MA understands that the concept can be operationalized in practice. National policy documents concerning ESF
implementation stress out two elements in terms of partnership: the extent to which efforts to encourage projects implemented in partnership is successful (percentage of projects implemented by a partnership, consistently pointed out to be over 70 per cent) and the effects of the Regional Pacts for Social Inclusion and Employment. The latter are designed to be the best practice in terms of partnership Romania reports as a result of ESF implementation.

The Regional Pacts for Social Inclusion and Employment are ‘participatory processes of regional public policy and strategy making, by the use of all existing funding opportunities, especially of the ESF. The Regional Pacts bring together representatives of local governments, central government offices at the local level, civil society and clergy, with responsibilities in the area of employment and social inclusion’ (RO-RAI 2007). Such structures are supposed to work at regional and county level, as well as workgroups. In 2007, the MA reported seven out of eight pacts were operational, and also reported the existence of county structures and 55 workgroups. However, later implementation reports show little progress in actually drafting regional policy documents and strategies; in 2010, only preparatory activities such as trainings and preliminary policy studies are conducted (AMPOSDRU 2010). A year later, the MA bluntly reports that it is their estimate that the members of the pacts are involved in the implementation of 70 per cent of all RO-SOPHRD projects (AMPOSDRU 2011). Some of the most notable results of the pacts are thought to be consultancy services provided in the process of writing 170 applications, training for the employees of institutions represented in the pacts, and policy studies concerning the human resources development in regional policies (AMPOSDRU 2011). The most important aspect concerning these pacts is the fact that, in the end, as implementation problems became obvious, they transformed into an important vehicle to criticize the MA and its actions, acting as advocates of the contractors.

References to partnership are also relevant from a governance-of-networks perspective. In the 2007 implementation report (RO-RAI 2007), the MA offers a glimpse into how it dealt with the process of consultation of stakeholders during the drafting of the programme. The list of stakeholders consulted actually contains a list of central government institutions and agencies, while it is also mentioned that ‘wide-scale consultations were
conducted with the social partners, civil society organizations, local governments and other relevant actors’ (RO-RAI 2007). At the same time, CSOs complained of the lack of meaningful consultation of the sector by the MA.

**Availability of information**

Information is readily available on official websites, even though not always in the most user-friendly manner. All the documents needed for the present component of the analysis were available on the official RO-SOPHRD website. However, key aspects of implementation are opaque, most notably details referring to the projects funded (official Romanian websites include only lists, while some project descriptions may be found on the main ESF website) and the assessment and reimbursement process. This latter aspect is particularly important given the delays in assessing applications and reimbursing contractors, which leave many applicants or contractors wondering for months or even years about the result of their applications or reimbursement requests.

Civil society organizations have also pointed out opacity in terms of decisions and actions taken to deal with the crisis of the programme, most notably the refusal to make public the action plans and the progress reports submitted to the EC (see <http://www.romaniacurata.ro/articol-3369.htm>) in response to the June 2012 report of the audit conducted by DG Employment. This comes as a particularly sensitive issue, since the interim evaluation report actually stated that the MA had failed in implementing the recommendations of the auditing reports of DG Employment (KPMG 2011). A coalition of NGOs has actually managed to obtain the text of the report, from an unspecified source, and published it on a website.

**Adjustments during the commissioning cycle**

The key notion to this part of the analysis is ‘sunrise/sunset’ issues (see J. Bradley 2005). ‘Sunset areas’ refer to negative side effects of the programme, while ‘sunrise areas’ refer to new directions that need to be followed
or better instruments that could be used to further help the achievement of desired goals. Sunset or sunrise areas may be identified both in terms of substance and procedure. This analysis closely follows the qualitative analysis of programme implementation made by the MA in order to point out that important sunrise/sunset issues are ignored even when pointed out by the external evaluations of the programme. This situation sometimes arises from the dominant framing of RO-SOPHRD implementation in terms of money spent, while sometimes it seems to be related to ignorance of key aspects of the social and economic context in which the programme is supposed to be implemented.

A key area is the disproportionate access to funds of large potential contractors, such as public universities, which is visible from the beginning (see figures reflected in AMPOSDRU 2008 – 49 per cent of all contracts signed in 2008 involve universities). This is a key issue which to this day is being ignored by the MA and the Romanian government, despite the fact that by 2011 they report almost 600 per cent success in the support to the universities (see data in AMPOSDRU 2011).

A second area is the preference of the MA for strategic projects (visible in their expressed desire that publicity actions in 2008 would lead to an increase in applications for strategic projects, since these are perceived to be more effective in terms of spending the financial allocation for RO-SOPHRD, while the contractors seem to prefer the smaller and more easily manageable in practice grant projects (by the MAs admission, 73 per cent of all applications submitted in 2008, see AMPOSDRU 2008). It is exactly this distinction between strategic and grant projects which the interim evaluation finds to be not very beneficial to programme effectiveness, which is why the recommendation is that such a distinction should be scrapped (KPMG 2011). This recommendation has been, to this date, ignored, despite supplementary findings showing the grant projects have been more successful in reaching the dominant MA goal, that of absorption. This has happened because the large strategic projects were prone to financial blockages when implemented by public sector contractors within the framework of annual instead of multi-annual budgeting.

The main area which should have been approached by the MA is reflected by macro-indicators of a quantitative nature. Numbers collected
by the MA itself show that the RO-SOPHRD is a programme which manages to successfully target the younger and better educated segments of Romanian society. Warnings appeared since the ex-ante evaluation, which pointed out that, despite Romanian population getting older, the programme did not address properly the issue of active ageing (Panteia 2007).

Another critical problem concerns co-ordination with other EU programmes, which seems to be largely ignored by the MA, even though it was already identified as significant in the ex-ante evaluation of the RO-SOPHRD. With one exception, the annual implementation reports stress the notion of complementarity between programmes usually thought to have been achieved in the programming process. One report stresses the notion of co-ordination, yet in a much-formalized manner (see above).

A problem specifically identified by the MA is the quality of the assessment of applications on education-related issues, with several annual implementation reports stressing out that problems appeared because evaluators were not familiar enough with the structure and problems of the national education system. However, there is very little action in the area of technical assistance in this area. In the end, the MA contracts out the assessment of applications submitted for some calls. However, which criteria are behind the choice to contract out some aspect of its activity and not another is never spelled out.

A significant problem is the relationship between the MA and the contractors. The latter accuse poor communication, abusive attitudes, the ‘criminalization’ of the contractors, and the constant abusive unilateral changes to contracts. The situation is further complicated when the MA decides to contract out the help-desk activities and ends up spending almost a year without a functioning help-desk because of a blockage in the procurement procedures. The attempt to transfer blame to the beneficiaries leads to the MA diverting attention of public opinion to some very eye-catching aspects. Thus, in 2010, there was a very public row concerning strategic projects implemented by National Agency for Employment under a poorly working key area of intervention. This was blocked by the MA, which considered salaries to be unacceptable in amount (Realitatea.net 2010), despite the fact that the pay of project personnel was actually in line with the provisions of the programme, and was approved and publicized by the MA itself.
Moreover, the action plan drafted in response to the spring 2012 audit conducted by DG Employment identifies some serious shortcomings in programme implementation which were not publicly admitted by the MA.

Shaping the market for educational service delivery: Calls for applications under RO-SOPHRD

The institutional set-up acts as a very rigid framework for the bureaucratic decisions made by the managing authority during the actual commissioning process. In this section, we analyse all relevant call for applications launched under RO-SOPHRD by November 2012.² Out of 114 calls launched by the MA and intermediate bodies of the RO-SOPHRD, only ten are directly relevant to the issue of facilitating the access to ISCED 0–3 education of children and adults pertaining to disadvantaged groups. All these calls were launched under the second priority axis, within two key areas of intervention (KAIs) labeled Learn a trade! and A second chance in education. Although small in numbers, these calls provide us with a clear view

² The analysis of calls issued under the RO-SOPHRD programme comprises one of the six priority axes of the programme and two different key areas of intervention, leading to a total of ten calls for applications analysed. These calls were selected, taking into account relevance to the ISCED 0–3 levels of the national educational system and to the issue of access to education for disadvantaged groups. The priority axis analysed here, Linking lifelong learning and the labor market (PA2), accounts for another quarter of the total RO-SOPHRD budget for 2007–13. Within this axis, two key areas of intervention were determined to be relevant for the educational inclusion of vulnerable groups, Transition from school to active life (KAI 2.1.) and Preventing and correcting early school leaving (KAI 2.2.). Another axis approached here, Education and training in support for growth and development of Knowledge based society (PA1) lists among its key areas of intervention Access to quality education and initial VET (KAI 2.1), which deals primarily with teacher training and quality assurance issues. This priority axis accounts for approximately a quarter of the total RO-SOPHRD budget (almost EUR one billion).
on how ESF funding in Romania is being used to shape a quasi-market for educational service delivery.

The first major instrument at the disposal of the policy-maker was the decision concerning whether to define or not categories of projects and, thus, shape the commissioning process. The decision was to distinguish between two types of projects, in terms of duration, cost, and territorial scope. The first category, designated strategic projects, are longer (up to thirty-six months), more expensive (between EUR 0.5 and 5 million), and more comprehensive from a territorial point of view (national or multi-regional). The second category, designated as grant projects, are shorter in time (up to twenty-four months), less expensive (between EUR 50,000 and 500,000), and more focused territorially (first and second tier of local government, regional, and multi-regional). Interestingly enough, the territorial dimension of these categories does not take into account the existence of intermunicipal co-operation forms in Romania. A very important distinction between the two types of projects is in terms of application and assessment procedure. In the case of the strategic projects, all applications submitted by a deadline are assessed and then ordered so that the best applications are selected. In the case of grant projects, a first-come, first-served procedure is used, with applications passing the minimal score threshold receiving funding in the order in which they were submitted. Alongside this categorization of projects, we find the very distinctive situation of the different forms of state-aid, which are regulated separately and governed by a different set of general conditions as compared to the types of projects mentioned before.

There is a clear preference of the MA for large projects, as suggested by the fact that fifty-eight out of the 114 calls launched were for strategic projects. In the area of interest to this research project, six out of ten calls launched are for strategic projects. There is also a significant difference in terms of financial allocations for these calls, with 87 per cent of the funds allocated to the calls for strategic projects. Such a division is justifiable from the perspective of the need for structural reforms in the Romanian national education system. Yet, addressing social issues such as early school leaving requires individualized or community-based interventions, which are more easily achievable in the frameworks provided by small projects developed at local level, by schools or CSOs. It is unclear how the impact of the strategic projects is actually traceable at grassroots level.
A second major decision concerns the degree of differentiation between calls launched under the same key areas of intervention. In Romania, there are very little differences from one call to another. Most of the differences actually refer to administrative and financial aspects, with no differences in terms of substance (social issues approached, design of services which projects funded should provide).

Who are the potential contractors?

Another very important instrument in shaping the market, at the disposal of the MA only, is the list of potential contractors included in each of the calls launched under the programme. In the case of Romania, we have a highly unregulated market, driven by the need of the MA to spend as much of the financial allocation as possible. Thus, with the exception of the calls aimed to disburse state aid for professional training, all the calls analysed here present very long lists of potential contractors. Of particular interest are the calls under KAI 2.1 – *Learn a trade*, seeking to disburse funding for the compulsory professional training of pupils and students. Under these calls, vocational schools are facing a not very fair competition with universities for funds aimed at the practical training of students and pupils.

There are no clear-cut differences in terms of lists of potential contractors between the two key areas of intervention analysed here, or between the two types of projects. KAI 2.1 *Learn a trade* has somewhat shorter lists of potential contractors, as it excludes local and county governments and churches, while it includes professional associations. Ministries and central government agencies, county-level government offices including school authorities, research institutes and think tanks, trade unions, employers’ associations, and NGOs are eligible under all calls except those for state aid schemes. ISCED 1–3 schools are treated differently from one call to another. ISCED 1–2 schools and public ISCED 2–3 academic schools are eligible under six elected calls from both KAIs, with no rule discernible in terms of types of interventions where they are included. For example, they are eligible under three out of four calls focused on early school leaving (KAI 2.2.). Vocational and technical ISCED 2–3 schools are eligible under eight out of ten calls, being excluded from one of the several calls.
labeled *A second chance in education* and from a call focused on mentoring programmes for young graduates at their first job.

A special situation is that of non-state universities, considered by the MA to be ineligible because they are not explicitly mentioned as such by the RO-SOPHRD official documents. Yet, technically and legally, non-state universities are non-governmental organizations and, consequently, eligible for funding. The exception mentioned by the MA is more likely applicable to calls under key area of intervention 1.1, specifically targeted at universities. Another special situation refers to the eligibility of schools. In Romania, in a drive to reduce administrative costs in the educational sector, it was decided that only some schools can be entrusted to take care of the financial and fiscal aspects of their operation. These schools were designated as ‘budgetary centres’ and asked to process financial and fiscal aspects for other schools as well. Consequently, only the former schools were assigned fiscal registration numbers, which turned out to be absolutely necessary for being able to apply for ESF funding.

The main problem in terms of access to the market seems to be the extent to which rules cater dominantly to the needs of public sector contractors. In the application process public sector contractors were exempt from some financial and fiscal eligibility checks, which turned out to be quite troublesome for the other contractors. In 2009, access is made even easier for certain categories of public institutions (universities and self-financed institutions), calls issued in that year put their contributions to the budget of the project much lower than for other public institutions and on equal footing with third-sector organizations. This indicates a preference towards easing access to funds for public institutions, at the expense of non-state potential contractors.

*Partnership structures*

The principle of partnership is translated into the calls for applications in the inclusion of partnership in the list of assessment criteria. While partnership is not compulsory, applicants are from the beginning well aware of the fact that applying for funding without a partnership structure
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is automatically disadvantaging them as compared to other applicants, standing to lose between 5 and 7 points out of 100. In order to prevent partnerships in-name, created just to overcome this disadvantage, the calls provide a very clear operational definition of partnership and require the involvement of partners in at least two of the following components of the project: project preparation, project financing and project activities. The calls go even further and include a template for partnership agreements. While the use of the template was not compulsory, applicants preferred to use it, fearing that the use of other documents might harm their chances of obtaining funding for their project. Later calls (2011) go further and explicitly request that only entities who would be eligible to apply on their own are eligible partners.

There are no compulsory partnership structures. In terms of types of partnerships, transnational ones are explicitly recommended throughout the programme and even monitored by the MA (see annual implementation reports), while cross-regional partnerships are encouraged in all calls for strategic projects. The definition of what constitutes a multi-regional project, however, varies in time. In earlier calls, the requirement is that the partnership structures include entities from three of the eight development regions in the country, while in later calls this is reduced to two. This is an extremely important relaxation of the requirements, with the potential to make the calls for strategic projects more accessible to smaller contractors.

Who are the potential beneficiaries?

An important instrument in shaping the contractor’s approach to selecting potential beneficiaries of their services is the manner in which the MA requests them to register the beneficiaries and justify their belonging to one of the target groups. The general conditions applicable to calls, in all their versions, include a form for the registration of the target groups with a very long list of groups designated as vulnerable. While it includes categories such as Roma, refugees, people with disabilities, and other categories usually designated as disadvantaged, the list also includes women and families with more than two children. In the latter case, the designation
as vulnerable groups needs some nuances. It is unclear whether this nuance is taken into account during programme implementation, or any woman recruited by a contractor to benefit from its services will be considered a potential beneficiary, no matter her social and economical status.

As with the lists of contractors, the lists of potential beneficiaries are quite comprehensive and quite misleading. Under calls which identify school drop-out among Roma pupils and pupils from rural areas to be problematic, the list of potential beneficiaries actually lists ‘pupils’, leaving to the interpretation of the potential contractor and of the people assessing the application whether other pupils can be included. The results of these comprehensive lists are puzzling. For example, calls issued under key area of intervention 2.1 are nominally focused on ISCED 4–5. However, interpreting jointly provisions concerning services and potential beneficiaries, we find out that in certain cases lower ISCED levels are also targeted, namely in the case of educational counseling services.

In terms of groups specifically identified as disadvantaged in the text of the calls, under key area of intervention 2.2, all calls make reference to Roma pupils and their families, pupils with disabilities and their families, pupils from rural areas and their families, pupils with poor school performance, and other vulnerable groups. The latter category appears as such and, combined with the fact that targeting such very specific groups is not specifically embedded in the assessment categories and is only rewarded at the decision of those assessing the application, creates room for contractors to focus on more accessible beneficiaries, as long as they fit into the very broad definition given to vulnerable groups. This is supported by official data released by the MA showing progress on macro-indicators. Thus, at the end of 2011, under priority axis 2, out of the four groups identified as vulnerable by the national legislation, the largest group of beneficiaries was classified under ‘Other’ . In total, 5,988 people identified as belonging to a national minority (out of which 2,032 were Roma), forty-two immigrants, and 513 people with disabilities benefited from RO-SOPHRD funding, as compared to 30,748 people from other disadvantaged groups.

Macro-indicators reported by the MA need to be read with circumspection, as in 2011 it became obvious that a huge mistake had been made in recording beneficiaries, namely that of distributing indicators to specific
key areas of intervention of the programme (see AMPOS DRU 2011). For example, indicators showing progress in terms of social inclusion were only measured looking at projects under priority axis 6, despite the fact that projects funded under other priority axes also produced results in terms of social inclusion.

Designing services

The manner in which the MA has chosen to define the list of eligible activities has come under heavy criticism in the interim evaluation report. The authors of this report considered the lists of activities drafted by the MA were far too detailed, leaving almost nothing to the discretion of the applicants. Rather than define project activities based on their knowledge of the field, contractors were actually forced to pick from a predetermined list of activities. Given the formalization of the programme, it is likely that many applicants refrained from introducing additional activities, as it would have increased the chances of their applications being rejected. The details in the list of activities sometimes go as far as making a list of innovative activities.

These long lists are also the result of the approach to call drafting. Since there is not much differentiation between calls issued under the same key area of intervention, the list of activities designed for the respective area during RO-SOPHRD programming is maintained as such in all calls. Instead of launching calls for specific groups of activities, for example counseling services or prevention of school dropout among Roma children, the MA issues catch-all calls. This is probably due to the focus on the MA on absorption and their interpretation that catch-all calls will be more effective in terms of amounts of money spent.

By 2010, the MA became much more restrictive in the manner in which it defines and designs the services contractors are supposed to provide. Calls issued in 2010 requests potential contractors to include certain activities only in association with others (see for example call 109).

An interesting category in the lists of eligible activities concerns the so-called monitoring activities. These are in fact research activities,
and are generally restricted to certain types of contractors. Interestingly enough, these contractors are ministries, central government agencies, and central government offices at the local level. Moreover, there are no specific requirements oriented towards ensuring the quality of these activities. In fact, important amounts of money are directed towards research concerning the effects of the ESF, such as mapping the results in terms of professional integration of young graduates, which will probably be used to further orient the actions of the central government, without safeguarding quality.

**Call design**

Calls are documents difficult to cope with due to their length, some of them going as far as hundreds of pages, with multiple corrigenda. This length is also due to the fact that, despite the claim of keeping them separately, general and specific conditions to the calls are mixed. Large portions of the general conditions of the calls are copy-pasted into the specific conditions. Calls are very misleading for applicants, which has resulted in large numbers of applications being rejected for administrative issues. The biggest problem has been the request of the MA that applications are made anonymous (they should not mention names and places), so that assessment is blind. Large numbers of applicants failed to fully make their applications anonymous and were rejected.

**Improving the situation of the Roma as horizontal objective**

Poor dealing of the Roma issues within the MA is obvious, starting with the language used, as the annual implementation reports feature a table titled ‘Synthesis of actions whose purpose is to intensify the integration in the labor force and, consequently, the social assimilation of minorities’ (AMPOSDRU 2011). Social assimilation is considered politically incorrect...
terminology in Romanian policy documents and it is never knowingly used, yet it is used repeatedly in RO-SOPHRD annual implementation reports.

While in official documents the MA mentions improvement of the situation of the Roma as a horizontal objective, it has issues in proving this actually happens. This is pointed out by the National Agency for the Roma (RO-ANR), which contradicts on its website an MA declaration that projects worth EUR 250 million are targeted at the Roma population. The ANR actually shows that the projects the MA is referring to (102 in total, fifteen within priority axes 1 and 2) target Roma among other vulnerable groups (<http://www.anr.gov.ro/>).

One problem with tracking progress in ensuring equality of opportunity and reducing some form of discrimination is that initially, the MA considers only results under key area of intervention 6.3 projects to be relevant, despite the fact that this is an obvious case of a horizontal objective. As such, in 2008 they report that seven projects approach this issue (AMPOSDRU 2008). Moreover, the MA reports that 94 per cent of projects contracted in 2008 declare these principles will be respected. While this numerical approach is not essentially wrong, it is far from telling us the complete story, since there might be a huge difference between declarations of contractors and the actual practice of project implementation. The numerical approach is employed in order to determine progress for all horizontal objectives, yet there is a significant difference in terms of details provided (more detailed for sustainable development), which can be linked to the difficulty the MA seems to have had in actually operationalizing these objectives.

Assessing progress in targeting the Roma is very difficult for the first years of implementation, since the MA normally reports its targeting of vulnerable groups, using a breakdown said to be included in national regulations. This refers to people belonging to a national minority, people with disabilities and others. For example, for 2009, the annual implementation report mentioned that 1,187 people from a national minority (3.5 per cent of total beneficiaries at that point) benefited from projects funded under this programme, without distinguishing between Roma, Hungarians and other minorities (AMPOSDRU 2009). The distinction only appears in the 2011 implementation report, when the MA shows that out of a total
of 589,324 beneficiaries, 28,198 were Roma (4.78 per cent). These figures must be placed against the category defined as *Other disadvantaged groups*, which accounts for approximately 30 per cent of the total number of RO-SOPHRD registered beneficiaries at the end of 2011. The numbers are particularly telling if we focus strictly on key area of intervention 2.1, where approximately 5.16 per cent of the beneficiaries are Roma, despite the focus on early school leaving and the fact that Roma are disproportionately affected by this.

The slow progress in this respect also has a bureaucratic explanation. By 2010, it became obvious that there needed to be a more effective approach to the Roma issues; so the monitoring committee discussed and approved the creation of a workgroup in co-operation with the National Agency for the Roma. However, they opted for a highly formalized procedure, requiring that a Regulation concerning the organization and functioning of the technical workgroup for facilitating the access of Roma to RO-SOPHRD funded projects be developed and later approved by the monitoring committee (AMPOSDRU 2010). This regulation was only approved a year later (AMPOSDRU 2011), which meant the workgroup did not work and we cannot expect it to have impacted RO-SOPHRD implementation in any way.

The RO-SOPHRD dominantly manages to reach the younger and better-educated segments of the Romanian society, as shown by official data. It does not seem able to reach the multiply disadvantaged and less-educated segments of Romanian society and be effective in educational inclusion. The MA fails in admitting that, so far, the programme has failed in reaching the multiply disadvantaged and less-educated segments of Romanian society.

The situation analysis is, from this point of view, a very good example of blame avoidance. The MA suggests in national implementation reports that there is nothing wrong with this trend, as it results from the ‘specificity of the objectives of the priority axes and of the target groups’ and the ‘size of the financial allocation for each priority axis’ (AMPOSDRU 2010). Despite programming documents pointing the other way, the MA suggests lower-educated beneficiaries are targeted under PAs 5 and 6, which happen to have a lower financial allocation. At the same time, the difference is
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blamed on the extremely different speed of contracting under different PAs (higher for PAs 1 and 2 and lower for 5 and 6). Yet, this latter trend could have been easily corrected by the MA with minor decisions concerning the schedule of calls.

Conclusion

The approach to educational policy issues under the RO-SOPHRD is rather rigid and incomplete. Concrete steps taken in the implementation of the programme fail to respond to some of the problems identified in the situation analysis, most notably the problems of quality of teaching, development of pre-school education, increasing access, and participation in higher education of pupils from rural areas and disadvantaged groups. Moreover, the manner in which the commissioning cycle is managed is unfit to respond to the changing conditions in the educational system and on the labor market. The 2006 situation analysis and structure of the RO-SOPHRD are taken for granted, the MA focusing strictly on administrative and financial aspects. The most obvious symptom of this rigidity is revealed by the content analysis of calls, which shows practically no differentiation between calls launched in specific key areas of intervention. In fact, in terms of definition of social problems approached, purpose, target groups and activities, there is no difference from one call to another.

An underlying cause to the MAs’ failure in effectively approaching the issue of using ESF funding to target the needs of vulnerable groups is the public-political context in which the implementation happened. Very early, the emphasis was publicly placed on the rate of absorption and the cases of fraud, which further pushed a highly formalistic and hierarchical organization into a drive to produce regulations and procedures to approach the administrative and financial issues raised in the public space. This shifted necessary attention from issues such as the extent to which Roma benefited from ESF funding, or the impact of overly bureaucratized procedures on contractors. It became very much a matter of dominant goals and
the direction in which the MA chose to steer the ship of RO-SOPHRD, which is a matter of governance (see Peters 2006).

As public pressure increased, the MA became more defensive and less transparent, culminating with refusals to make public the action plans and progress reports requested by the EC in order to reinstate the programme. The blame-avoidance strategies employed have contributed to a severe deterioration of the relationship with contractors, which possibly contributed to further obstacles to implementation.

References


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