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### ESI funds programming in Latvia – NGOs' point of view

On behalf of the Environmental Advisory Council of Latvia (EAC) we are approaching you to express our worries about the following issues during the programming process of EU Cohesion policy 2014-2020 in Latvia.

#### 1. Inefficient implementation of the Partnership Principle in Latvia

There are opportunities for providing input to the programming process, although the overall framework is not very clear and sometimes confusing (several deadlines for commenting on the same document). It has been much welcomed by partners that draft programming documents have been made available in various stages of the process and public consultations have been conducted on the Partnership Agreement (PA) and the Operational Programme (OP). Providing feedback to NGO contributions though has been getting more problematic with programming speeding up and the increasing complexity of the technical aspects.

There were several deadlines given for commenting on the second draft of the Operational Program: members of the Temporary Monitoring committee were asked to send in comments by August 9; in the official policy planning process the deadline was August 16; while for the general public the deadline was given as August 28.

Environmental NGOs approached the Ministry of Environment regularly asking to be given the opportunity to provide a contribution to the draft Annex to the OP once it became available from the Ministry of Finance. Finally, on July 9, it was received at 14:05, with a request for reactions by 17:00 that same day. The document is 367 pages long and it was the first time NGOs had seen it.

The efficiency of partnership has often been dependent on the relationship between NGOs and the relevant ministry. It has worked out best when NGOs and the relevant ministry can reach agreement on problematic issues bilaterally. In other situations it has been virtually impossible to have meaningful partnership in terms of impact, and the Ministry of Finance has not been trying to mediate the process, but left everything to the line ministries. Here NGO involvement was different in each ministry. The process in the Ministry of Environment was quite positive, whereas in the Ministry of Agriculture and in the Ministry of Education they mostly would involve and listen to 'friendly' NGOs only.

Environmental Advisory Council (EAC) is an environmental coalition in Latvia consisting of a group of representatives from 20 leading national environmental non-governmental organizations (NGOs) and it works to improve national environmental policy. The Council was established in 2003 and ever since has been both an active partner to the Ministry of Environment and Regional Development through commenting draft plans and legislative acts, and acting also as a watchdog. EAC was actively involved in the process of elaboration of National Development Plan. EAC is also represented in the Temporary Monitoring Committee of EU funds for 2014-2020 period and uses also other available opportunities to get involved in the programming process.

As a result of the strict deadlines for commenting on the latest versions of OP to be presented at a coordination meeting in December 2013, there were even no answers to the latest written recommendations by NGOs. As an argument for not taking them into account, the Ministry of Agriculture said that it hadn't read them all yet. However, the comments were not included in the next report on objections raised over the draft version of OP, nor were they answered (as of February 2014).

Often communication can be described as one way, meaning that there is no argumentation as to why a comment or proposal has not been taken into account. Many questions and comments proposed by NGOs are postponed to the next programming stage with comments such as "We will discuss this at the next level when preparing regulations in the Cabinet of Ministers". It should be stressed that while the European Commission requires the partnership principle to be integral to the development of the OP, there are no such requirements for the development of 'Cabinet of Ministers regulations' in Latvia, and it is often very difficult for NGOs to be able to comment on that set of regulations.

Latvian authorities aim to strengthen of the administrative capacity of ESI Funds, using Technical Assistance to ensure the effectiveness of planning and implementing ESI Funds and the orientation towards results, providing for support to increasing capacity of the institutions involved in the administration, including partners which is a significant factor determining the successful implementation of the ESI Funds.

Plans how to support partners and NGOs in Latvia, especially for those taking part in the Monitoring Committee, are under preparation; the aim is to increase the capacity of members of Committee by organizing specific study courses and trainings. Capacity and other support for participation in the Committee are not planned as it is considered to be a risk of conflict of interest. Minister of Finance in the discussion on 28th of February answered that there is a need to do researches and find some more information about the best practice examples how to provide the support for NGOs in order to strengthen cooperation between authorities responsible for spending EU Structural and investment funds. After that Ministry of Finance promised to provide information on how and what kind of support will be available for the NGOs and especially those taking part in the Monitoring Committee. This is planned to be announced only by autumn of this year! However there is already enough information available on the best practices on implementation of partnership principle and it is necessary for Managing Authority to take action as soon as possible, especially regarding the regulations of Cabinet of Ministers programming for each project tenders.

At the moment there are proposals for NGOs to take part in the project evaluation processes by evaluating the projects funded by Society Integration Foundation. It is planned that in the evaluation team there will be 4 persons in total: 2 persons representing NGOs and other 2 persons from the Ministry of Culture and Society Integration Foundation each. In this situation for the same duties administrative staff will receive the salary for evaluating project while NGOs are supposed to finance this capacity from their own resources. Environmental NGOs consider this situation as difficult and expect measures' to effective involvement in all phase of the process, i.e.

from the preparation and throughout the implementation, including monitoring and evaluation, of all programs.

### **The new Rural Development Program is not available for the public**

Some of the comments and suggestions from NGOs related to nature protection issues within the Operational Program were addressed to the Ministry of Agriculture, which is responsible for the development of Rural Development policy in Latvia. The Ministry of Agriculture however rejected those suggestions, arguing that the issues addressed by NGOs were not subject of the OP, but the Rural Development Program. But then they didn't react on the issues raised within the context of the RDP, the Ministry of Agriculture even neglected showing the new Rural Development Plan to NGOs despite it being often requested. The Ministry of Agriculture only sent specific related part of the RDP, cut out from the overall document, when answering specific questions and comments related to the OP.

### ***How should environmental partners get the “whole picture of environmental mainstreaming” in the country, when crucial elements are held under secrecy?***

Even more, the Ministry of Agriculture involved into the planning of Development Plan and guidelines for RDP payments agricultural stakeholders only and avoided opening this processes to the public. It is necessary to involve especially environmental NGOs to ensure sustainable implementation of EU Funds. It is known that so far there have been 6 meetings about the guidelines and criteria for RDP payments and the information what have been discussed is unknown for public. In this way, without transparency of the RDP into the EU Funds planning process, it is not possible to access the whole environmental dimension of the EU funds.

## **2. Strategic Environmental Impact Assessment process**

Instead of the SEA process serving as a safeguard mechanism for the environment, what KPMG (a consultancy firm commissioned to conduct the Strategic Environmental Assessment) produced for Latvia in 2013 was a document that views environmental protection as a hurdle. For example, the SEA 1<sup>st</sup> draft report described how in some cases nature protection measures have turned out to be damaging for economic activities, and also stipulates that any new EU directives in the field of environment may undermine economic development. From the report we learn that: “It is likely that in the period 2014-2020 in the EU there will be new environmental directives adopted and there are no resources foreseen for implementation of these new requirements. It would cause additional costs and restrictions to economic activities. [...] Already now designation of nature protected areas in the bay of Riga has caused serious economic problems and burden to ports and sea freight transport, whereas there is no adequate protection of these areas ensured”. The report also suggests that before deciding on the protection of nature, we should calculate the costs and assess whether we can afford to sustain that.

Perhaps more concerning is that the SEA report seems to be oblivious to the fact that infrastructure or development projects - by their very nature - do have an impact on the environment. The report seeks to downplay environmental impacts because, according to the

authors, there is not enough detail in the OP itself about planned activities: “the OP doesn’t contain any specific measures or activities that could lead to negative impacts on environment in medium and longer term, threaten biodiversity or such.” Considerations on climate impact have been left out.

The Environment State Bureau commenting on the final version ( January 20, 2014) of the SEA report suggested to modify the structure of the OP in the manner that it is possible to measure the threats and possible negative impacts on environment. It would be necessary to look at the threats and impacts in the implementation of activities (like construction and building work itself) instead of just focusing on the end result of the project implementation.

The omissions of the SEA report can be illustrated by the one of examples from the OP, a specific objective that aims to “facilitate the development of the major ports, increasing their carry capacity and safety level”. Indicative activities intended for support in this regard include: the reconstruction and construction of access roads for road transport and railway as well as the relevant infrastructure, and; the reconstruction and construction of moles and breakwaters, aquatorium deepening”. It is clear that these kinds of measures will have some environmental impact and risks, and that, therefore, these ought to have been assessed and described in KMPG’s SEA report.

Similarly, the report also fails to give any environmental and climate assessment of the likely impacts of such activities as: “reconstruction of the main highways within TEN-T network and connection of city infrastructures to TEN-T network”, and; “investments in development of Riga and Pieriga transport infrastructure ensuring the multimodality of Riga as a metropolis”. Among other things, the latter plans envisage an increase of transit freight movement on the left bank of the Daugava. Once again, at least the likely environmental impacts of such large infrastructure projects should have received attention in the SEA report.

In this manner the SEA presentation of facts and conclusions are too prone to the overall positive effects of the environmental impacts of the implementation of Operational Program. The Bureau recommended that the SEA in addition is structured and completed in a way that greater emphasis should be aimed at the evaluation of the measures that have potentially been associated with negative environmental impacts, including gathering information on the assessments already carried out, as well as clearly indicating the actions already undertaken and further actions needed to avoid negative or potentially negative environmental impacts.

The informative report by the Ministry of Finance on how this recommendation will be taken into account in the Operational Program is still missing (March, 2014). We are raising EC’s attention that the OP cannot be approved until there are clear arguments defined in the OP on how the environmental considerations are integrated into the OP and how the recommendations by Environment State Bureau are taken into account.

### **3. Adapt the climate change or intensification of agriculture?**

To adapt to climate change by reducing the threat of floods, to ensure quality of living of people and promote business competitiveness and continued business activities, various investment of the 2014–2020 programming period are planned, but only “end of pipe” solutions, putting more concrete to the ground instead of using natural, eco-system based solutions:

- 1) sustainable development and use of land resources by reconstructing the existing and constructing new hydrotechnical structures,
- 2) activities for adaptation to climate change, by reconstructing the existing and constructing new drainage systems of national significance.

Environmental NGOs have proposed the inclusion of eco-system based adaptation measures in the above measures, such as the through the creation of wetlands and ponds to minimise run-off. These proposals, though, were rejected by the Ministry of Agriculture in the first public hearing phase – yet it’s precisely these types of environmental concerns that should have been picked up and described in the SEA report.

Yet, without natural adaptation measures, the risk of damage is high: ‘improved’ drainage will in fact increase nutrient run-off to the Baltic Sea and decrease the water quality; eutrophication is already a major threat to wetland ecosystems in Latvia, and the proposed measures will further worsen the status of the habitats of EU importance.

In this regard the analysis of climate change vulnerabilities and impact on different sectors of the economy could be more comprehensive. Green infrastructure and enhancing the capacity of the ecosystems should be considered as an option to cope with the flood risks and coastal erosions. The description of this thematic objective is very limited and should be improved. For instance, clarification on the planned promotion activities, as well as flood reduction measures should be provided. Green infrastructure solutions and measures should be considered to ensure viable and sustainable flood risk management.

Environmental NGOs express concern that the update in OP is done in the very general description, and it includes a description of why green infrastructure is not always applicable, ignoring the successful examples from other countries and EC recommendations, and environmental NGOs have repeatedly offered advice on this. Regarding construction and renovation of hydro-technical structure and drainage systems, we encourage measures which reduce the negative effects such as construction of sediment ponds, establishment and maintenance of buffer zones and re-meandering of straightened water courses. Restoring the natural features and characteristics of catchment areas, e.g. wetlands, floodplains, etc. is both economically viable and effective tool to address the impacts of the climate change as they provide significant ecosystem services.

Ministry of Finance claims that it is already part of conditions mentioned here such as sediment fields are incorporated into RDP. But NGOs still points out that only sedimentation ponds are included as mitigation measure in case of private investments and not wetlands or two stage

drainage ditches (<http://www.balticdeal.eu/measure/two-stage-drainage-ditch/>) that can be counted as green infrastructure for flood prevention.

#### **4. Support through Community Led Local Development approach**

According to the OP, there is no support planned under the CLLD approach. It could be however considered under Rural Development Programme where earmarking of a certain percentage of financing for these type of initiatives is mandatory. But projects initiated by local communities could be supported through a CLLD support scheme that aims to coordinate, create synergies and find innovation solutions through various activities in order to improve quality of life in rural and urban areas – it includes activities in areas of economic, social and environment. All Local action groups need to develop their Local Development Strategies where they define their priorities and areas of action, thus one important precondition is that small scale energy generation or energy efficiency should be included as one of priority areas in local development strategy, thus there should be active local players that would like to promote community type energy projects.

In Rural Development Programme, there is general description on how LDS should be developed and how LAGs should function. Environmental NGOs could help with developing some pilot schemes and facilitate inclusion of energy aspects into local development strategies once they are developed (end 2014 or beginning of 2015).

#### **5. Support for trainings in energy efficiency and small scale renewable energy use**

The Investment Priority 8.1 envisages investments in education, improvements of skills and life-long learning by developing the necessary infrastructure for learning and trainings. And the Investment Priority 8.4 envisages improvements in access to life-long learning, improvement of skills and competences and the increase of the role of labor market in educational and training systems. It also envisages equal access to life-long learning programmes for people of all ages and to provide flexible ways of trainings.

NGOs recommends to include in these trainings awareness raising activities on community type of energy projects as well as targeted trainings on energy efficiency and small scale renewable use for households and small businesses depending on the stakeholder group.

#### **6. Implementation of horizontal priorities**

Environmental NGOs are concerned that environment is still seen as a separate issue in OP planning process and the implementation of the horizontal priority “Sustainable development” is not integrated very well into the OP. NGOs suggest that the environmental protection requirements should be integrated when selecting the evaluation criteria for projects with possible negative impact on environment to provide activities improving recourse efficiency and climate change adaptation and risk pretension and management measures.

At the moment from the NGOs point of view the OP looks well defined and very promising in general. But the way how the OP is described at the moment is too general also for a SEA to assess the possible negative impacts on environment as well as for NGOs to consider that the implementation of OP could cause serious environmental problems. Not even talking about the strategic direction Latvia chose to follow with support of ESI funds. The linkage between specific objective and investment priority has been described very positively whereas the supported activities in some cases sound rather disappointing. Greenwashing has often been evidenced in the OP planning process. As the response on NGOs and EC comments it is noticed that the essential meaning of the text has not much changed this regard although the sentences look more green and sustainable than previously. We raise EC's attention on this to look closely to the thematic objectives and to assess the environmental profundity of the link from the very well defined headlines to the description of the activities planned to support.

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