

The *Saeima*<sup>1</sup> has adopted and the President has proclaimed the following law:

## **Law on the Management of the Programmes of the Objective “European Territorial Cooperation” of the European Structural and Investment Funds to be Implemented within the Scope of the European Neighbourhood Instrument**

### **Section 1. Terms Used in the Law**

The following terms are used in the Law:

1) **previously determined project** – a project which is not to be selected in accordance with the tender procedures and on the implementation of which all the partner countries of the programme have agreed, and which has been approved by the European Commission;

2) **verification of the conformity of expenses** – verification of the conformity of the activities implemented and financing utilised within the scope of the programme with the conditions of the relevant programme;

3) **national sub-committee** – a collegial body established in Latvia which ensures the advisory function for the national responsible authority in respect of the programme management and control and which operates in accordance with the by-laws approved thereby;

4) **national responsible institution** – a national institution of the partner country of the relevant programme which ensures fulfilment of the obligations undertaken by the partner country of the programme in respect of the development of the programme document and the programme management and control;

5) **non-conformity** – an infringement in accordance with Article 2 of Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument (hereinafter – Regulation No 897/2014);

6) **programme** – the programme of the objective “European Territorial Cooperation” of the European Structural and Investment Funds to be implemented within the scope of the European Neighbourhood Instrument;

7) **programme financing** – a shared part of the programme budget which consists of the financing of the European Regional Development Fund, the financing of the European Neighbourhood Instrument, and the financing of the partner countries of the programme;

8) **programme financing rate** – the percentage of the programme financing against the total eligible expenses of the project;

9) **beneficiary of the programme financing** – a legal person governed by public or private law to which the programme financing has been granted in conformity with the programme conditions;

10) **partner countries of the programme** – a European Union Member State or a state outside the territory of the European Union the regions of which have been determined as an eligible territory in the programme;

11) **State budget co-financing** – a part of the national financing which is planned from the State budget for the additional programme financing for covering the total eligible expenses;

12) **State budget co-financing rate** – the percentage of the State budget co-financing against the total eligible expenses of the project;

<sup>1</sup> The Parliament of the Republic of Latvia

13) **overcommitments** – additional commitments to make payments from the State budget for covering the total eligible expenses thereof which exceed the programme financing and the State budget co-financing share.

## **Section 2. Purpose of the Law**

The purpose of the Law is to determine the programme management in Latvia which is effective, transparent, and conforming to the principles of sound financial management, insofar it is not determined by the directly applicable legal acts of the European Union.

## **Section 3. Scope of Application of the Law**

- (1) The Law determines the management of the following programmes:
  - 1) Latvia–Russia Cross-Border Cooperation Programme;
  - 2) Latvia–Lithuania–Belarus Cross-Border Cooperation Programme.
- (2) The Law applies to the 2014-2020 planning period.

## **Section 4. State Budget Co-financing Rate**

- (1) The State budget co-financing rate for the implementation of the projects approved within the scope of programmes shall not be higher than the minimum possible rate specified for Latvia in the programme document with which it is possible to ensure the programme financing rate specified for the relevant priority direction of the programme, except for the cases referred to in Paragraph two of this Section.
- (2) The Cabinet is entitled to decide on the increase of the State budget financing rate above the limit specified in Paragraph one of this Section for the previously determined projects and large infrastructure projects if, during the programme implementation, the available programme financing is not sufficient for the achievement of the project objective.

## **Section 5. Overcommitments**

- (1) The managing authority is entitled to undertake overcommitments if all the partner countries of the programme agree thereon.
- (2) Overcommitments may not exceed five per cent of the amount of the programme financing, except for the cases referred to in Paragraph three of this Section.
- (3) The Cabinet is entitled to decide on the increase of overcommitments above the limit specified in Paragraph two of this Section if it is necessary for complete use of the programme financing and does not cause the risk that additional expenses will be necessary for covering the total eligible expenses planned in the State budget.
- (4) In the case of undertaking overcommitments the Cabinet shall determine the procedures for granting overcommitments.

## **Section 6. Institutional Structure of the Programme Management**

The programme management shall be ensured by the following authorities:

- 1) the national responsible institution;
- 2) the national sub-committee;
- 3) the managing authority;
- 4) the audit authority;
- 5) the Joint Monitoring Committee;
- 6) the Joint Technical Secretariat.

## **Section 7. National Responsible Institution, its Obligations and Rights**

(1) The national responsible institution is established in conformity with Article 20(6)(a) of Regulation No 897/2014 and operates in accordance with Article 31 of the abovementioned Regulation.

(2) The national responsible institution has the following obligations:

1) in cooperation with partner countries of the relevant programme, to ensure participation in the development of the programme document, submission thereof to the Cabinet for approval, participation in the introduction, monitoring, and assessment of the programme, performance of the financial control and audit;

2) to represent Latvia as a partner country of the programme in making amendments to the programme document;

3) in respect of the Latvia-Russia Cross-border Cooperation Programme, to ensure submission of the programme document to the European Commission for approval in addition to Paragraph two, Clause 1 of this Section and to ensure representation in the negotiation process on approval of the programme document;

4) to ensure signing of the agreement on the participation of Latvia in the programme and the introduction of the programme, and also to ensure the fulfilment thereof if the partner countries of the programme have agreed thereon;

5) to approve in writing the consent of Latvia to the content of the programme in conformity with Article 5(1) of Regulation No 897/2014;

6) to represent the national interests of Latvia by approving representatives and ensuring participation in the Joint Monitoring Committee of the programme, and also in taking of the decisions referred to in Section 11, Paragraph four of this Law by complying with the efficiency and efficacy principles;

7) to ensure operation of the national sub-committee;

8) to ensure planning of the State budget co-financing and making of the payments for the technical assistance budget or programme implementation if all the partner countries of the programme have agreed thereon;

9) to ensure planning of the State budget co-financing, granting thereof, and making of the payments for the beneficiaries of the programme financing registered in Latvia in conformity with the procedures laid down in Section 14, Clause 3 of this Law;

10) to determine the authority which performs the financial control functions and conducts verification of the conformity of expenses for the beneficiaries of the programme financing registered in Latvia, and also to ensure methodological management of financial control in accordance with Article 20(6)(a) of Regulation No 897/2014;

11) to determine the performer of the control contact point function in accordance with Article 20(6)(b) of Regulation No 897/2014;

12) to assign national representatives for the participation in a group of auditors;

13) upon request, to provide an opinion to the authorities and persons involved in the programme management on conformity of the potential beneficiaries of the programme financing registered in Latvia for the participation in the project in accordance with the project partner conformity criteria specified in the document of the relevant programme;

14) to provide the information to the managing authority and audit authority of the relevant programme, and also to the European Commission, on the non-conformities detected in the introduction of programmes, and also to provide the information to the managing authority which is necessary for ensuring the programme management;

15) to ensure informative and publicity measures by promoting project development and participation in programmes by the beneficiaries of the programme financing registered in Latvia;

16) to perform the necessary activities in order, in accordance with the programme conditions, to recover the programme financing from the beneficiary of the programme financing registered in Latvia for the expenses made inappropriately.

(3) The national responsible institution has the following rights:

1) to consult with the national sub-committee on the proposed amendments to the programme document, monitoring of the introduction of the programme, conformity of the projects submitted within the scope of the programme with the national and regional planning documents and the priorities thereof, on the risk in relation to overlapping of projects with other projects of national or international programmes, and also forwarding of the project applications submitted by the potential beneficiaries of the programme financing registered in Latvia within the scope of the programme for the receipt of the financing in the Joint Monitoring Committee of the relevant programme;

2) to request and receive information from other programme management authorities and beneficiary of the programme financing in order to ensure taking of the decisions related to the programme management and control;

3) to express an opinion on the approval of the submitted project for the receipt of the programme financing or refusal thereof in the Joint Monitoring Committee of the programme;

4) to propose the authorities involved in the programme management to carry out project implementation inspections or other control measures.

(4) The Ministry of Environmental Protection and Regional Development shall perform the functions of the national responsible institution.

(5) The Ministry of Environmental Protection and Regional Development shall ensure that the functions which it performs as the national responsible institution are separated from other functions thereof.

## **Section 8. National Sub-committee, its Obligations and Rights**

(1) The composition of the national sub-committee shall be approved by the national responsible institution. The composition of the national sub-committee shall include:

1) one representative from the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Economics, the Ministry of Finance, the Ministry of the Interior, the Ministry of Education and Science, the Ministry of Culture, the Ministry of Welfare, the Ministry of Transport, the Ministry of Justice, the Ministry of Health, the Ministry of Environmental Protection and Regional Development, the Ministry of Agriculture, and the Cross-Sectoral Coordination Centre;

2) two representatives from the national responsible institution;

3) one representative from each planning region;

4) one representative from the Association of Local and Regional Governments of Latvia, the Association of Cities of Latvia, the Employers' Confederation of Latvia, and the Latvian Chamber of Commerce and Industry.

(2) The national sub-committee has the following obligations:

1) to consult the national responsible institution for the preparation of the opinion on the introduction and monitoring of programmes;

2) upon request of the national responsible institution and on the basis of the information provided thereby, to consult this institution on the conformity of the project applications submitted by the potential beneficiaries of the programme financing registered in Latvia within the scope of the programme with the national and regional planning documents and the priorities thereof, and also on risk in relation to overlapping of projects with projects of other national or international programmes;

3) upon request of the national responsible institution, to provide an opinion on the amendments proposed to the programme by the authorities involved in the programme management;

- 4) to promote the publicity of programmes within scope of its competence.
- (3) The national sub-committee has the right, on the basis of the information referred to in Paragraph two, Clause 2 of this Section, to propose to the national responsible institution approval of the project applications submitted by the potential beneficiaries of the programme financing registered in Latvia within the scope of the programme for the receipt of the programme financing or refusal thereof, or defining additional conditions in respect of the submitted project.

### **Section 9. Managing Authority, its Obligations and Rights**

- (1) The managing authority is established in conformity with Article 20(1) and Article 25 of Regulation No 897/2014, and it shall perform the functions specified in Article 26 of the abovementioned Regulation.
- (2) The managing authority has the following obligations:
- 1) to ensure the management of the programme in accordance with the principle of sound financial management which includes establishment and maintenance of efficient and correct management and control system, and also granting of the programme financing based on principles of transparency and equal treatment;
  - 2) upon request, to provide information to the Joint Monitoring Committee on the progress of the introduction of the programme;
  - 3) to ensure due programme recognition in conformity with Article 79 of Regulation No 897/2014.
- (3) The managing authority shall be responsible for the rectification and investigation of non-conformities in conformity with Article 71 of Regulation No 897/2014, and also for the recovery of the programme financing in the case of non-conformities in accordance with Articles 74, 75, and 76 of the abovementioned Regulation.
- (4) The managing authority has the right to request and receive the information necessary for ensuring the programme management from the national responsible institution, audit authority, financial control authority, and beneficiary of the programme financing.
- (5) The managing authority shall publish the decisions on project approval on the programme website in the amount and in accordance with the procedures laid down in Article 44 of Regulation No 897/2014.
- (6) The functions of the managing authority in respect of the Latvia–Russia Cross-Border Cooperation Programme shall be performed by the Ministry of Environmental Protection and Regional Development which determines the official responsible for the performance of the functions.
- (7) The Ministry of Environmental Protection and Regional Development shall ensure that the functions which it performs as the managing authority are separated from other functions thereof.

### **Section 10. Audit Authority, its Obligations and Rights**

- (1) The audit authority is established in conformity with Article 20(2) of Regulation No 897/2014, and it shall perform the functions specified in Article 28 of the abovementioned Regulation.
- (2) The obligation of the audit authority is to ensure the performance of the audit on due operation of the programme management and control system and, on the basis of appropriate selection, to conduct audits on the programme and project expenses.
- (3) The audit authority has the obligation to provide information to the managing authority which is necessary for ensuring the programme management.
- (4) The audit authority has the right to request and receive the information from the authorities involved in the programme management and the beneficiary of the programme financing which

is at their disposal and which is necessary for the performance of the obligations of the audit authority.

(5) The audit authority has the right to request and receive access to the data in the State information systems in such amount which is provided for in the laws and regulations governing the relevant system and which is necessary for the performance of the obligations of the audit authority.

(6) The audit authority shall establish a group of auditors for the performance of its functions, and also ensure its management.

(7) The functions of the audit authority in respect of the Latvia–Russia Cross-Border Cooperation Programme shall be performed by the Ministry of Environmental Protection and Regional Development which determines the official responsible for the performance of the functions.

(8) The Ministry of Environmental Protection and Regional Development shall ensure that the functions which it performs as the audit authority are separated from other functions thereof.

### **Section 11. Joint Monitoring Committee, its Obligations and Rights**

(1) The Joint Monitoring Committee shall be established in conformity with Article 22 of Regulation No 897/2014, operate in accordance with the by-laws approved thereby, and perform the functions specified in Article 24 of the abovementioned Regulation.

(2) The Joint Monitoring Committee shall approve the guidelines on the preparation, submission, selection of projects (also selection criteria for the project applications) and implementation thereof, eligibility of the programme expenses which are binding on the authorities involved in the programme management, the applicants of the project applications, and the beneficiaries of the programme financing.

(3) The Joint Monitoring Committee may decide on the implementation of the previously determined and large infrastructure projects and the programme financing to be granted to them in accordance with Regulation No 897/2014.

(4) The decisions taken by the Joint Monitoring Committee shall be binding on the authorities involved in the programme management in Latvia, the financial control authority, the applicants of the project applications, and the beneficiaries of the programme financing.

### **Section 12. Joint Technical Secretariat**

In order to ensure introduction of programmes, the managing authority shall establish the Joint Technical Secretariat and branches thereof in conformity with Section 27 of Regulation No 897/2014 and monitor its operation.

### **Section 13. Rights and Obligations of the Beneficiary of the Programme Financing**

(1) The beneficiary of the programme financing has the following obligations in addition to that referred to in Section 46 of Regulation No 897/2014:

1) to ensure efficient and timely implementation of the programme project in conformity with the provisions included in the agreement on the project implementation entered into;

2) to ensure that the programme financing granted to the project would be utilised in accordance with a sound financial management principle by complying with the principles of economy, efficiency, and effectiveness;

3) to ensure that the expenses made within the scope of the project would be directly related to the achievement of the programme and project objectives and that expenses would be eligible in accordance with the programme conditions;

4) to ensure accounting records separately for each programme project;

5) to inform the Joint Technical Secretariat of the programme, the managing authority, and, where necessary, the national responsible institution of any changes and circumstances which may have negative effect on the project implementation without delay;

6) upon request, to provide the information on the project implementation and to ensure access for the representatives of the authorities involved in the programme management, and also for the representatives of the financial control authorities to the originals of all the documents related to the implementation of the relevant projects, and also to the place of the project implementation;

7) to ensure saving of the programme results by complying with the programme conditions and time periods.

(2) The beneficiary of the programme financing has the following rights:

1) to request the State budget co-financing for the implementation of the projects approved within the scope of the programme in conformity with the procedures which are laid down in accordance with Section 14, Clause 3 of this Law;

2) to receive the information related to the programme from the national responsible authority;

3) to receive informative support from the Joint Technical Secretariat of the programme for the implementation of the project measures.

#### **Section 14. Competence of the Cabinet in Ensuring the Programme Management**

In order to ensure the programme management, the Cabinet shall determine:

1) the procedures by which reports on the non-conformities detected in the introduction of the projects financed by the programmes of the objective “European Territorial Cooperation” of the European Structural and Investment Funds to be implemented within the scope of the European Neighbourhood Instrument shall be provided and by which the programme financing shall be recovered;

2) the procedures by which the authorities involved in the programme management in Latvia of the objective “European Territorial Cooperation” of the European Structural and Investment Funds to be implemented within the scope of the European Neighbourhood Instrument shall publish the information on the programmes and projects approved within the scope thereof;

3) the procedures by which the State budget funds shall be granted to the beneficiaries of financing from Latvia of the programmes of the objective “European Territorial Cooperation” of the European Structural and Investment Funds to be implemented within the scope of the European Neighbourhood Instrument;

4) the procedures by which the funds shall be planned in the State budget for the implementation of the programmes and projects of the objective “European Territorial Cooperation” of the European Structural and Investment Funds to be implemented within the scope of the European Neighbourhood Instrument, and the payments shall be made;

5) the procedures for carrying out the financial control of the projects financed by the programmes of the objective “European Territorial Cooperation” of the European Structural and Investment Funds to be implemented within the scope of the European Neighbourhood Instrument.

#### **Section 15. Contesting and Appealing of the Decisions of the Joint Monitoring Committee**

(1) The submission of a project application in accordance with this Law shall not establish the obligation to grant financing to the project applicant for the project implementation.

(2) The decision to approve the project application, to approve on a condition, or to refuse it may be contested in the managing authority, if the managing authority is located in Latvia.

- (3) The managing authority shall issue an administrative act or take an administrative decision in conformity with the legal status of the project applicant.
- (4) If the project applicant is a legal person governed by private law, the decision of the managing authority shall be an administrative act.
- (5) If the project applicant is an institution of direct or indirect administration, a derived public person, or another State institution, the decision of the managing authority shall be an administrative decision.
- (6) The administrative act issued by the managing authority on the contested decision of the Joint Monitoring Committee may be appealed by submitting a relevant application to the District Administrative Court. The administrative decision taken by the managing authority on the contested decision of the Joint Monitoring Committee may not be appealed.
- (7) Contesting and appeal of the decision of the Joint Monitoring Committee referred to in Paragraph two of this Section shall not suspend its operation.
- (8) If the managing authority is not located in Latvia, contesting and appeal of the decision of the Joint Monitoring Committee shall take place in accordance with the procedures laid down in the programme document which has been approved in the European Commission, or in the memorandum of understanding which has been entered into between the managing authority and partner countries.

## **Section 16. Settlement of Disputes Related to a Project Implementation**

(1) If the managing authority is located in Latvia, the disputes which apply to the execution of the agreement on the project implementation, also disbursement of the programme financing, the continuation or recovery of the disbursement shall be settled:

1) in accordance with civil legal procedures if the beneficiary of the programme financing is a legal person governed by private law. The documents which are prepared and taken for the performance of the activities referred to in the first sentence of this Paragraph (for example, decisions, opinions, warnings, agreement) shall not be examined in accordance with the procedures of administrative proceedings;

2) by contesting the decision of the managing authority as the administrative decision in accordance with the procedures laid down in the State Administration Structure Law before the manager of such institution of direct administration within the scope of which the managing authority has been established, if the beneficiary of the financing is an institution of direct or indirect administration or a derived public person. The administrative decision which has been taken by the manager of such State administration institution within the scope of which the managing authority has been established may not be appealed to the court.

(2) If the managing authority is not located in Latvia, the disputes which apply to the execution of the agreement on the project implementation, including disbursement of the programme financing, continuation or recovery of the disbursement shall be settled in conformity with the agreement on the project implementation entered into.

## **Section 17. Recovery of the Programme Financing in the Case of Non-conformities**

(1) The national responsible institution shall be responsible in the case of non-conformities for recovery of the programme financing from the beneficiaries of the programme financing registered in Latvia in accordance with the procedures laid down in the document of the relevant programme.

(2) Recovery of the programme financing from the beneficiary of the programme financing registered in Latvia which is a legal person governed by private law shall be carried out in accordance with the civil legal procedures.

(3) Recovery of the programme financing from the beneficiary of the programme financing registered in Latvia which is an institution of direct or indirect administration or a derived public

person shall be carried out in accordance with the procedures laid down in accordance with Section 14, Clause 1 of this Law.

### **Section 18. State Fee upon Turning to the Court**

If an action is brought to the court in the cases specified in Section 7, Paragraph two, Clause 16, Section 9, Paragraph three of this Law, the national responsible institution and the managing authority shall be released from the payment of the State fee.

### **Section 19. Freedom of Information**

The file of the project application shall be restricted access information until the time when the decision to approve, to approve on a condition, or to refuse the project application has entered into effect.

Transitional Provision

The Cabinet shall:

- 1) by 1 May 2016, issue regulations in which the procedures referred to in Section 14, Clauses 4 and 5 of this Law are determined;
- 2) by 1 September 2016, issue regulations in which the procedures referred to in Section 14, Clauses 1, 2, and 3 of this Law are determined.

The Law has been adopted by the *Saeima* on 10 December 2015.

President

R. Vējonis

Rīga, 23 December 2015