Addressing Structural Funds' absorption challenges: the case of Romania's bottleneck

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Abstract

This paper seeks to explain why Romania has failed to absorb the EU Structural Funds for transport infrastructure. In doing so, it advances the argument that poor administrative capacity, ill designed laws, the inadequate land register system and the uncertainty of land ownership constitute the major obstacles to Romania's successful absorption of SF. The paper examines the way SF function and their importance in reducing development disparities between EU countries, highlighting the centrality of absorption as a measuring indicator. The research includes the analysis of Romania's poor absorption rate and concludes by pointing at very specific policy shortcomings that should be addressed. In this way, the paper provides a guide to the policy networks involved with improving Romania's use of SF and its implications.

Key words: Cohesion Policy, Structural Funds, Absorption, Transport Infrastructure, Romania

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List of Abbreviations

AA - Audit Authority

CA - Certifying Authority

CEEC- Central Eastern European Country

CF – Cohesion Fund

CoR - Committee of the Regions

EC- European Commission

ERDF – European Regional Development Fund

ESF – European Social Fund

EU- European Union

IB- Intermediate Body

ISPA - Instrument for Structural Policies for Pre-Accession

MA- Managing Authority

MC – Monitoring Committee

MS – Member State

NGO - Non-Governmental Organization

NMS – New Member State

ONCGC - The National Agency of Cadastre and Land Registration

OP- Operational Programme

SF - Structural Funds

SOP- Sectoral Operational Programme

SOPT- Sectoral Operational Programme Transport

SOPT ENV - Sectoral Operational Programme Environment

NSRF - National Strategic Reference Framework

TEU - The Treaty on European Union

INTRODUCTION

The Structural Funds (SF) of the European Union (EU) have undoubtedly played an important role in helping less developed European Member States to catch up with the more developed ones. At the same time, these funds have also played a key role in Europe's consolidation as a united and competitive actor in the international economy. By helping the least developed neighbours, Europe is also helping herself.

There is no value-free aid, and the fact remains that Romania still represents a bottleneck in Europe's expansion. Thereof the amount of patience and capital that the EU has invested in this member of the Union can be understood. Romania – plays a strategic role in Europe's expansion: it provides access to the Black Sea countries, Greece, Turkey, the Balkans and eventually the Middle East. Europe's foreign trade needs Romania as much as Romania needs European funds.

The importance of market expansion and the strategic geographic position of the country are reflected in the fact that Romania gave high priority to infrastructure development when formulating its National Strategic Reference Framework 2007-2013. The Sectoral Operational Programme Transport (SOPT) together with Sectoral Operational Programme Environment (SOP ENV) receives about half of the total budget allocated to the Objectives of the Cohesion Policy. In addition, the poor infrastructure is reflected by the fact that it is the country that has received one of the highest shares of SF dedicated to transport and environment interventions among the newly accessed EU countries of 2004 and 2007.

Nonetheless, after several years of cooperation, Romania still has not been able to use the tremendous amount of financial support in the expected way. Why? Many explanations of historical, political and economic nature could be mentioned here. However, the indicator that synthesizes or encompasses (implicitly or explicitly) the aforementioned factors is that of low absorption rates of SF, which refers to the capacity to make use of this investment capital provided by the Union. In this sense, it can be argued that Romania cannot use SF because it does not have the capacity to absorb them.

Why cannot Romania absorb SF? This paper argues that because of inadequate administrative capacities at the national level. However, it goes further in the sense that it points out the specific institutional arrangements and actors involved, and highlights very concrete policy shortcomings that should be addressed. In this way, the paper provides a guide to the policy networks involved with improving Romania's use of SF and its implications.

Based on the previous discussion, this thesis has the following objectives: to examine the case of Romania in the context of the EU Cohesion Policy with an emphasis on the low absorption rates; to analyse the main policy shortcomings related with Romania's low absorption rates of SFs, especially on the field of transport infrastructure; to provide policy makers with a guide of the national-level institutional arrangements and actors responsible for addressing this issue; and to contribute to the design of policies directed at improving Romanian's capacity to seize the opportunity provided by the SF. In short, this paper provides both Romanian and European decision makers with a common understanding of obstacles, and to facilitate them to find way outs from performance deadlocks.

Thus, this paper seeks to answer the following questions: What does absorption tell us about the performance of a given country in relation to the use of SF and why does it matter? Why has Romania not been able to optimally seize the opportunity provided by the SF, especially in the area of transport and environmental infrastructure? Who is responsible for the design and implementation of these policies? How could the absorption rate be increased in Romania and which are the related policy shortcomings that could be addressed in the short term?

The paper will make use of both primary and secondary data and document analysis. The most up-to-date statistics on the absorption data in Central and Eastern Europe (CEE) are provided by the international accounting firm KPMG as well as by the European Commission (EC) and the Romanian Government. Through an extensive review of primary data as well as legislation and programming regulations of the Cohesion Policy, the paper will present the reasons behind Romania's deficient absorption capacity. The poor performance of infrastructure development programmes will be partly explained with the help of a comparative analysis with the Operational Programmes (OPs) that could absorb the available resources more successfully.

The paper is structured as follows. The first chapter provides a brief historical overview of the European Cohesion Policy by looking at its overall purpose, particular objectives and financial instruments. The second chapter outlines the theoretical framework of the research and it provides the reader with an international outlook about the absorption capacity of other CEE countries. The third chapter examines the reasons behind Romania's low absorption capacity with a special attention to the worst performing OP. The paper concludes with the implications of the analysis, provides some policy recommendations and presents its limitations.

CHAPTER 1 – Framing the discussion: the EU Cohesion policy

To start with, this chapter will first provide a brief historical overview on the development of the EU Cohesion Policy as well as the guiding principles and objectives of the policy field. It also presents the SF and their financial rules, and concludes with the examination of the institutions involved in their management.

1.1. Brief history of the European Cohesion Policy

Cohesion Policy aims at strengthening economic and social cohesion within the EU by reducing the gap in the level of development among different regions of the Member States (MS). SF represents the only clearly redistributive policy of the Union (Allen 2010:230). In order to understand the allocation mechanism behind this policy, it is crucial to outline the general processes which brought about its current state which was affected by economic, financial and political factors throughout the last few decades.

The 1957 Treaty of Rome did not include an explicit provision of legal and financial support of a regional policy in the six founding members, yet it stated the need for their greater unity and "harmonious development" (Brennan in Callanan 2007:78-79) "by reducing the differences existing between the various regions and the backwardness of the less favoured regions" (Preamble, The Treaty of Rome). With the first enlargement by the accession of Denmark, Ireland and the United Kingdom (1973), regional disparities widened extensively that brought about a considerable progress towards the establishment of a European Regional Policy (Hooghe 1996:29). In the early days, resources were distributed to the member states based on a quota demanded by governments in order to co-finance their national regional policies (1996:32), rather than allocated according to a comparative evaluation of particular regional needs (Allen 2010:230). It meant that relatively wealthy regions of the MS could be subsidized "at the expense of poorer regions elsewhere" (Bache 1998:40).

An integrated Community policy of economic and social cohesion was not established until the end of the 1980s with the first revision of the Treaty of Rome, the Single European Act (SEA), which came into force in 1987. The revision was needed due to the fact that new countries joined the EU, namely Greece, Spain and Portugal, thus regional disparities further increased (Hooghe 1996:30). The nine Community Members declared to engage in actions to strengthen both economic and social cohesion, and reduce the disparities between regions and rural areas at different levels of development (SEA, Article 130A). The reform of the SFs had a stronger regional focus, and brought together the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Agriculture Guarantee and Guidance Fund (EAGGF) with the main purpose to coordinate their activities in a more effective way (Bache 1998:41). In 1988, the European Council allocated ECU 64 billion to the Structural Funds, which doubled the annual resources during the period 1989-1993 (Sosvilla-Rivero 2010:92) in the so-called Delors-I package deal, which was the first financial framework of the EU with the main focus on the establishment of the Internal Market[1].

Following the 1988 reform, the next milestone in the EU Cohesion Policy was The Treaty on European Union (TEU) signed in Maastricht in February 1992 (it came into force in November 1993). The revision of the Treaty of Rome represented a new era in European integration by the establishment of the Economic and Monetary Union (EMU) and by the reinforcement of the priority attached to economic and social cohesion through assigning it as a key EU objective. Another important development was the establishment of a new financial instrument, the Cohesion Fund with the main purpose to co-finance infrastructure projects in the less developed Member State (back than Greece, Ireland, Portugal and Spain) and support them in fulfilling the convergence criteria (Manzella and Mendez 2009:15). In addition, the Committee of the Regions (CoR) was established, which plays an important role in the direct representation of the European regions. In order to meet the additional objectives and effective implementation of the revised Treaty, the size of the structural funds has been increased by the Commission again significantly, reaching the ECU 177 billion for the budgetary period 1993-1999 (Medak 2003:34), in the so-called Delors II package.

The next structural policy reform (Agenda 2000) reflected the forthcoming Eastern European enlargement (although it was undecided when and how many new member states were to join the EU), the increasing concern with unemployment and the strict fiscal consolidation pressures related to the introduction of the new common currency (Manzella and Mendez 2009:16). The accession of the Eastern bloc envisioned a 20% increase in the population of the EU, however only a 5% increase in its GDP (Sosvilla-Rivero 2010:93). Thus, due to the more difficult economic situation, the share of funding remained stable in the new budgetary package for the period 2000-2006 (Manzella and Mendez 2009:16)[2]. The new regulation was approved by the European Council in 1999. The main aspirations behind the reform included the increasing concentration of structural aid (by decreasing the number of priority objectives

[1] See http://ec.europa.eu/financial_perspective/questions/index_en.htm
[2] The EU cohesion expenditure was €233bn during the period 2000-2006 (EC DG Regional Policy)

and community initiatives), the growing decentralization in the policy implementation, the simplification of the programming documents and in turn, the reinforcement of the monitoring and reporting requirements (Manzella and Mendez 2009:17).

In the history of Cohesion Policy, another important programme should be mentioned. The Lisbon Strategy was launched in March 2000, which set the target of "making the EU the most competitive economy in the world and achieving full employment by 2010" and is closely linked to the structural funding as a means to achieve its primary goals (Heichlinger 2008:5). As years have passed the Lisbon Strategy proved to be a very ambitious plan, thus its targets needed to be simplified: according to the 2005 revision of the Commission[3], efforts should be focused to deliver a stronger, lasting growth and to create more and better jobs (Heichlinger 2008:5).

The last amendment of the TEU, the Treaty of Lisbon came about in 2007 (effective since December 2010). The most important changes were that the European Parliament became an equivalent legislator with the Council in the preparation, negotiation and implementation regarding SFs (Kramer 2010:5). In addition, it declared 'territorial cohesion' as a shared competence between the Union and the Member States and one of the policy objectives of the EU besides economic and social cohesion (Official Journal of the European Union 2007/C 306/47), although it did not provide any specific working definition to the concept. The general subsidiarity principle was also extended to the regional and local level and the institutional role of the CoR was further strengthened (Kramer 2010:7-8). The most recent reform of Cohesion Policy for the prevailing financial framework 2007-2013 was led by the fact that 10 new member states joined the EU followed by the accession of Romania and Bulgaria, which as mentioned above significantly increased the gap in the level of development among regions and challenged the objective of convergence within the Union.

1.2. Principles and Objectives

Cohesion Policy cannot be discussed without understanding its governing principles. Therefore, this section will present the fundamental principles of the Policy which provides the ground of the main Objectives of the current programming period 2007-2013. The four main principles are presented in Box 1 below.

[3] Based on the Kok Report 2004

Box 1 Basic principles of the EU Cohesion Policy

1. **Partnership:** officially introduced in 1988 but further strengthened in the programming periods that followed, partnership required that the regions and the Commission become involved in the preparation, implementation and monitoring of national programmes (Bourne 2007:300). During the years it was revised and extended to "competent regional, local, urban and other public authorities", "economic and social partners" and "any other appropriate body representing civil society" (Council Regulation (EC) No 1083/2006, Art. 11).
2. **Additionality:** this principle was introduced to ensure that structural assistance is not simply used to substitute national public expenditure, but one that complements and adds to it (Bourne 2007:300). Therefore the MS is required to uphold at least the same level of national structural spending in real terms from one programming period to another (World Bank 2006:9). Most of the EU programmes require national co-financing on a pre-determined rate.
3. **Programming:** From 1988 the EC started to finance the regional policy according to multi-annual development plans rather than subsidizing case-by-case projects which are submitted by the MSs based on national and regional priorities. The so-called National Strategic Reference Framework (NSRF) describes the current economic situation and challenges of the country and its regions, identifies the main objectives, priorities and strategic response for achieving them, and provides specific indicators on the foreseeable impacts of the provided SFs (Medak 2003:29).
4. **Concentration:** this principle put forward the concentration of funds in those regions of the EU which are less developed, thus are in greatest need of structural support. It also introduced certain geographical and economical criteria of eligibility for funding national programmes under the Objectives of Cohesion Policy (Medak 2003:30). In the first programming period, five major objectives[1] have been defined which increased to six with the 1995 enlargement. Over the sequential programming periods, the number of structural funds objectives have been gradually reduced, hence the degree of concentration has been increased (Allen 2010:239).

The above-mentioned basic principles have been complemented throughout the new programming periods. Currently the general Cohesion Policy regulation (Council Regulation (EC) No 1083/2006 of 11 July 2006, hereinafter "EC 1083/2006") lays down five more principles, namely the territorial level of implementation, the proportional intervention, the shared management, the equality between men and women and non-discrimination and finally, sustainable development (EC 1083/2006, Ch.4).

As Romania joined the EU only at the beginning of the current multi-annual financial framework, the Objectives of 2000-2006 did not apply to the country. Nevertheless, it was already eligible for pre-accession funds, which provided Romania as a candidate country with financial impetus in order to be ready to effectively handle future SF. In the period of 2000-2006, there were three main financial instruments available[4]. The country' share from the pre-accession aid instruments were the second highest among Central and Eastern European candidate countries: around one-fourth of the total budget of these funds was allocated to Romania (ESPON 2008:9). Due to the main fields of intervention (transport and environmental infrastructure), the experiences of the implementation of ISPA projects are the most relevant for the purpose of this research.

Box 2 Objectives of the EU Cohesion Policy 2007-2013

First, as the 2006 Council Regulation states, the '**Convergence**' objective aimed at supporting least-developed member states and regions "by improving conditions for growth and employment through the increasing and improvement of the quality of investment in physical and human capital, the development of innovation and of the knowledge society, adaptability to economic and social changes, the protection and improvement of the environment, and administrative efficiency" (Art. 3, 2a). It concerns those regions whose GDP per capita is less than 75% of the Community average (Art. 5). Around 81, 5 % of the resources were made available for this objective, thus the convergence objective has the highest weight among financial resources (Art. 19).
Second, the '**Regional competitiveness and employment**' objective was designed to support the regions outside of the first objective to foster their competitiveness and employment through increasing the quality of investment in human capital, innovation and the improvement of the accessibility of workers (Art. 3, 2b). The resources dedicated to this objective amount to 16 % of the total financial support (Art. 20).
Third, the '**European territorial cooperation**' objective is intended to encourage cross-border, interregional cooperation by exchanging experience and promoting common solutions for neighbouring authorities (Art. 3, 2c). The cohesion policy provides funds for NUTS III[1] regions that have internal, certain external or maritime borders (Art. 7, 1.). The third objective has the lowest allocation: 2, 5% of the total funding (Art. 20).

Source: EC 1083/2006

[4] The PHARE (Pologne, Hongrie Aide a la Reconstruction économique), the SAPARD (Special Accession Programme for Agriculture and Rural Development) and the ISPA (Instrument for Structural Policies for Pre-Accession).

The 2004 and 2007 enlargement led to an exceptionally high regional discrepancy within the Union, which was reflected in the new Objectives of the Cohesion Policy for 2007-2013, and also targeted in the Lisbon strategy. The Commission allocated EUR 347 billion for Policy representing 35,6% of the overall budget, with a major shift towards the NMS: while in 2006 only 22,5% of the funds were allocated to these countries, this figure grew to 44,7% in 2007 and to 55,3% in 2013 (Horvath 2005:460). The three main Objectives have been laid down in EC 1083/2006 and are presented in Box 2 above. In the following paragraphs the main financial instruments and rules of the EU Cohesion policy will be presented in order to clarify the means through which Cohesion Policy aims to reach its goals.

1.3. Structural Funds and key financial regulations

Structural Funds refer to three main instruments, namely the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF)[5].

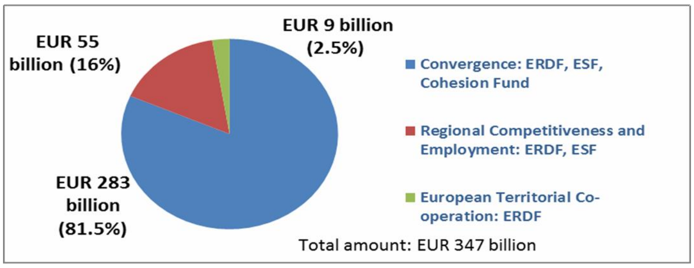
The ERDF was established in 1975 and went through several changes regarding its main target throughout the programming periods. According to the last regulation (EC No 1080/2006 of the European Parliament and of the Council of 5 July 2006), the main purpose of the fund is "to reinforce economic and social cohesion by redressing the main regional imbalances through support for the development and structural adjustment of regional economies" (Art. 2). With the budget of EUR 201 billion for the current seven-year period, the ERDF is the most important fund of the Cohesion Policy and its supporting projects of all three Objectives of the Cohesion Policy (Heijmand and Koch 2011:51-52). It contributes to the financing of productive investments, provides support to infrastructure building particularly related to research and technological development, electronic communication, environment, sustainable tourism, culture, transport and energy (EC No 1080/2006 Art. 3-4).

The ESF was set up in 1958 with the Treaty of Rome and is the oldest fund of the EU Cohesion Policy. The main task of the fund is stated in the Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006: it aims to enhance employment and job opportunities, promotes a high level of employment in the member states by supporting national policies and promotes financial assistance to help integration into the labour market (Art. 2).

[5] There are two more important instruments related to the regional policy which has been restructured in the recent programming period, the European Agriculture Fund for Regional Development (EAFRD) and the European Fisheries Fund (EFF) (Horvath 2005:460), yet this paper will not elaborate on the last two.

The CF was legally established in the 1992 Maastricht Treaty with the main purpose to develop the environment and transport infrastructure in less prosperous regions of the EU where the per capita gross national income is lower than 90% of the EU 27 average and do not have excessive public deficit. In the current multi-annual framework, 15 member states receive financial aid from this fund[6]. It finances project which fall under the scope of the convergence Objective. With the budget of around EUR 70 billion, the CF support investment in the infrastructure of the Trans-European Transport Networks, projects related to environmental protection such as energy efficiency, the use of renewable energy and the development of railroads (Heijmand and Koch 2011:52). Figure 1 demonstrates the financial allocation among the three Objectives and the related financial instruments presented above.

Figure 1 Objectives and financial instruments of EU SFs (2007-2013, EU27)



Source: KPMG (2008:7)

This huge amount of money proved to be difficult to spend on time in many NMS of the 2004 enlargement, thus for 2007-2013 certain regulations and practices became more flexible, the highest level of co-financing for the funds has been increased from 80% to 85% and the financial rule has been eased from 'n+2' to 'n+3' (Cace et al. 2009:11) for the twelve new member states as well as for Greece and Portugal. The latter regulation, also referred to the "de-commitment rule" of the EU, means that the budgetary allocation to programmes financed by structural funds can be de-committed by the Commission if it has not been used within three years from the year of commitment. In June 2010, a new proposal for amendment was approved by the Council in order to further simplify the rules governing the policy, "to help to accelerate investments in the member states and to increase the impact of the funding on the economy" (COD/2009/0107). The main changes concerned additional advance payments to deal with cash flow problems in some of the member states (including Romania), the easing of the 'n+2' rule for the old MS and other simplifications of rules[7].

[6] Greece, Spain on a transitional basis, Portugal, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, Bulgaria and Romania (Heijmand and Koch 2011:52).
[7] Regulation (EU) No 539/2010

1.4. Who deals with the money? Institutions and responsibilities

As Dimitrova (2002) states, no EU treaty provisions exist with regard to the design of the public administration of the MS. The lack of administrative criterion in the *acquis* implies that each country's government freely decides about its own public administration structure and regulation, thus there is a great variety of institutional solutions in this regard (2002:180). Nevertheless, the general principles of Cohesion Policy should be taken into account. From an institutional perspective, partnership, shared management, transparency and the separation of functions are principles. The basic institutional set-up and the main functions of these bodies in the supervision and implementation processes are specified in the Regulation (EC 1083/2006) under the general principles of management, monitoring and control systems.

To start with a broader picture, the administration of the SF is arranged in partnership based on a system of shared responsibilities between the EC, the MS and the regional or local level (Darmer 2000:249). The general regulation (such as the overall budget allocated to the policy field), concerning the Policy is designed by the European Council based on the proposal of the Commission. The latter assigns the eligible regions and areas based on the proposal of each MS, and it allocates the funds for the priority objectives of the programming period (Darmer 2000:249). In the next stage, the MS prepares a national development programme[8] and the Operational Programmes (OPs) on the basis of the available funds in partnership with the relevant partners[9]. The implementation of the OPs is the responsibility of the MS.

As pointed out before, the EC 1083/2006 provides the basic guideline of the function of the authorities which take part in the implementation of the Cohesion Policy between 2007 and 2013. There are three key authorities partly regulated by the before-mentioned legislation which should be designated and set up by the MSs for the management and control system of the Policy. As Horvat (2005) explains, each member state's government has to make a decision about issues such as which state agency (or ministry) will undertake the leading role in the management of SFs, who will be in charge of the implementation of OPs, financial execution and control, how the national co-financing will be secured and how the partnership principle will be guaranteed regarding the monitoring requirements (2005:6). As a general principle, the Council Regulation requires a clear separation of functions both within and between the authorities of the management and control system of operational programmes (1083/2006 Art. 58b).

[8] National Strategic Reference Framework (NSRF)

[9] Regional and local authorities as well as economic and social partners (EC No 1083/2006 Art. 11)

Managing Authorities (MA) are responsible institutions (public/private authorities or bodies at national, regional or local level) for managing and implementing each operational programme (Article 59-60). They decide on the funding allocations, instruments (such as loans and grants), the criteria to fund projects and the process of delivering the funds (Mizell 2009:92). Project generation, appraisal and selection also belong to the responsibility of the managing body (Barca 2009:73).

Certifying Authority (CA) was introduced for the current multi-annual framework replacing the Paying Authority of the previous period 2000-2006. The main role of the CA is to certify expenditure statements and payment applications to the Commission (Art. 59).

The **Audit Authority** (AA) is independent from both MAs and CAs (EC 1083/2006 Article 59). Its main functions are to ensure that regular "audits are carried out to verify the effective functioning of the management and control system of the operational programme" (Art. 62).

A **Monitoring Committee** (MC) is also set up for each or several operational programme in agreement with the relevant MAs and its main function is to "satisfy itself as to the effectiveness and quality of the implementation of the operational programme" (Art. 65). MCs are in charge of periodic reviews related to the progress in the achievement of main targets of the operational programme (Art. 65).

Intermediate bodies (IB) play a crucial role in the implementation of the Cohesion Policy. These public or private bodies are designated and work under the supervision of the MA (Art. 59). Although MAs remain present in the course of implementation, nevertheless, important tasks are delegated to the IBs. This role can be assigned to Ministries and its departments, too, often in a 'multi-tier' implementation system in which functions are further delegated from the 'first-level' to the 'second level' IBs (NEI 2002:15).

To sum up, it is the responsibility of the MS to designate the required institutional system for the management and control of EU funds, and regulate these organizations accommodated to the national legal system and practice. Yet, this regulation does not exclude the delegation of responsibilities of SFs related tasks to other organizations, bodies, committees and departments. The beneficiaries of structural assistance are often state agencies assigned by government decrees. Thus, depending on the national legislation, MS have a much more complex institutional structure handling EU funds than it could be concluded from the EU regulation itself.

CHAPTER 2 – Theory and practice: absorption capacity

The following chapter will clarify the definition of absorption and other concepts used in this thesis. It will give an overview of the latest contracted and payment ratios of SF among the Central Eastern European MS, placing Romania in a broader context. Finally, the possible levels of analysis will be presented.

2.1. What is absorption and why does it matter?

The concept of absorption should be understood within the wider framework of EU accession. Absorption is an indicator typically used in the context of the EU integration process, an operational concept that helps to measure the degree to which a candidate or newly accepted country can "absorb" not only European funds but also, the European management and administration style. In this sense, absorption is part of what can be called "effective membership". The concept of "effective membership" was introduced by Nicolaides (2003) with regard to the candidate countries who wished to join the EU. The author argues that being an effective member of the community is not only about maximizing the benefits from that membership, as it is hard to know whether that maximum level is being reached (2003:12). Therefore, he offers a different approach and defines effective membership as a composition of four things, one of them being the ability of 'maximizing absorption of EU funds', which involved the precondition that member states establish the right institutions and procedures and release corresponding national funds (2003:12-16). Mrak and Horvat (2009) as well as Knezevic (2010) point out that the experience of the new EU MSs, especially during the early post-accession period revealed that many of them had to tackle absorption capacity problem according to their low absorption ratios. But what does one actually deal with?

The capacity to absorb EU funds represents the extent to which "national and regional governments are able to effectively and efficiently spend the financial resources allocated via European funds within the assigned timeframe" (Mota et al. 2010:6). Absorption problems are defined by the EU as "the inability of recipient countries to spend all the available funds for investment in a given fiscal year" (Kálmán 2002:34). According to Kálmán's (2002) explanation, absorption problem occurs when the fund recipient region does not succeed to reach 100% of its target values, which means that "the administrative capability of a country or region to deliver and implement Operational Programs is not perfect" (Kálmám 2002:32).

The same author emphasizes that there is an important factor which one should keep in mind: the previous input-oriented definition is overlooking the effects of SFs on the basic goal of economic, social and territorial cohesion. She concludes that absorption problems can have different sources as well which can hinder the economy from the optimal growth referring to an output oriented approach (developed by Herve and Holzmann 1998), which states that, the positive macroeconomic effects of SF can be achieved even to a broader extent if the country does not have to deal with absorption problems (2002:32).

Indeed, Mota et al. (2010) also points out the main underlying assumption that higher absorption capacity leads to more favorable implementation records, thus to a higher impact of the funds on regional convergence (2010:6).

2.2. Why do absorption problems appear?

When discussing the drawdown of financial sources provided by EU SF, a distinction should be made between contracting and absorption. In statistical terms, absorption rate - often referred to as payment ratio - equals the amount of actual paid grants in the observed time frame as a share of the budget available for the entire programming period, whereas contracted ratio is calculated as the amount of actual contracted grants divided by the total budget of that period (KPMG 2010:7). Just like in any other kind of financial agreement, contracting represents how much financial allocation has been agreed upon between the managing authorities and the beneficiaries out of the whole budget. However, as Tomescu et al. (2009) describes, absorption is related to the general framework and goes through the whole process until the end of the project (2009:11)[10]. Therefore, the successful absorption highly depends on the performance of the managing authority i.e. the accessible and coherent information about the cohesion funding (publicity), the availability of application guidelines, prompt project evaluation and well-timed financial transfers to the grant scheme beneficiaries (2009:11). In the understanding of the author, managing authorities are not the only dependent variables. The overall process also depends on the demand side. If beneficiaries fail to comply with the requirements of the programme funding throughout the project, the managing authority can refuse the payment, hence, lowering the payment ratio (2009:12).

According to the approach of Reszkető (2008), a substantial segment of absorption problems arises due to different forms of government failures. The author suggests three main reasons

[10] This goes in line with Zaman et al. (2009) argument. The authors describe absorption as a process that prevails in different stages of the policy implementation e.g. in the programming, fund allocation and payment procedures (2009:142).

behind a low absorption. First, there are 'fundamental informational failures' caused by information asymmetry, uncertainty and complexity of information on the side of public actors (2008:9), which may have an important effect on the absorption of EU funds.

Secondly, there are 'institutional failures' which arise from the structure and organizational features of public institutions. On the one hand, a well-functioning administrative (adequate number of personal) and management capacity is an essential prerequisite of the policy implementation. Administrative failure can be overcome only in the long run through the development of bureaucratic efficiency (by measures such as training, well-organized procedures, exchange of experience and best practices), which is often a cost and time consuming exercise (2008:10). For this reason, the EU established gradually increasing pre-accession funds mainly targeting the improvement of administrative and institutional conditions of the candidate countries.

Institutional failures also occur due classical principle-agents problems which arise due to the complexity of the established institutional system in the MS at national, regional and local level, which may lead to overlapping or inconsistent competences, different policy priorities and conflicting interests (2008:11). Reszkető (2008) provides several practical examples for these. There are cases when the priorities of the planning authority of the central government considerably differ from the one stressed by the ministries, regional or local agencies; or when the regional body dealing with transfer allocation has no voice in actual financial decisions (2008:11-12).

Finally, the 'motivational failure' must be taken into consideration, too. It suggests that important decision making positions allocating public transfers may be held by rent-seeking agents who disregard public interest. In the case of EU SF, rent-seeking can occur at community level when countries pursue the highest amount of funds for the certain programming periods, at national level between central and local governments as well as in regional offices, and finally between any government body and private actors e.g. direct beneficiaries of projects, tender-writing/consultancy/training and auditing companies (2008:13).

The role of institutions and human resources dealing with EU grants and thus their function in the successful absorption of EU funds has been emphasized by several authors[11]. A comprehensive study was carried out by Horvat (2005), who claims that "the importance of

[11] See for example Horvat (2005:5), Knezevic (2010:19), Georgescu (2008:3)

absorption problems depends mostly on institutional factors, both at the EU and national levels" (2005:9). The author does not refer merely to the institutions which are directly dealing with the implementation of Cohesion Policy, but more generally to an array of factors that play a role at the national level: "structure of the economy, wage-setting institutions, administrative capacity and capability, organization of the political system (federal vs. central) and economic policies" (2005:9).

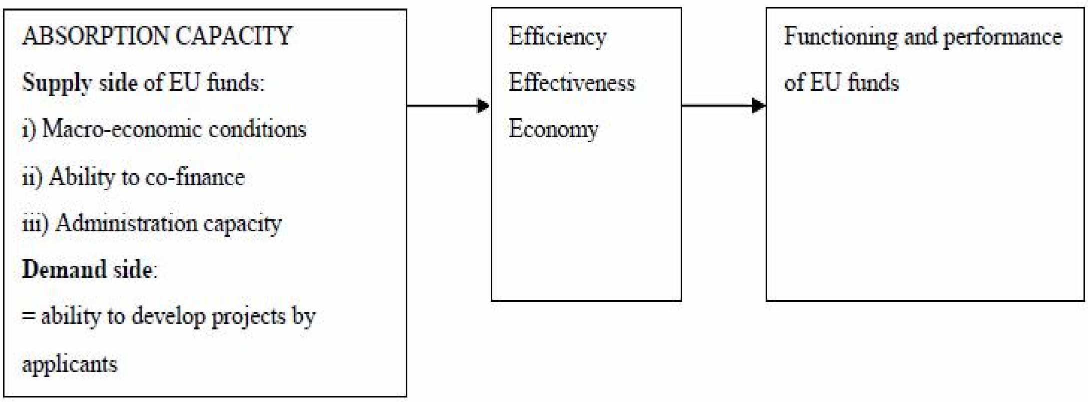
As Šumpíková et al. (2003) points out, absorption capacity has constrains on both supply and demand side of EU funds, the latter being "the ability by project applicants to generate acceptable projects" (2003:2). On the supply side, absorption capacity is related to the institutional system set up by a particular country to administer the funds. There are three main determinants first identified in the NEI study (2002) which are often cited in other studies dealing with absorption theories.

First of all, the **macroeconomic absorption capacity** of the fund receiving country is emphasized, which is defined and measured in terms of GDP (NEI 2002:2). At the level of EU regulation it means that the maximum level of annual transfers from the cohesion funds is determined to each member states according to their level of economic development (EC 1083/2006, Annex II. 7), but must not go above 4% of the GDP (Horvat 2005:9). Thus, the inflow of EU funds to the member states automatically involves an increase in the budget expenditure as a consequence of their membership (Cace 2009:16). Romania was granted 2.8% per the annual GDP of the country of the yearly EU fund, which is above the CEE average (KPMG 2010:52)

The second determining factor is the **financial absorption capacity** of the county which applies whether the MS is able to co-finance EU supported projects, whether it can "plan and guarantee these national contributions in multi-annual budgets", and whether the beneficiaries (both from the public and private sector) are able to apply due to pre-and co-financing requirements of structural funding (NEI 2002:2).

The third factor is the **administrative capacity** of the MS which refers, *inter alia*, to the ability and competences of public authorities to prepare proper plans, programmes and projects within the given time frame, to select the supported programmes and project, to co-ordinate and share information among horizontal and vertical partners, to manage the administrative and reporting requirements, and to provide a proper financing and supervision as regards implementation properly (NEI 2002:2).

Figure 3 Linkage between absorption capacity and performance of EU funds



Source: Šumpíková et al. (2003:3)

The arguments of the NEI study above were modeled in the research of Šumpíková et al. (2003), which shows that the effective and efficient management of EU funds can be looked at as an endogenous variable which depends on the absorption capacity of both demand and supply side (Figure 3). The link that connects the well performing Cohesion Policy to the absorption capacities requires the consideration of the effectiveness and efficiency of the recipient economies (2003:2).

At the discussion of the impact of Cohesion Policy, the last report on economic, social and territorial cohesion of the EC (2010) also drew the attention to the importance of "strong and sound administration at national, regional and local levels [...] for the success and lasting effect of Cohesion Policy" (2010:xxi). The Commission observed that although new MSs have considerably improved their administrative capacity since joining the EU, further efforts are needed to effectively deliver this policy (2010:xxi).

The following part of this research will look at the latest data concerning the contracted and absorption ratios of SFs in CEECs. This data provides an overview on how the new MSs perform in the middle of the EU budge-cycle.

2.3. Absorption performance of the new member states

The latest available data on the contracted and payment ratios of EU funds in the CEECs was published in the KPMG Progress Report (2011). From the report the following can be established: the best performing countries in both contracting and absorption are the two Baltic States, Latvia and Lithuania. Regarding the contracted ratio Estonia, Slovakia and the

Czech Republic is above the average (53%), Poland, Hungary and Slovenia lie around the mean. As regards the payment ratio, Slovenia and the Czech Republic are doing much better than their contracted ratio would suggest, while Estonia performs slightly above the average. Slovakia, Hungary and Poland's absorption rate is about average among CEEC. In terms of contracting, Bulgaria has the lowest rate, half as much as the Baltic countries and it seriously lags behind in terms of absorption as well. Romania made serious improvement in terms of contracting since 2009; however, its absorption ratio is the lowest (7%) among all CEECs (see Table 1).

Table 1 Contracted and absorption ratios among NMS

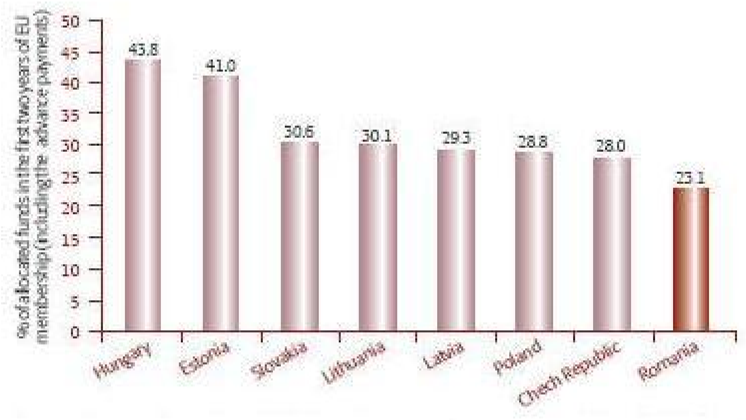
	Contracted Ratio		Absorption Ratio	
	December 2009	December 2010	December 2009	December 2010
Latvia	38%	76%	13%	30%
Lithuania	41%	68%	17%	29%
Estonia	44%	60%	12%	21%
Slovakia	27%	57%	5%	17%
Czech Republic	25%	55%	8%	26%
Poland	23%	53%	7%	16%
Hungary	39%	51%	10%	16%
Slovenia	35%	48%	18%	27%
Romania	16%	**45%**	2%	**7%**
Bulgaria	23%	37%	4%	10%
Average	**31%**	**53%**	**10%**	**17%**

Source: KPMG Progress Report (2010, 2011)

These numbers let us conclude that there are three clusters of the NMSs in this matter: the Baltic countries as best performers, the Visegrad Group together with Slovenia around the average and the countries of the 2007 accession with a very low level of absorption. One can argue that it is not surprising considering the fact that Romania and Bulgaria have joined the EU two and a half years later than the other NMSs; therefore they have less experience handling SF. The much lower level of economic development of these countries could be another counterargument here. However, if one controls for the year of accession, the difference is still huge. In Figure 2 below it can be easily seen that the absorption rate of cohesion funds was also very low (23.1%) in Romania in the first post-accession years compared to other countries of the 2004 enlargement: in the first two years of membership, it was only about half as much as in Hungary or Estonia for instance. All the above said draws the attention to a serious problem in handing EU money in Romania which should be addressed as soon as possible, since Romania is putting at risk a huge amount of money which can be de-committed by the EU if not spent.

Figure 2 EU SFs' absorption rate in the first two years of EU membership

(Romania: 2007-2008, other countries: 2005-2006)



Source: International Business Promotion, Romania (2010)

Absorption can be looked at by the area of intervention as well. The KPMG Report (2011) also provides a cross-country comparison for that in respect of contracting. The results show that half of the ten intervention types performed below the average in Romania: this was the case of transport, energy, economic development, public administration and technical assistance. The highest contracted percentages came from the fields of human resources and urban-rural development, but the other countries did not score low in these areas either (2011:11). Nevertheless, the Regional and the Human Resources Development OPs still counts as a successful case in Romania.

2.4. Modes and levels of analysis

The aforementioned absorption theories gave an insight into the topic and let us determine at which level this issue can be analyzed. As pointed out by Perger (2009), the evaluation of the EU Cohesion Policy can be carried out at three different levels. In the broadest sense, it can be examined at the level of EU public policy, and it can be asked whether the Policy is able to reach its stated goals, whether economic, social and territorial cohesion is actually being fostered, regional disparities decreased and employment reinforced as a result of proper use of structural aid (2009:10). Several evaluation reports and studies have been already issued by the EC on both the potential effects of SF and ex-post assessments on how effectively and properly European taxpayers' money has been spent[12] (Trón 2009:150). The scope of a master thesis would not allow carrying out such an analysis even if it were limited to a certain sector.

[12] Examples include the Annual Reports on implementation of SF (latest: 21st edition of 2009) and the Reports on economic and social cohesion (5th edicion issued in November 2010) by the EC

Efficiency and effectiveness can be also assessed at the level of OPs by looking for evidences whether the aim of the programmes has been achieved and whether the inputs have produced the expected direct or indirect outputs of the community's intervention (Perger 2009:11). The general regulation of the Cohesion Policy requires ex-ante, ongoing (during the period of implementation) and ex-post evaluation of each OPs (EC No 1083/2006, Article 47-49), but the monitoring system also provides a constant feedback on the Policy. This thesis will target the OP level, and look at the reasons behind the very low level of absorption in Romania, in two specific areas of intervention: transport and environment, where both the contracted and the payment ratio are below the average. Nevertheless, the limitations of this study will partly be originated to the very fact that the before mentioned ongoing evaluation studies on the implementation of this interventions are not publicly available.

Another possible evaluation level would concern the specific projects themselves. As Perger (2009) argues, programme assessments can also include large-scale projects and examine whether the outputs and the outcomes of the project effectively and efficiently served the overall policy goal (Perger 2009:11). Typically case studies belong to this group of studies. Although they provide an accurate picture of a given project, they do not allow drawing far-reaching conclusions on the impact of the whole regional policy at an aggregated level (Trón 2009:159-160), and are not able to calculate the spill over effects or positive and negative externalities on the whole policy (Trón 2009:161).

CHAPTER 3 – Spending is challenging: the case of Romania

The following chapter provides a critical analysis on why Romania was unable to speed up the absorption of EU funds in general, and in the case of infrastructure development in particular. First, it provides a synopsis of the Romanian Cohesion Policy during 2007-2013. The paper will then explain the crucial role of the two poorly performing SOPs in the field of transport and environment. This section will be followed by an analysis which will present the most common explanatory variables of the low absorption rate of the two SOPs with the purpose to explain the late implementation of EU funded projects.

3.1. Brief overview of the Romanian Cohesion Policy

After almost a decade long negotiation, on 1st January 2007 Romania became an official member of the EU. With regards to the EU Cohesion Policy, Romania had to comply with certain requirements of the *acquis* in order to benefit from the SF. The main areas which had to be adopted were the appropriate legal framework; the territorial organisation (establishment of the NUTS regions), the programming capacity (such as the submission of development plan, the implementation of the partnership principle or the conformity with the monitoring and evaluation requirement); the establishment of the institutional framework and administrative capacity, and last but not least the financial and budgetary management[13] (EC webpage). During the pre-accession period (2000-2006), Romania had to prepare and implement its National Development Plans (NDPs), which addressed both the 'internal necessities' of the country to reduce economic and social disparities and the "external requirements" of the EU to create the necessary legal and institutional framework and prepare the country for the administration of a much higher amount of financial inflow after accession (Constantin 2006:6).

In the current programming period 2007-2013, the financial allocation of the EU reached EUR 19.2 billion (in 2004 prices) in Romania. This amount is complemented with the national public contribution of around EUR 4.1 billion, thus the country is planning to spend a total amount of EUR 23.3 billion. Due to the low level of economic development, all Romanian regions are eligible for the 'Convergence' Objective from the financial instruments ERDF, ESF and the CF (KPMG 2011:38). In the 2007 NSRF, the Government of Romania identified

[13] See the exact requirements http://ec.europa.eu/enlargement/archives/enlargement_process/future_prospects/negotiations/eu10_bulgaria_romania/chapters/chap_21_en.htm

the main challenges requiring long-term structural interventions[14]. These areas were then reflected in seven OPs: four sectoral (Transport, Environment, Increase of Economic Competitiveness and Human Resources Development), one Regional, one Administrative Capacity Development and one Technical Assistance OP have been set up.

In line with the principles of subsidiarity and proportionality, it is the primary responsibility of the MS to coordinate, implement and control the interventions under their NSRF. The Government of Romania established the following institutions in the programming document.

The responsible organization for the co-ordination of the management of the Romanian NSRF is the Authority for Structural Instruments Coordination (ACIS) from the Ministry of Finance (MoF) with several committees at national and regional levels. In March 2011 the Government took this role from the MoF and gave the authority to the Prime Minister through Emergency Ordinance. As officially published (17 March 2011), "the measure was taken in order to facilitate increase in the absorption of EU funds and is endorsed by the European Commission" (Government of Romania-Press Office)[15]. The Managing Authorities are the ministries responsible for the management and implementation of the OPs. Several tasks are delegated to Intermediate Bodies, except in the case of SOPT, OPAC and OPTA. The Certifying Authority is the Ministry of Economy and Finance for all OPs. The Audit Authority is an associate body of the Romanian Court of Accounts. Finally, Monitoring Committees (MCs) were established by each OP (NSRF 2007).

Some of these authorities and bodies have already existed before Romania became a full member of the EU with the purpose to handle the three pre-accession funds; nevertheless, some had to be established from scratch. To some extent it explains the inadequate 'administrative capacity' of the institutions. It is a valid argument that for the other members which joined the EU in 2004, the period 2004-2006 meant another extra preparation time. Indeed, each policy implementation is a learning process. Governments of the MS try to implement the best policies which they think better serves an effective use of EU funds, but they constantly have to re-evaluate their institutional structure which was the case in many other EU members.

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[14] The main areas were: basic infrastructure, economic competitiveness, human capital, administrative capacity and territorial dimension.

[15] See the official announcement http://www.gov.ro/authority-for-coordination-of-structural-instruments-passes-under-the-prime-minister-s-authority__l2a112621.html

3.2. Importance of infrastructure development in Romania

As emphasized in the NSRF of Romania (2007), one of the most urging challenges of the country concerns the basic infrastructure e.g. underdeveloped road, rail, water, air transport system and networks, lack of inter-connectivity as well as the poor quality of drinking water, sewerage and waste management, and the lack of environmental awareness (NSRF 2007:4). This national development priority is supported by both the SOP Transport (SOPT) and the SOP Environment (SOP ENV). It is an important cornerstone of Romania's development, thus almost 50% of the total budget was allocated to these infrastructure-oriented programmes (see Table 2).

Table 2 Financial allocation and absorption ratios by OPs in Romania (2007-2013)

	Community Funding 2007-2013 (EUR)	National Co-funding	Total	Co-financing rate	Budget share	Contracted ratio (12.2010)	Payment ratio (12.2010)
I. SOP Transport	4.565.937.295	1.131.727.010	5.697.664.305	**80%**	**24,5%**	**15%**	**1%**
II. SOP Environment	4.512.470.138	1.098.406.807	5.610.876.945	80%	**24,1%**	**43%**	**2%**
III. SOP Increase of Economic Competitiveness	2.554.222.109	456.880.317	3.011.102.426	85%	13,0%	34%	9%
IV. Regional OP	3.726.021.762	657.561.936	4.383.583.698	85%	18,9%	70%	13%
V. SOP Human Resources Development	3.476.144.996	613.213.718	4.089.358.714	85%	17,6%	72%	12%
VI. OP Administrative Capacity Development	208.002.622	38.011.459	246.014.081	85%	1,1%	33%	4%
VII. OP Technical Assistance	170.237.790	42.559.448	212.797.238	80%	0,9%	27%	5%
Total	**19.213.036.712**	4.038.360.695	**23.251.397.407**		100%	45%	**7%**

Source: OPs' Programming Documents (2007) and KPMG (2011)

Table 2 not only presents the magnitude of these funds but also the extremely low contracted and absorption rate in general, and in the case of the SOPT and SOP ENV in particular. Almost four years after the launch of these programmes, Romania was only able to spend 1% of the funds supporting transport and 2% of those allocated to the environmental infrastructure. If we look at the contracted ratio, the performance of these programmes is also weak and falls below the average in Romania.

According to the 'n+3' rule of the EU, Romania has lost about 81% of funds in the area of transport (SAR 2011:31), although no official announcement on that has been published so far.

The successful absorption of both the SOPT and SOP ENV would be of strategic importance for Romania for several reasons. The SOPT is crucial because the poor conditions of transports and roads have negative consequences for Romanian society and impede the expansion and competitive integration of the European market into the world economy. With regard to the negative effects that a poor infrastructure has for the population, there are not only the economic ones that have been mentioned elsewhere (e.g. low labour mobility and employment) but also the social ones. For example, in terms of traffic safety, there has been "a 25% increase in the number of casualties between 2001 and 2008" (Oreviceanu 2011:2), which means people are dying in preventable accidents related with transit infrastructure.

Furthermore, the transport problem is entangled with the environmental challenge that is addressed by the SOP ENV. For example, "according to the latest Emissions Inventory of Green-house Gases (2009), emissions of carbon dioxide (CO_2) generated by the transport sector (in Romania) increased by 212% between 1989 and 2006 due to 231% increase of registered cars number in the same period of time" (Oreviceanu 2011:2). On the side of the economic performance of the EU, it must be said that Romania plays a strategic role in literally "transporting" the expansion of the European market towards the countries of the Black Sea, the Balkans, Greece and eventually the Middle East and the Mediterranean. And to illustrate, it can be said that while in many western European countries the railroad speed can hit 320km/hr (Ilie 2011: 2), in Romania on "rail the average speed is 25-30 km/hr" (Suciu and Horvath 2009:13), which means an around ten times higher time cost.

3.3. Uncommitted euro billions in the transport sector and its explanations

Before looking for more specific reasons explaining the absorption failure of two particular areas, it is unavoidable to speak about the academic explanations of the very low level of payment ratios in Romania in a few words. The factors which will be enlightened here are true for all OPs in the country, although the scope of this research does not allow making judgments about which cause is present strongly in one or another OP. After the general picture, this research will contrast the two worst performing OPs in terms of absorption with those which had a higher degree of contracting and absorption. As Table 2 illustrate, this is the case of the OP Human Resources Development and the Regional OP.

The most common claim of the articles that were written about absorption problems in Romania points to the administrative capacity constrain. More explicitly it points to the absence of a strong administrative system: weak institutions (Badea 2011:10), the lack of a strategic planning at the institutional level (Berica 2010:115), slow actions of the institutions specialized in analysis and contracting of the projects (Laurentiu 2010:544) and the lack of experience in elaborating large scale projects at European standards (Gherghinescu 2009:222). Another often mentioned explanation is the shortage of human resources within the Romanian public administration, which is a "cross-cutting problem" in all OPs and concerns both the insufficient number of personnel, the lack of relevant skills (SAR 2011:29-32) and low, not performance oriented salaries (Berica 2010:115). On the side of the beneficiaries problems arise at the stage of the application due to the lack of specialized stuff, low level of information and the low financial and management capacity of the beneficiary, among others (Laurentiu 2010:544). The deficit in transparency in public tender procurements was also pointed out by Gherghinescu et al. (2009:222).

To continue with a more specific analysis of the failure of the SOPs, one can look at the stakeholders who are involved in the implementation of the programme. On the side of the OP management bodies, the Managing Authorities of both Programmes are the relevant ministries: the Ministry of Transport and Infrastructure (MTI)[16] within the General Directorate for Foreign Financial Affairs and the Ministry of Environment[17]. In the case of the SOPT it can be observed that there is no IB involved, thus the management responsibilities are fully concentrated in the Ministry of Transport. In the case of the SOP ENV, the implementation role is partly delegated to the regional level: according to the number of development regions, eight IBs have been set up with assigned responsibilities in the programming and monitoring activities. The latter follows a decentralised model, which aims to bring the decision making closer to the regional level and local needs (as the principle of subsidiarity requires), while the transport programme is centralized in one particular Ministry.

Following the model of Šumpíková (2003) presented in Chapter 2, the absorption capacity can be analyzed from the demand side i.e. from the viewpoint of beneficiaries. It can be asked whom these funds are assigned to and which kind of organizations can deliver projects. Both infrastructure-oriented OPs clearly show a pattern that the main beneficiaries are either bodies of the public administration (local authorities, municipalities, county councils or associations of municipalities) or as is mostly the case with transport project, national administrators of road, shipping and airport infrastructure, and state owned railway and motorway companies. A

[16] The previously called Ministry of Transport, Construction and Tourism
[17] The previously called Ministry of Environment and Sustainable Development

relatively small portion of the total budget of these OPs is assigned to non-state actors. In the case of one of the priorities within the SOP ENV, non-governmental organizations (NGOs), research institutions, universities and museums can also apply, while SOPT gives room to companies which perform or plan to perform logistics operations in Romania in one of the Priority Axes (for details see Table 5 in Annex). In the case of the OP Human Resources Development, which performed high in terms of contracting (yet not in absorption), the beneficiaries are enterprises, trade unions and associations, vocational training providers and NGOs, thus not public sectors agents. The other OP with the high contracted ratio is the Regional OP, where although local governments are also targeted, there is much more opportunity for private (companies and cooperative societies) and third sector (NGOs, social cooperatives, mutual associations, charities and voluntary organizations) applicants to deliver EU funded projects[18].

This argument has an implication related to the financial absorption capacity of the MSs, which implies the co-financing requirement of the OPs. The SOPT and the SOP ENV mostly comprise large-scale projects, which require a huge amount of financial commitment from the applicants as well. It is not to say that this problem does not appear in the case of private or third sector actors. Pre-and co-financing is one of the main challenges encountered regarding their application, too. Nevertheless, large-scale projects entail a yet much bigger co-financing part which is a significant burden to deal with for local public authorities.

The low absorption rate in Romania is explained by some authors partly due to the economic and financial crisis since 2008. Constantin et.al. (2011) claims that the financial crisis created additional impediments to ensure the national contribution in the co-financing scheme. Even if the co-financing ratio has been decreased for Romania to 15% (13% coming from the state budget and 2% from local co-financing), still in several cases "there is an acute shortage of financial resources for public and private co-financing investment" (2011:12). However, the Romanian Academic Society (SAR 2011) argues that both the EC and the Romanian Government took measures and extended the amount of pre-financing to Romania and the beneficiaries which helped to overcome the liquidity problem, thus the global crisis itself cannot explain the low absorption in Romania (2011:31)

The slow absorption of the SOPT can be explained by yet another factor as well. From Table 3 it can be seen that the date of approval of the Programming Documents of each OPs by the

[18] See the programming documents of the relevant OPs.

European Commission as well as the date of first call for applications differs significantly. Although the programming period started in 2007, the documents were submitted and approved late, which led to the fact that the first applications were invited only between September 2007 and March 2008. Here, a significant difference can be observed between the SOPT and the SOP ENV. Environmental infrastructure projects were launched one year earlier than transport ones: the SOPT launched the first call only in October 2008, when the second year of the financial framework was about to finish. No wonder that by the end of 2009, they could contract only 4% of the total budget and pay out only 0.6% of the total (KPMG 2010:54).

From these data we can argue that there is a link between the late start of the applications and the failure of the OPs, yet the low absorption cannot be explained only by this factor. Also it should be considered that the complexity of transport infrastructure projects may require a longer preparation than the projects of the other OPs. But the fact still reflects the poor performance regarding long- and medium-term planning at government levels and the lack of clear-cut development plans in the respected sectors.

Table 3 Date of approval of OPs and first call of application in Romania

	Date of approval by EC	Date of first call for applications
SOP Transport	12/07/2007	**03/10/2008**
SOP Environment	11/07/2007	**08/10/2007**
SOP Increase of Economic Competitiveness	12/07/2007	17/03/2008
Regional OP	12/07/2007	10/09/2007
SOP Human Resources Development	22/11/2007	15/02/2008
OP Administrative Capacity Development	21/11/2007	15/05/2008
OP Technical Assistance	n.a	n.a

Source: SAR (2011:30)

We can conclude that the SOP ENV with the second lowest absorption ratio among all OPs can still catch up due to the fact that it succeeded to contract 43% of its total budget, which is satisfactory if we take into consideration the 'n+3' spending rule of the EU. However, this will be much more difficult in the case of SOPT.

The explanation which got much less attention is the lack of accountability and the incompetence of the responsible authorities implementing Cohesion Policy. This is especially true in case of the SOPT. It has been mentioned elsewhere in this thesis that different factors contribute to the low absorption of SF in the Romanian transport sector. However, this paper also argues that one element impeding a better absorption rate of SF in the Romanian transport sector that has been overlooked by the academic work refers straightforwardly to the incompetence of authorities. Let us proceed from the general to the particular, beginning with the Law for the Spatial Planning of the national Territory (Law No. 363/2006, Section 1 Transport Networks).

The Romanian Parliament approved this law in 2006, and it was supposed to provide the grounds for the realization of the Transport network within the country. However, this law is ill designed. It does not assign clear responsibilities to any governmental body; it does not establish any timeframe or deadlines; there are no clear budgetary provisions. In a nutshell, this law is almost useless because it does not contain any provisions to make it operative. Instead, the only thing this law does is to give a list of roads and rails that should be built, improved or maintained, but without ever mentioning when, by whom and how. Now, whom if not the Parliament in general and the MPs in charge of transport in particular can be blamed for producing such an incomplete piece of legislation? Furthermore, what if not their incompetence can be behind this?

In the second place, we can also examine the SOPT 2007-2013 programming document in this respect. The SOPT mandated the elaboration of a General Transport Master Planning (GTMP), which should be the basis for future development of the sector and should also provide for the "implementation of the concept of a country-wide Romanian transport system development that will be internally coherent and interoperable with the European Union system" (SOPT 2007:3). It is worth mentioning that, four years later in 2011, this GTMP is still non-existent. Furthermore, the Romanian government recently launched a tender for technical assistance in the elaboration of a General Master Plan for Transport, which had an application deadline set on June 7, 2011 (The Railway Insider, 2011). In other words, after four years, the Romanian authorities have not even been able to develop the conceptual map of what the transport network should be. This again can hardly be blamed on anything but their own incompetence.

Finally, at the Ministry level, it can be pointed out that while from 2007 to 2010 only EUR 47 million coming from the SFs for transport development were used, the arrival of a new

Minister (Anca Boagiu) has translated in an increase of up to 113 million euros used for this purpose (Ilie 2011:4). In other words, only by changing the person in charge of the Ministry, more money was absorbed in three months than in three years. Again, what if not the incompetence of the previous Minister can explain such a contrast?

The aforementioned evidence supports the claim of the former Finance Minister of Romania, Sebastian Vladescu, from whose point of view

> (...) the lack of motorways in Romania is due 60 percent to incompetence, 30 percent to corruption and 10 percent to valid, objective reasons (...) Political and individual interests may be present to a higher degree in Romania than in other states. But Romanians are incompetent more than they are corrupt. If Romanians were corrupt they would do everything in their power to attract EU funds so they can spend them. That has not been the case (Ilie 2011:5).

The final argument of this paper would like to emphasize an important but rather overlooked obstacle impeding the implementation of infrastructure projects. It concerns the complex and historically deep-rooted issue of land registration and the uncertainty of land ownership, which has already led to timely preparation and lengthy land acquisition processes of the ISPA funded projects (SOPT 2007:49-50), nevertheless, the problem is still there. In the Annual Implementation Report of SOPT (May 2011), the Monitoring Committee indicates delays due to lack of possession of land in several occasions[19].

In a nutshell, Romania did not have an integrated cadastre-registration system before joining the EU because it inherited three different systems from the past. There was one system in place in Oltenia, Wallachia, Dobruja and Moldavia (former Romanian Kingdom), another way to register in Crisana, Transylvania and Banat (earlier Austro-Hungarian Monarchy, later Hungarian Kingdom) and a third, which was established by the communist Romania to register socialized real estates of collective farms. To set up the first nation-wide system was decided only in 1996 (Law of Cadastre and Land Registration no. 7/1996), and it created the National Office for Cadastre, Geodesy and Cartography (ONCGC, webpage)[20].

Although the World Bank provided significant loan to set up the new structure (from 1997), and the EU gave financial assistance to support this tremendous job via the PHARE program, the administrative infrastructure for the use of modern property rights is still under reconstruction (Sztranyiczki 2003:47). The reason for these difficulties is easy to see: Romania is trying to modernize its land registration in time of massive privatization and the emergence

[19] The report is available http://www.ampost.ro/main.php?module=articleview&action=view&id=44&itemId=1
[20] See the ONCGC webpage for more details http://www.ancpi.ro/pages/wiki.php?pnu=newsletterEN&lang=en

of thousands of family farms. The inadequate land register system itself is an obstacle to the development projects, thus the absorption of EU Funds. If the ownership of a property or a land is uncertain, projects are delayed or simply cannot be approved.

In conclusion, if a unified system of registry is not well established, and as a consequence the legal status of real estate properties is uncertain, that is a clear responsibility of the state. Even if all financial resources would be available, it is not something which can be done overnight; it requires an appropriate administrative background and political commitment. However, the national integration of the different administrative and registration systems is a precondition of European integration.

CONCLUSION AND POLICY RECOMMENDATIONS

The EU Cohesion Policy and its instrument the SF play a fundamental role in providing less developed MSs with a financial catalyst to reduce the gap that separates them from the most developed countries of Europe. At the same time, the development that can be accelerated with the help of SF plays an important role in strengthening Europe's economic integration and expansion. In the case of Romania, the successful implementation of the OPs – in particular that on transport infrastructure – is crucial for both the country and the Union. It would help Romania to reduce its excessive infrastructures deficit, boost its economy and provide Europe's trade with a passageway to the other parts of the continent, the Black Sea and the Middle East.

The successful implementation of the Cohesion Policy depends to a large extent on the macroeconomic, financial and administrative absorption capacity of the receiving country. At the end of 2010, Romania had far the lowest absorption rate (7%) among the new members of the Union. A significant amount of the assigned budget remained unspent, which was especially striking in the case of the SOPT: the Ministry of Transport and Infrastructure could only pay out around 1% of the allocated amount. Romania should speed up its spending because it is putting at risk a huge amount of money which can be de-committed by the EU.

This paper has demonstrated that the reasons behind Romania's low absorption are multifold, but can be mostly derived from both inadequate administrative capacities (such as weak institutions, lack of trained personnel, low salaries, lack of experience in elaborating large scale projects) and co-financing problems. Nonetheless, the analysis has shown that in the case of infrastructure-oriented programmes there are other shortcomings impeding a higher rate of absorption, which got less consideration or are not precisely indicated in the academic debate.

The poor performance of these projects reflects ill designed laws, as is the case of the Law for the Spatial Planning of the National Territory. This law is not operative given the fact that it does not assign clear responsibilities, nor contains timelines and budgetary measures. Another major obstacle lies on the inadequate land register system and the uncertainty of land ownership. This study provided an example to demonstrate that legal, procedural and institutional stability is unavoidable for European understanding of property, ownership as well as social and economic development. Without that, accountability, transparency, the free market and open competition, not to mention the effective planning and efficient use of funds are paper tigers.

In terms of policy making, it is worth noting that in the case of large scale development programs ex-ante evaluations must be taken seriously. This can be a lesson for both Romania and the European Commission. Considering the existing Romanian OPs, it would be useful to evaluate not only conditions but pre-conditions of effective financial absorption and successful program implementation. Based on the findings of this study, such an evaluation most likely should result in a partial redirection of funds to increase monitoring activity of program implementation.

In addition, fast feedback and quick response to bottlenecks are highly important. Hence, if Romania would like to use the development opportunities provided by the EU, there is an urgent need for targeted legislative actions aimed at better coordination and closer partnership of government actors, e.g. ministries and other government agencies as well as some form of affirmative or urgent procedures in other government branches, i.e. before courts and in the Parliament. It would be mistaken to blame only certain private persons and public figures for the failure and incompetence of absorbing EU funds in Romania. The question is rather what incompetence means under social, economic and administrative terms. Whether it is really the lack of competence or inefficient government structures or a kind of historic inertia, an old and endless fight against conditions inherited from the past.

The scope of this study does not allow for an assessment that includes all aspects of low absorption of SF in the transport infrastructure in Romania. That would require an extensive field research and empirical analysis in order to shed light to all driving forces. However, it pointed out important challenges which require urgent action and political consensus to overcome.

Appendix

Table 4. Number of projects submitted and approved 2007- 27 May 2011, Romania

	Projects Submitted	Projects Approved	Funding Decisions	Funding Decisions %
I. SOP Transport	82	47	43	**0,6%**
II. SOP Environment	428	208	195	**2,7%**
III. SOP Increase of Economic Competitiveness	8.575	2.338	1.764	30,7%
IV. Regional OP	7.755	1.738	1.474	22,8%
V. SOP Human Resources Development	10.165	2.893	2.003	38,0%
VI. OP Administrative Capacity Development	1.290	332	302	4,4%
VII. OP Technical Assistance	80	65	59	0,9%
Total	**28.375**	**7.621**	**5.840**	100%

Source: Government of Romania-Press Office

Table 5. OPT and OP ENV: Priority Axes and financial instruments 2007-2013, Romania

OPERATIONAL PROGRAMMES AND PRIORITIES 2007-2013, ROMANIA		Fund	Beneficiaries
I. SOP Transport			
Priority Axis 1	Modernization and development of TEN-T priority axes aiming at sustainable transport system integrated with EU transport networks	**CF**	Romanian National Company for Motorways and National Roads, Romanian Railway Company CFR S.A. (infrastructure company), Autonomous Regie River Administration of the Lower Danube – Galati National Company for Navigable Channels Administration
Priority Axis 2	Modernization and development of national transport infrastructure outside the TEN-T priority axes aiming at sustainable national transport system	**ERDF**	Several National Companies Ex. Romanian National Company of Motorways and National Roads, TEN-T Airport companies, Romanian Railway Company
Priority Axis 3	Upgrade the railway passenger rolling stock on the national and TEN-T railway networks.	**ERDF**	National Company CFR Calatori
Priority Axis 4	Sustainable development of the transport sector	**ERDF**	EU companies which perform or plan to perform logistics operations in Romania, Relevant MTCT units CN APDM SA, CN APDF SA, CN ACN SA (Danube river and Canal ports administrations) based on investment in rail or maritime / waterway inter-modal transport , omanian National Company for Motorways and National Roads, Romanian Railway Company, Romanian Naval Authority
Priority Axis 5	Technical Assistance	**ERDF**	MA Project Implementation Agency
II. SOP Environment			
Priority Axis 1	Extension and modernization of water and wastewater systems	**CF**	Local authorities (County Councils and Local Councils) through Regional Operating Companies
Priority Axis 2	Development of integrated waste management systems and rehabilitation of historically contaminated sites	**ERDF**	Municipalities, County Councils or Associations of municipalities
Priority Axis 3	Reduction of pollution and mitigation of climate change by restructuring and renovating urban heating systems towards energy efficiency targets in the	**ERDF**	Local authorities of the selected municipalities
Priority Axis 4	Implementation of Adequate Management Systems for Nature Protection	**ERDF**	Environmental NGOs , Administrators or custodians of protected areas, National Agency for Protected Natural Areas and Biodiversity Conservation (NAPNABC), Biosphere Reserve "Danube Delta", NGOs, research institutes, universities, and museums
Priority Axis 5	Implementation of adequate infrastructure of natural risk prevention in most vulnerable areas	**ERDF**	National Administration of Romanian Waters
Priority Axis 6	Technical Assistance	**ERDF**	MA and IBs

Source: SOP Transport and SOP Environment Programming Documents (2007)

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