Management of Structural Funds in Slovakia: the NGO perspective

(working paper)

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List of abbreviations

CBC  Cross Border Cooperation
CEE  Central and Eastern Europe
CEE BWN  CEE Bankwatch Network
CSF  Community Support Framework
DG  Directorate General
EAGGF  European Agriculture Guidance and Guarantee Fund
EC  European Community
ECOSOC  Economic and Social Cohesion
ENGO  Environmental Non-governmental Organisation
ERDF  European Regional Development Fund
ESF  European Social Fund
FIFG  Financial Instrument for Fisheries Guidance
G3S  Gremium of the Third Sector
IB  Implementing Body
ISPA  Instrument for Structural Policies for Pre-Accession
MA  Managing Authority
MA SR  Ministry of Agriculture of the SR
MC  Monitoring Committee
MCRD SR  Ministry of Construction and Regional Development
MLSA SR  Ministry of Labor and Social Affairs
MoE SR  Ministry of Economy of the SR
MoEnv SR  Ministry of Environment of the SR
Ministry of Transport, Post and Telecommunications
MTPT SR  Ministry of Transport, Post and Telecommunications
NADSME  National Agency for Development of Small and Mid Sized Enterprises
NDP  National Development Plans
NGO  Non-governmental Organisation
NUTS  Common classification of territorial units for statistics
OP  Operational Programme
OP BI  Operational Programme for Basic Infrastructure
PC  Programme Complement
PHARE  Regional Development non – governmental Organisation
RDNGO  Regional Development non – governmental Organisation
RDP  Rural Development Plan
ROP  Regional Operational Programme
SACR  Slovak tourist board
SAPARD  Support for Pre-Accession Measures for Agriculture
and Rural Development
SARIO Slovak Investment and Trade Development Agency
Strategic Environmental Assessment or in some cases,
SEA Slovak Energy Agency
SFs Structural Funds
SOP Sector Operational Programme
SOP ARD Sector Operational Programme for Agriculture and
Rural Development
SOP HR Sectoral Operational Programme Human Resources
SOP IS Sectoral Operational Programme Industry and
Services
SPD Single Programming Document
WG Working Group

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Introduction

This working paper brings information about management of Structural Funds (SFs) in Slovakia from the perspective of participation of NGOs in the process, with particular attention to the participation of environmental NGOs (ENGOs). The author attempted to discuss and summarize available information about participation of NGOs in the process of programming, implementation and monitoring of the SFs within the shortened programming period 2004-2006, including some information about NGO experience with the programme SAPARD, as well.

The paper has drawn mostly on information and analyses of the Center for Environmental Public Advocacy accomplished between 2002 and the end of 2003 and further analyzed the period until September 2004. It is addressed to NGOs and ENGOs as important stakeholders of the process, as well as to the representatives of the state administration interested in promoting a more efficient, transparent and participatory system of management of the EU Funds in Slovakia.

Since development in the field is dynamic and the paper could have only been built on information available in the period of the research, the issues tackled in the material need to be followed and commented by NGOs further on.

The paper was prepared simultaneously with the work on the publication “Best Available Practices, Public Participation in Programming, Implementing and Monitoring EU Funds in the New Member States from Central and Eastern Europe” within the project Public Eye on EU Funds - Public Participation and Monitoring EU Funds in the New Member States from Central and Eastern Europe implemented by the Institute of Environmental Economics and CEE Bankwatch Network, with the financial support from the European Community. The project goal is to strengthen public participation and monitoring of EU Funds in new member states from Central and Eastern Europe, in line with efforts to strengthen the capacity of civil society in the new member states so that it could play active and conscious role in decision-making processes related to becoming a part of the European society.

This paper is divided into four parts discussing public participation in programming, implementation and monitoring of SFs (focusing on ERDF and EAGGF Funds) and SAPARD programme. The fourth part includes a case describing NGO activities to strengthen transparency and to eliminate irregularities and conflict of interests relating to EU Funds management in Slovakia.


2 The report „Best Available Practices“ is presenting some examples of good practices in cooperation between authorities responsible for programming, management and control of European Union (EU) Funds, and non-governmental organisations (NGOs) in new and old Member States, as well as candidate countries.

3 Center for Environmental Public Advocacy (CEPA) is member organisation of the CEE Bankwatch Network and Friends of the Earth Slovakia; Institute for Environmental Economics (IEE) is a partner of the CEE Bankwatch Network.
1. Programming of Structural Funds and SAPARD Programme

Programming documents and institutional structure of SFs in Slovakia

Objective 1

National Development Plan (NDP):
- Operational Programme Basic Infrastructure (OP BI)
- Sectoral Operational Programme Industry and Services (SOP IS)
- Sectoral Operational Programme Agriculture and Rural Development (SOP ARD)
- Sectoral Operational Programme Human Resources (SOP HR)

Objective 2

Single Programming Document NUTSII- Bratislava Objective 2 (SPD Obj2)

Objective 3

Single Programming Document NUTSII- Bratislava Objective 3 (SPD Obj3)

Table 1. Institutional structure of structural assistance

<table>
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<th>Programming documents</th>
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<td>National Development Plan (NDP) as a basis for Community Support Framework (CSF)</td>
<td>Structural Funds</td>
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<tr>
<td>OP Basic Infrastructure (OP BI)</td>
<td>ERDF</td>
<td>MCRD SR IBs: MTP SR, MoEnv SR, MCRD SR</td>
<td>Monitoring Committee for OP BI</td>
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<td>SOP Industry and Services (SOP IS)</td>
<td>ERDF</td>
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<td>Monitoring Committee for SOP IS</td>
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<td>SOP Agriculture and Rural Development (SOP ARD)</td>
<td>EAGGF</td>
<td>MA SR</td>
<td>Monitoring Committee for SOP ARD</td>
</tr>
<tr>
<td>Single Programming Document NUTSII- Bratislava Objective 2 (SPD Obj2)</td>
<td>ERDF</td>
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<tr>
<td>Single Programming Document NUTSII- Bratislava Objective 3 (SPD Obj3)</td>
<td>ESF</td>
<td>MLSA SR</td>
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</table>

Preparation of NDP

A. Rules and institutional framework

The programming process for EU funds was coordinated by the Ministry of Construction and Regional Development (MCRD). Due to its insufficient capacities to prepare the NDP, the Ministry decided to involve a private consulting company in developing the document. The company was selected without any public invitation for tender – according to the Ministry due to the shortage of time.

The draft NDP should have been submitted to the Government Council for the Regional Policy before July 2002 following public discussion on the draft that was to be held from March to May 2002. Finally, the MCRD proposed a new timetable in April 2002. The deadline for the submission of the NDP to the Government was postponed to December 2002 – January 2003, and public consultations were due in October 2002.

However, major changes in the NDP and operational programmes (OPs) were made after the public consultations were closed by the end of 2002, after all the working groups for programming of OPs finished their work and the ex-ante evaluations of programming documents were completed. The programming documents’ entire structure and the content had to be changed substantially after the EC submitted its comments on the draft OPs at the end of January 2003. Within five weeks, the three OPs (Environmental OP, Transport OP and Regional OP) were merged into a single OP for Basic Infrastructure, which totally reshaped previous priorities and measures. There was no more time space left for public consultations on the reshaped documents. The government even did not inform the public about its intention to change the programming documents. The final NDP was submitted to the EC in March 2003.

B. NGO participation on the process

There are no rules institutionalizing participation of NGOs on the programming, implementation and monitoring of EU Funds except general provisions on partnership principle in the EC Directive 1260/1999 and in the Act on Support for Regional Development that are not legally enforceable. Moreover, government does not usually distinguish between professional and expert organizations and business associations on one side and citizens NGOs, focused on environmental issues, local, rural and regional development and other
social issues on the other side. Therefore, they declare adherence to the partnership principle even in case where no NGOs participated in the process.

Since neither MCRD nor the consulting company in charge of the preparation of NDP disseminated timely and sufficient information on the programming process, the NGO community and other social and economic partners did not have proper conditions for effective participation in the process and, in general, in early stages of the process they were not familiar with the strategy, institutional framework, process, rules and time schedule for programming.

Although the consulting company invited individual experts, including environmental ones, to the preparation team, NGOs and other social partners were not offered to participate in the process.

Discussion on the draft NDP was restricted to several presentations of the draft document in the regions (October – November 2002) that were held for participants not familiar with the process, rules, aim and structure of the document. Moreover, as mentioned above, no public discussion took place after the government decision to significantly change the programming documents due to the EC request. The only chance to comment the final draft NDP was extremely short. Therefore, the whole previous planning process and the ex-ante evaluation of the programming documents were discredited to a large extent, as well as the compatibility of the process with the EC guidelines.

No environmental NGO was consulted during the preparation of the NDP, which is in sharp contradiction with the statements of the document, identifying sustainable development as a necessary condition for achieving the NDP overall goal in 2004-2006.

The only channel of information about the programming process was an NGO representative in the Preparatory Committee for Structural Funds (PCSF). Even though the PCSF has been constituted on the partnership principle according to its statutes, NGOs did not have their representative there from the beginning. Only after interventions of the NGOs and thanks to the supportive attitude of one governmental official, one NGO representative was later included to the committee.

Neither the NDP nor the operational programmes were subject to the Strategic environmental assessment (SEA). For this reason, additional opportunity to influence environmental aspects of the programming documents for environmental NGOs in the democratic and participatory process of public consultations was missed.

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4 The draft NDP was placed on the web site of the MCRD on 3 December 2002. Deadline for comments ended on 11 December 2002.
6 See below under the monitoring of programming
7 Personal communication of the NGO representative of the PCSF.
8 The provision for SEA in the Slovak EIA Act is not mandatory for preparation of strategies and plans. The EIA act also does not require any standard procedure for SEA. Moreover, preparation of NDPs and other programming documents for EU funds in Central and East Europe (CEE) was not in a strict sense governed by the SEA provisions in the relevant EC Regulation and other guiding EU documents.
C. NGO capacities

NGOs on the regional level actively participated on the preparation of a part of programming documents for pre-accession funds, specifically, of the National Plan for Regional Development and of the Regional Operational Programmes (ROPs) for few regions. After the programming process was completed, NGOs became largely disappointed by implementation and management of pre-accession funds, most of all of PHARE CBC programmes and delay in the implementation of the PHARE ECOSOC programme for regional development. The pre-accession assistance in Slovakia was generally considered to be a complete failure, creating rather than eliminating of the problems identified to be solved. Such situation resulted in the loss of credibility of the public institutions and subsequently, led to decline of interest and apathy in case of most of the NGOs in the regions.

Absence of information on the new round of programming for SFs and confusion and misunderstanding of the whole process among local NGOs led to the feeling that the untransparent programming process was being repeated again and all their work and contribution was useless. In addition, lack of own capacities of NGOs and no incentives from public authorities to improve the quality of public involvement in programming contributed also to low level of participation.

Due to the above mentioned reasons, in general, NGOs did not discuss programming of SFs on a systemic basis. One of the exceptions was the Rural Parliament, an umbrella organization of the rural development NGOs, which took an active part in proposing rural development priorities to be adopted to the relevant programming documents.

The situation improved after formation of an independent monitoring team for EU funds (watchdog team) in 2002 which started to follow the problems related to programming and implementation of the EU funds, comment them and to prepare recommendations for public authorities. The watchdog team was initiated by the Center for Environmental Public Advocacy and consisted of the NGO representatives in the monitoring committees and working groups for pre-accession funds (later for SFs) and experts on regional policy.

**Preparation of Operational Programmes**

Although each programming document contains a special chapter on partnership and declares that social partners were included to the process of the preparation of documents, the reality was quite different. The process of public consultations did not follow clear guidelines, time space to comments, if existed, was extremely short and no rules were in place to secure serious treatment of comments.

Five sectoral OPs and one regional OP were to be submitted to the Government by January 2003. The programme complements for each OP were to be developed between September 2002 and February 2003. Although in April 2002 the MCRD as a Managing Authority (MA)
for the Community Support Framework (CSF) decided to postpone the deadline for submission of the NDP to the Government from July 2002 to December 2002/January 2003, the deadline for submission of OPs remained January 2003. Public consultations were to be held in November 2002. Consequently, the NDP and the OPs had to be developed simultaneously. The programme complements for each OP were to be ready by April 2003. Due to insufficient time for the elaboration of programming documents the quality of both process and output were negatively affected.

As mentioned above, the structure and content of the OPs changed significantly due to a pressure by the EC despite the fact, that the working groups for the preparation of OPs finished their work and the consultations for the original OPs were closed. Due to the time pressure, no additional consultations on the changed documents took place. Therefore, the final versions of OPs reflect rather political priorities of the EC and government officials than the result of a participatory and democratic programming process at national level9.

Peter Rusnak, a member of the working group assisting in preparation of the original Regional Operational Programme, commented on the situation: “The current definition and content of the priorities are a result of an inconsistent approach towards the OP, and prove that the new OP was created in a rush, with no room for broader discussion and consultations concerning its goals and purpose, without the involvement of the regions and the implementation of the partnership principle. It is a weak merger of three OPs by government bureaucrats. The concept mostly copies ministerial priorities, instead of focussing on regional needs...”10

Programme complements of OPs were completely prepared by the State administration. There was no interest and willingness to involve public in the process, despite the fact that the final version of NDP from April 2003 that was submitted to the Government and published on the web site of the MCRD in its chapter 1.2. “Partnership principle” says (reproduced also with the mistakes in the English translation): „The Partnership principle, as is defined in Council Regulation 99/1260/EC on structural funds, is an integral part of regional policy of the Slovak Republic. Act No. 503/2001 Coll. on Regional development support, which came into force on 1 January 2002, guarantees observance of the resolution. This law defines partnership and partners. Act No. 606/2002 Coll. content and organisational assignment for preparation of NDP sets commitment to apply partnership principle during the preparation of operational programme and programme complement.” This rather long and detailed chapter on partnership principle has been omitted from the final text of the CSF where it has been replaced by seven lines with general statements on inclusion of partners in the preparation of the NDP. Moreover, despite numerous requests of the NGO representative in the PCSF, the managing authorities refused to make the draft programme complements available even for members of the PCSF.

10 "Proposal for Change of OP for Basic Infrastructure”. Peter Rusnak, 22 March 2003. (Citation is taken from the publication „Partnerships for Sustainable Development?” see footnote 11.)
Preparation of the Operational Programme Basic Infrastructure (OP BI)

A. Rules and institutional framework for preparation

Within the framework of OP BI there are three priorities (Transport, Environment, and Local Infrastructure), divided into 11 measures and a measure for technical assistance. According to the OP BI, each operational programme priority was carried out by independent Working Groups (WGs) at the particular ministries appointed as implementing bodies (Ministry of Transport, Posts and Telecommunications, Ministry of Environment and MCRD SR).

According to the information in the OP BI, each of the WGs were to be composed of representatives from the bodies of public administration, upper territorial units, municipal administration and independent organisations.

As stated in the OP BI, „Preparation of the OP BI was preceded by the preparation of three separate documents: The Transport Sector Operational Programme, the Environment Sector Operational Programme, and the Regional Operational Programme of the Slovak Republic (ROP SR). Their common denominator was the need to solve problems of infrastructure, which lacks even the basic requirements and put a brake on the economic development of stagnating regions. By consolidating these basic elements into a single operational programme a reduction in administrative demands for the future implementation of OP BI has been achieved.“ This official reasoning of the decision to merge three OPs into one document does not say anything about the fact that no public discussion preceded or followed this decision neither that it came up at the „last minute“, due to the requirements of the EC and lack of coordination by the managing authority.

B. NGO participation on the process

Besides preparation process for the regional development priority, NGOs did not participate in programming of either transport or environmental priorities.

According to the OP BI, several workshops discussing the original OPs were held in the regions during the period July-December 2002 and consultations with partner were held both at the national, regional and local level and included the representatives of ministries and state administration institutions, upper territorial units, municipalities and non-governmental organizations. However, specific information on the time schedule and the system of consultations with partners and on the comments received, adopted or rejected has not been disseminated either prior to or during the preparatory process. Moreover, the programming process has not been evaluated from these aspects (or such an evaluation, if ever took place, was not made public) even after the approval of the final document.

Concurrently with the process of programming work at the level of the whole Slovakia, during the months of July and August 2002 the upper territorial units (according to their NUTS II classification - Western Slovakia, Central Slovakia, and Eastern Slovakia) organised

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11 OP for Basic Infrastructure, Bratislava November 2003
12 An expert on the regional development and the chairma of the Rural Parliament was member of the WG for the original ROP.
workshops to analyse the current situation in their regions, to prepare SWOT analyses with priorities and measures that would be linked to the priorities of the NDP\textsuperscript{13}.

Information about the consulting process during the preparation of the OP BI as described in the document is rather general\textsuperscript{14}. The OP BI does not contain the list of organizations commenting the draft document. Therefore, it is not possible to evaluate what were the priorities of the social-economic partners and whether there were some crucial objections to the proposed financing policy.

C. NGO capacities

The situation as described in the part for the preparation of the NDP applies also for the preparation of the OP BI.

**Preparation of the SOP Industry and Services**

**A. Rules and institutional framework for preparation**

The SOP Industry and Services (SOP IS) has been developed by the Ministry of Economy (MoE) as the Managing Authority (MA). The SOP IS specifies the NDP support strategy for the priority axis “Growth in Competitiveness of Industry and Services Using Domestic Growth Potential” and it constitutes an independent programming document for the industrial sector and selected services (tourism and trade).

Neither the rules nor timetable for preparation of SOP IS were clear for the public during the process. Besides ministries concerned, the following partners have been involved in the preparation and drawing up of the document: self governing regions, economic and social partners, in particular the Slovak Chamber of Industry and Commerce, the Association of Employer Unions and Associations, the Slovak Association of Industrial Unions, the Slovak Association of Businessmen, the Slovak Tradesmen Chamber.

The preparation of the document was based mainly on the basic sectoral and national strategies like “Elaboration of EU Industrial Policy for the Slovak Republic's conditions”, “National Tourism Development Programme in the Slovak Republic”, “Draft Energy Policy of the Slovak Republic”, “Draft Programme for Reduction of Energy Consumption and Use

\textsuperscript{13} According to the Operational Programme Basic Infrastructure

\textsuperscript{14} Cit: „In September 2002 public meetings were held at individual NUTS II regions. About 100 people attended each meeting from a variety of institutions concerned with regional development including those who were included in the wider circle of partners. The proposals, which emerged from the discussions, were used in the preparation of the programming document later on.”

„The Managing Authority for Operational Programme Basic Infrastructure also makes presentations in the regions according to the Communication Action Plan. (Prešov Region - March 2003 - Seminar on EU Regional Policy and Structural Funds, Košice Region - March 2003 - Presentations of Operational Programme Basic Infrastructure at the Twinning Seminar: “Improvement of Roma’s situation in Slovakia, Žilina Region - Seminar on Project Preparation in the field of Culture, Banská Bystrica Region - May 2003, Exhibition “FOR REGION 2003”).“
of Alternative Sources of Energy, Including Support for the Research in this Field”, “Analysis of the State of the Business Environment in the Slovak Republic”, and others.15

B. NGO participation on the process

No environmental or regional development NGOs were invited to participate in the working group and to comment on the draft SOP IS. The draft SOP and draft programme complement for the SOP were not placed on the ministerial web site for comments from the public.

The answer of the Ministry to the request for information asking why it was so, was characteristic for the approach of the Ministry: „Materials were not subject to public consultations. They were not submitted to governmental discussion, therefore during their preparation obligation to place them on the website did not ensue. They were published on the website only after their submission to Brussels for approval as a working material; after their approval they were disclosed as approved versions.”16

Preparation of the SOP Agriculture and Rural Development

A. Rules and institutional framework for preparation

The Sectoral Operational Programme “Agriculture and Rural Development” (SOP ARD) has been developed by the Ministry of Agriculture (MoA), the MA of the SOP ARD. The two priorities of the SOP ARD are based on the priority of the NDP of the SR, which is “agriculture and rural development” and are oriented on the development of agriculture, forestry, land consolidation and rural development. This NDP priority is co-financed from the EU structural funds – EAGGF Guidance and FIFG.

The MoA SR launched a regional inquiry for SOP ARD preparation in April 2002. Regional units of the Ministry received a questionnaire for presenting their own proposals for priorities and measures for the programme under preparation. The survey was conducted through 36 regional offices of the Ministry of Agriculture of the SR, which addressed regional economic, self-government and non-profit organizations. The results of the enquiry were evaluated and included in the draft SOP. According to the SOP ARD, draft versions of the SOP were regularly consulted with socio-economic partners as well as outside the WG for the preparation of the SOP ARD18 and their comments or proposals for amendments were incorporated into the SOP where the relevant legislation enabled it.

15 SOP Industry and Services, November 2003
16 Answer of the Ministry for Economy to the request for information from Helena Zamkovska from July 20, 2004, registered under No. Info1134/2004-010.
17 SOP for Agriculture and Rural Development 2004 - 2006, Slovakia, April 2004
18 Besides the state administration personnel from the relevant ministries, representatives of 7 self-governing regions, Association of Towns and Villages of Slovakia, profession associations (Slovak Agricultural and Food Chamber, Association of Land-owners and Agri-entrepreneurs, Association of Farmers and Agri-entrepreneurs of Slovak Republic, Association of Fish-farmers), the entrepreneurs’ sector and other institutions (Research Institute of Agricultural and Food-industry Economics, Slovak Agency of the Environment, etc.), also representatives of NGOs were nominated in the WG – particularly Gremium of the Third Sector, Rural Parliament and ENGO DAPHNE.
The draft SOP ARD was published in October 2002 in a daily newspaper with the nationwide coverage (Roľnícke noviny – Agricultural Newspaper) and displayed on the website of the Ministry of Agriculture of the SR. Following its publication on the web-site, subjects not being members of the working group for preparation of the SOP ARD were also offering their proposals for amendments, such as Association of Cooperative Farms and Commercial Companies of the SR, Slovak Association of Bee-farmers, etc. The MA also led discussions with these subjects and consulted their proposals.\footnote{SOP for Agriculture and Rural Development 2004 - 2006, Slovakia, April 2004}

Following the start of official negotiations between the Slovak Government and the EC on the NDP and OPs in June 2003, the Slovak Government decided to shift a significant portion of the planned financial allocations from the SOP ARD to the OP for Basic Infrastructure. Approximately EUR 65 million were re-allocated from the agricultural sector to the priority 1 of OP BI - road construction. These changes provoked strong reactions in the agricultural sector.\footnote{information from the „Partnerships for Sustainable Development?, Report on the Structural Funds, Programming Process in Central Europe. “ (February 2004); Janis Brizga, Teodora Donsz, Istvan Farkas, Piotr Handerek, Katalin Hargitai, Paul Kosterink, Juraj Zamkovsky}

Association of Towns and Villages of Slovakia requested retaining of Measure 7 (Renovation and development of villages and conservation of rural heritage) while keeping the financial allocation untouched. However, this measure was transferred into OP “Basic Infrastructure”.

**B. NGO participation on the process**

According to the SOP ARD, there have been two meetings of the WG during 2002 – 2003. On the meetings, members of the WG were informed on the proposed priorities and measures, as well as eligible investments and beneficiaries, that were proposed from the side of regional units and they expressed their agreement with the presented framework draft SOP. On the basis of comments from the side of the Rural Parliament and the other NGOs, the execution of pilot activities for the Leader+ initiative was included in the draft measures. Social partners had several more meetings with the MA in order to discuss the measures in the SOP ARD.

However, according to the member of the WG representing the Rural Parliament, the whole WG met only once. Moreover, the meeting was not prepared properly and proposals of NGOs were not considered.\footnote{Personal communication of the NGO representative in the WG for preparation of the SOP ARD.} Thus, the official statement in the programming document and experience of the NGO representative are in sharp contradiction.

**C. NGO capacities**

The situation as described in the part for the preparation of the NDP applies also for the preparation of the OP ARD.

**Preparation of the Single Programming Document for Bratislava Objective 2 region**

**A. Rules and institutional framework for preparation**
Based on the Council Decision No. 1260/1999 of 21 June 1999, the assistance to achieve Objective 2 is, in general, provided on the basis of the Single Programming Document. The plans submitted as part of Objective 2 cover the regions on the NUTS II level\textsuperscript{22}. Objective 2 is supported by the European Regional Development Fund.

The Ministry of Construction and Regional Development of the Slovak Republic was appointed as the MA for the Single Programming Document NUTS II – Bratislava Objective 2 (SPDObj2) for the period of 2004-2006.

To implement the overall Priority - \textbf{Support of economic activities and sustainable development of the target area} - five measures have been established\textsuperscript{23}.

During the preparation phase of the SPD document proposal, a \textbf{Consulting Group} was established, the composition of which reflected the representation of bodies and organisations of state administration, municipalities, the business sector and public sector and other social partners in the target region.

During the next phase, on 9 Dec 2002 the proposal of SPD was presented to delegates of the Bratislava self-governing region's council. Based on their comments, the proposal of priorities and measures was amended accordingly. Subsequently, on 18 Dec 2002 the proposal of SPD was approved at the meeting of the council of the Bratislava self-governing region. The proposal of SPD was presented for interdepartmental and public revision and made available on the web site of the Ministry of Construction and Regional Development SR from 6 to 12 Dec 2002.

\textbf{B. NGO participation on the process}

According to the SPDObj2, within the framework of interdepartmental revision, all central bodies of the state administration, Bratislava self-governing region, as well as ZMOS (Association of Towns and Municipalities of the Slovak Republic), the Union of Towns and Municipalities of the Slovak Republic, the Gremium of the Third Sector (G3S), the Slovak Chamber of Commerce and Industry, the municipal authorities and local authorities of the region were invited to comment. Subsequently, on 20 Jan 2003 the proposed SPD was presented for discussion to the Government Board for Regional Policy\textsuperscript{24}. Following the formal negotiations, relevant partners presented their statements and comments, many of

\textsuperscript{22} As far as Slovakia is concerned, only the Bratislava self-governing NUTSII region is covered under the Objective 2.

\textsuperscript{23} Development of small and medium enterprise; Support of common services for entrepreneurs; Development of business activities and services in tourism and leisure facilities; Support for common services for tourism and leisure facilities; Renovation and development of municipalities and preservation of cultural heritage; Technical assistance

\textsuperscript{24} The government body consisting of ministerial representatives.
which were incorporated into the SPD. The Government of the Slovak Republic approved the SPD on 12 March 2003.

**Programming of SAPARD**

**A. Rules and institutional framework for preparation**

According to the SAPARD Regulation, the Rural Development Plans (RDPs) of all candidate countries had to be submitted to the Commission and to be approved by the EC STAR Committee. In October 2000 the STAR committee approved the Slovak SAPARD programme. In the National Plan for Development of Agriculture and the Rural Areas three priorities are outlined: 1/ Improvement of agricultural production sector including food-processing industry, 2/ Sustainable rural development, 3/ Human resources development.

**B. NGO participation on the process**

During the process of preparation of the National Plan for Development of Agriculture and Rural Areas for the programme SAPARD, a Forum of rural initiatives was organized by the Agency for Rural Development where NGOs were informed about the preparation of the programme SAPARD – two meetings in two regions were organized. The Rural Parliament was asked to fill in a questionnaire related to the programming of SAPARD. Environmental NGOs were not specifically consulted but they also commented the draft SAPARD, especially its agro-environmental measure. According to a representative of environmental NGO DAPHNE, proposals of the NGO were treated seriously only after the NGO created contacts with and received support from DG Agriculture and DG Environment. NGOs continuously provided comments on all of the draft versions of the RDP. Despite the fact that no official public consultation was organised, experts from different organisations were able to comment and to submit alternative proposals. NGO representatives from the Rural Parliament and DAPHNE discussed comments to each version at numerous meetings and discussions with Ministry of Agriculture (MoA) officials. Thus, thanks to the supportive approach of the DG Agri and DG Environment, and consequently, also from the side of the MoA – Regional Development Department, NGOs finally succeeded in enforcing substantial changes in the area of water services and agricultural practices aimed at the protection of environment (an agri-environmental programme). On the other side, comments of the Society for Protection of Birds of Slovakia and other ENGOs were not considered.

**Monitoring of programming: Preparatory Committee for Structural Funds (PCSF)**

The Preparatory Committee for Structural Funds (PCSF) was established at the MCRD SR and its role was to coordinate the tasks and activities of the ministries and other involved state authorities, as well as other institutions and organizations including social and economic partners in the process of the preparation of the SR for EU structural funds. It was established for the period until the accession of Slovakia to the EU.

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25 Committee on agricultural structures and rural development
26 DAPHNE (Institute of Applied Ecology) is an environmental NGO working on preservation of biodiversity.
27 Personal communication of the member of DAPHNE.
The Preparatory Committee for Structural Funds was created by a resolution No 69 dated 2
February 2000 of the Slovak Government.
It consisted of representatives of 20 organizations (12 ministries, Governmental Office, the
Central Bank of Slovakia, the Guarantee and Development Bank, the Statistical Bureau, the
State Aid Office, the Public Procurement Office, two municipal umbrella organizations, the
Slovak Chamber of Commerce and Industry and one NGO-representative). The committee
members were appointed by the Minister of MCRD SR on the basis of proposals of the
involved organizations. The NGO representative was proposed by the G3S, he was later
replaced by representative of another NGO on his own request and upon approval of the G3S.

PCSF had its statute that was approved by members of the committee. However the statute
did not include provisions on the rights and duties of its members.

The unclear status of the NGO representative in the PCSF became more obvious after his
numerous unsuccessful requests to receive updated versions of the draft Programme
Complements. Moreover, NGOs’ requests for participation on the preparation of the PC,
voiced by the NGO member in the PCFS, were also repeatedly refused.

**Conclusions**

Programming process was characteristic by unpreparedness of institutions, capacities, system
and rules established both on the national and EU level which led to the state that can be
defined as „organizational chaos“.

NGOs were not able to really participate on the process of the preparation of the programming
documents. Neither general public nor citizens NGOs received any integral and compact
information about the rules, institutional framework, the process and the time schedule for
programming. Information was not disseminated by the responsible authorities in an
appropriate and timely manner. The consultation process was chaotic and the state
administration was not able to answer the questions of the interested public about the process
properly. Even in cases where public was given a chance to comment on the draft documents
placed at the websites or at the public meetings, the results of commenting were not made
publicly available.

The rules, the process and the time schedules were changing during the programming process
and made it impossible for the interested public to follow and participate substantially at the
process.

NGO community was not informed properly about the opportunity to nominate their
members to the WGs for preparation of the operational programmes. Even in case when
citizens NGOs had their representatives included in the WGs, their participation was
perceived formally and they were many times not included to the work of committees. Many
times NGO representatives were not invited to the meetings and were not informed about the
process.
No Strategic Environmental Assessment of the NDP or Operational Programmes was accomplished, thus leaving another opportunity for NGOs and public to participate on the planning of programmes of strategic importance unused.

According to the general and vague definition of the partnership principle in the EC guidelines laying down general provisions on SFs, the partnership principle was formally observed. However, in practice it was not possible to consider the programming process to be in line with the principles of partnership, public participation, transparency and democracy.

From the above information it can be concluded, that the programming process in general suffered from non existence of clear, unified, binding and enforceable rules and guidelines for consultation process, public participation and implementation of the partnership principle.
2. Implementation of the Structural Funds

Implementation of the OP Basic Infrastructure

The programme is to be implemented separately according to individual priorities and measures.

A. System of implementation for the Priority 1 - Transport Infrastructure

The Ministry of Transport, Posts and Telecommunications of the SR (MTPT SR) is the intermediary authority for priority no. 1 – Transport infrastructure.

In the case of transport infrastructure the projects will be prepared by Railways of the SR, Slovak Road Administration, Slovak Airports Administration. These organisations are final beneficiaries and sole authorities for the state owned transport infrastructure. They are under direct management of MTPT SR, intermediate authority under MA for Priority 1. For this reason, MTPT SR will not launch a call for project proposals. MTPT SR in co-operation with the above mentioned final beneficiaries has identified project pipeline for the programme period 2004 – 2006, thus request of the European Commission stipulated in the Negotiation Mandate EC has been fulfilled. Projects included to the project pipeline had to fulfill specific eligibility and selection criteria.

B. Evaluation of the implementation system for the Priority 1 – Transport Infrastructure

Implementation of the projects of transport infrastructure within OP BI will be running similarly as in the case of ISPA projects and the Cohesion Fund, except that projects will not be approved by the EC. The implementation agencies for measures 1.1 and 1.2 will be Railways of the Slovak Republic and Slovak Road Administration which have created for this purpose the appropriate structures and administrative capacities. The implementation agency for the measure 1.3 is Slovak Airport Administration. There was no way for NGOs to influence the system, the process and the selection of the projects.

A. System of implementation for the Priority 2 - Environmental Infrastructure

The Ministry of the Environment of the SR (MoEnv SR) is the intermediary authority for priority no. 2 – Environmental infrastructure.

The financial aid from the ERDF for the projects under the priority 2 will be provided on the base of the following mechanism:

1. Call for proposals and project preparation: The MoEnv SR will publish the call for project proposals. In the time assigned in the call for project proposals the applicant submits a project documentation to the MoEnv SR.

2. Project evaluation and selection: Employees of MoEnv SR shall check whether the project documentation is complete and accomplish the formal check of the project file
content. In the case of any shortcomings the applicant will be asked to complete the missing information. A preliminary financial control of the project follows and report on the preliminary financial control is prepared. The employees of the expert departments of MoEnv SR shall make an expert evaluation of the project. They shall elaborate the report on expert evaluation and transfer it together with the project file to the selection commission.

3. The selection commission of MoEnv SR shall recommend to the Minister of Environment to approve or to reject the application. The working procedures of the members of the selection commission are to be managed by the statute and rules of procedures of the selection commission.

4. Project approval: The Minister of Environment will decide whether to approve or to reject an application. The list of approved and rejected applications including the justification shall be published on the MoEnv SR web-site.

B. Evaluation of the implementation system for the Priority 2 – Environmental Infrastructure

According to the information in the instructions for the preparation of the project within the first call for proposals, the Council of Environmental Project of MoE SR (CEP) is appointed as selection commission for the priority 2.

The CEP had been a project selection commission for the programmes and projects financed from the budget of the MoEnv SR in the previous years. There is one environmental NGO representative in the committee, who was nominated to the CEP on the basis of democratic process decided among environmental NGOs. According to the NGO member of CEP, it would be necessary to have more NGO representatives at the committee that is besides him consisting exclusively of ministerial employees.

A. System of implementation for the Priority 3 – Local Infrastructure

The priority 3 will be implemented by the Ministry for Construction and Regional Development, the Managing Authority for OP BI. The MA will use existing administrative capacities of the relevant ministeries according to particular measures and submeasures.

The MA of OP Basic Infrastructure will establish the Taskforces as follows in order to secure effective implementation process within Priority 3:

1. The High Level Working Group for Strategy –Strategy Panel Taskforce (StPT)

The StPT is the inter-governmental working group that consists of representatives/experts from state administration, regional self-governments and socio-economic partners and invited experts from appropriate field.

The rules of operating, tasks, responsibilities and jurisdiction of the StPT are defined by the statutes. Task connected to the implementation of Priority 3: it supervises the compliance

28 Informal structure of environmental NGOs – Ekoforum – was asked by the MoEnv to nominate their representative to the CEP.
of priorities carried out in the framework of OP BI with the objectives of national and regional strategy. The Taskforce will be chaired by MA for OP BI. Meetings of the Taskforce will take place on a regular basis - each six months, or in case of actual necessity.

2. Selection of the Projects – Selection Panel Taskforce (SPT)
The main aim of the Selection Panel is to secure that the selection of the projects is based on the defined criteria and score system and to notify the applicants on the results of the whole selection process. At the same time it is responsible for justification of the selection process results taking into account the recommendations of each Advisory Group. The SPT should meet three times per year. There is no information available about the composition of the SPT so far.

3. Advisory groups (AGs) for particular measures/sub-measures
The Advisory Group consists of the representatives (civil servants) of the relevant ministry, experts in technical and financial evaluations (civil engineers, architects, economists), the representatives (employees of the regional self-governments) at the NUTS III level, the representative of MA OP BI (non-voting member). AGs are acting as advise expert groups for the Selection Panel in the project selection process. There are separate AGs for all the measures and submeasures established.

The Advisory Group elaborates the professional recommendation and provides for the rational that is needed and relevant for the final decision on the project selection itself. Their task is evaluation of the projects according to specific criteria relevant to the objectives of each sub-measures or measures. Based on the evaluation process according to the specific criteria it prepares and submits the recommendations and standpoint for the Selection Panel which have important task in the final decision on project selection. It is responsible for the quality and justification of the experts´ recommendations and standpoints to the project from the point of policy and strategy, stated and followed by the relevant ministry, and from the point of technical quality of the prepared project. At the same time, it is responsible for the evaluation of compliance of the project with the regional objectives and programmes of economic and social development of the regions.

The rules of operating, tasks, responsibilities and jurisdiction of the AGs are defined by the statutes. AGs meet 3 times per year.

4. Implementation of the measure 3.4 - Renovation and development of villages
In the implementation process of the measure 3.4 the NUTS III self-governing regions (upper territorial units) under Objective 1 will be included. The evaluation of applications (projects) will be executed by administrative capacities of that self-governing region from where the final beneficiary comes. Evaluation will be executed according to pre-defined criteria and points. Project selection system will be running as for the other measures of the Priority No 3.

5. Monitoring and Evaluation Panel Taskforce (MEPTF) - the Working Group for Monitoring

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29 The criteria are either defined in the Programme Complement of the OP BI or included in the informations for applicants among the documents published within the call for proposals.
The MEPTF will be responsible for collecting the information on performance of aid at appropriate level, for monitoring of the projects according to output, result and impact indicators, etc. The MEPTF will consists of: MA OP BI; line ministries; representatives of regional self-governments. The schedule of the meetings/sessions: every three months.

The process of submission, evaluation and selection of the projects for Priority 3:

1. Project Submission: The process of submission of the projects will be held periodically during the year in several rounds. The procedures of submission of the projects are published by the MA for OP BI at the web site of the MCRD SR.

2. Project Evaluation and Scoring:
   A) Administrative compliance (the formal eligibility and OP BI core criteria) are checked by the MA OP BI. In case, that some formal discrepancies are being identified, some parts are missing, some issues need to be clarified, the MA OP BI invites the applicant to clarify or deliver the identified (unclear) issues.

   B) The assessment against the Specific Selection Criteria: The respective AG is in charge of evaluating, if the project satisfies each of the identified measure/submeasure specific criteria (regional aspects are assessed by the relevant representatives of the regional self-governments). The AG has the right, in the justified cases, to ask the applicant to provide the additional explanation/clarification in accordance with the rules that are the part of the Guidelines for applicants for Priority 3 measures. The AG submits to the MA of the OP BI the complete project evaluation documentation for each project together with the final report on the assessment and the complete list of the projects with the recommendations for the approval/rejection with the justification.

3. Project Selection: Results of the administrative compliance assessment and the results of the assessment of the AG are the basis for the Selection Panel. Based on the recommendations and results of all the stages of assessment, and based on the possibilities for Priority 3, given by the OP BI and the programme complement, the minister (MA OP BI) decides on the project approval/rejection.

B. Evaluation of the implementation system for the Priority 3 – Local Infrastructure

The above described Taskforces established for implementation of the Priority 3 – Local Infrastructure and the AGs for the evaluation of the projects do not include representatives of socio-economic partners, besides employees of self-governments. The only exception is a measure for „Building and development of institutional infrastructure in the area of regional policy” in which one representative of social-economic partners should have membership in the AG of the measure.

Implementation of the measure „Renovation and development of villages“ will be decentralized to the level of the NUTS II self governing regions. No more information about the AGs and other committees established at the self governing regions for the implementation of this measure has been available during the preparation of this report.\(^{30}\)

\(^{30}\) The NGO representative in the Monitoring Committee for OP BI sent a written request asking for information about implementation of the Priority 3 to the Secretariat of the MC for OP BI at the Managing Authority for the operational
There is no information about the membership, statutes or working procedures of the Taskforces and AGs available, either on the MCRD website or elsewhere. Information about the project evaluation and selection process that is gradually being issued within particular calls for proposals in the „instructions for development of the project documents“ for each measure only reveals the fact that no public supervision and transparency of the project selection process is currently being guaranteed.

Thus, the process of evaluation and selection of the projects is utterly under the competence and authority of the employees of the state administration and employees of regional self governements, which in the absence of binding and enforceable rules for prevention of corruption and conflict of interest might create an obscure and untransparent environment for the implementation of the EU Funds.

Although in the PC OP BI there are certain rules and principles for the purpose of securing the objectivity and non-partiality during the evaluation process that the AGs must respect\(^\text{31}\), they still do not provide enough guarantee against the conflict of interest and corruption in the evaluation and selection processes.

Regarding the OP BI, the first round of submitting of proposals for four submeasures of the measure „Building and development of civil infrastructure in the regions“ has already taken place. After the first round had been closed, it became clear that the requests for funding would be many times higher than the funds available and a large number of high quality projects and a strong competition between applicants could be expected in the future. Therefore, transparency of the project selection system is of crucial importance.

**Implementation of the Operational Program Industry and Services**

The Ministry of Economy of the SR (MoE SR) as the MA for SOP IS will use the network of existing implementation agencies that are under the jurisdiction of the MoE SR and the focus of which relates to measures of the operational programme as the intermediary bodies (IB). These are the following institutions: National Agency for Development of Small and Medium-Size Enterprises (NADSME), the Slovak Energy Agency and its regional branches

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\(^{31}\) Among them are: 1. the AG has the right to ask the applicant for additional explanation/clarification of the issues that are not clear only in exceptional and duly justified cases, according to the rules, stated and defined in advance and only through the MA; 2. the members of the AG are obliged to act in an objective and non-partial manner; 3. the members of the AG must prove, that they do not act in a way of “conflict of interest”; 4. in a case, that the project, that is the subject of the evaluation by the AG, is submitted by the institution related to any member of the AG in any way, the member of the AG related to the project must not provide any opinion/recommendation/standpoint during the evaluation process; 5. the recommendations of the AG must be reached by consensus; 6. the members of the AG are obliged to treat with all the information, relevant to the whole evaluation process, in a confidential manner, the members of the AG must not provide any information related to the evaluation process to any other third party; 7. the members of the AG must not act in any way that could influence any other member of the AG, or in a way that could influence other members in a negative way; 8. the applicant will be notified on the result of the selection process (including the results and recommendations of the AG) in a written way; 9. the appointed member of the AG must take part in all the sessions of the AG, that are relevant for the evaluation process within the evaluating round.
A. System of implementation for the SOP IS\textsuperscript{32}

1. **Call for proposals and preparation of applications:** Calls for proposal are advertised by the relevant IBs, a key role in the implementation of informative and consultative activities for the final recipients/final beneficiaries will be played by the First Contact Information Centres (FCICs) created in each region under the Objective 1. The final recipients/final beneficiaries can consult the preparation of the project in their FCIC. Grant applications will be submitted to the relevant IB.

2. **Evaluation and selection of grant applications:** The relevant IB will carry out formal control of the submitted grant applications and assessment of the project and their attachments through external and internal evaluators intended for this purpose. The Independent Evaluation Committee (IEC) established on the principle of partnership\textsuperscript{33} independently evaluates each grant application and project according to the criteria for the selection of project and in accordance with the Order of proceedings and Statutes for the Evaluation Committee. Separate IECs are created for every state aid scheme under SOP IS (for private sector) and for every measure under SOP IS (public sector). Members of the IECs are appointed by the Minister of the MoE SR.

3. Evaluation of grant applications is concluded by the Final report. The valid final report as well as a list of approved and rejected applications will be submitted to the MA. MA will authorise IB to conclude contracts with the final recipients/final beneficiaries. The list of approved grants is published on the websites of MA and IB.

B. **Evaluation of the implementation system for SOP IS**

No NGO representatives were offered seats in any of the IEC. The composition of IECs is supposed to reflect partnership principle according to their statutes in the following way: members of the IECs with voting powers are representatives of the relevant professional institutions and representatives of the self-governing NUTSII regions\textsuperscript{34}. Statutes for IEC\textsuperscript{35} set rules also on prevention of conflict of interest. If observers at the IECs\textsuperscript{36} realize violation of

\textsuperscript{32} Sectoral Operational Programme Industry and Services, Programme Complement, March 2004, p.7, *abbreviated*

\textsuperscript{33} According to the statutes of the IECs, partnership principle is secured by appointing experts from the relevant institutions and representatives of regional governments (NUTSII level for Obj1 regions) as members of the Evaluation Committees. There are also members without voting power, those are representatives of the relevant IB and other relevant institutions.

\textsuperscript{34} Sectoral Operational Programme Industry and Services, Programme Complement, March 2004

\textsuperscript{35} Statutes of the IEC are part of the documents for applicants issued within the particular calls for proposal.

\textsuperscript{36} Representatives of the Ministry of Construction and Regional Development
rules and procedures set up by Orders of proceedings or by Statutes, they have to report it to the Managing Authority of the SOP IS.

**Implementation of the OP for Agriculture and Rural Development (SOP ARD)**

The SOP ARD will be implemented by the independent Agricultural Paying Agency (APA) established according to the Act No. 473/2003 Coll. on APA and financed from the budget of the Ministry of Agriculture of the SR. APA (former SAPARD agency) is responsible also for further implementation of the SAPARD programme and of the Rural Development Plan (Programme funded from EAGGF guarantee) and other programs and activities that are part of approved agricultural policy.

APA submits calls for proposals for different measures of SOP ARD within the particular round of calls for proposal. Informations about the call for proposals are published in media and on the Ministry and APA web sites. The project selection is under the full responsibility of APA. Formal control, eligibility check and assessment of the projects according to the general and specific project selection criteria are carried out by employees of APA. In case of missing documents and attachments or other information, projects can be completed within 5 days after the Call for completion of the application was delivered to the applicant. APA can require additional clarifications of the project from the applicants.

Only the projects fulfilling all the general and specific criteria and criteria of economic viability are subject to further selection process. Projects within particular measure are selected according to scores achieved. In case the projects reach the same scores, the date and time of their submission will decide. In case that one of the applicants already was a beneficiary of support from SOP ARD, the project of the other applicant will be accepted. In case applicants reclaim violations of rules or formal procedures, they can submit a written appeal to the APA. The successful beneficiaries will sign the “Agreement on provision of irreclaimable financial grant” with APA.

**B. Evaluation of the implementation system for SOP ARD**

No NGOs or other social and economic partners are involved in the project evaluation and selection. The only way how NGOs can monitor the SOP ARD is through the NGO representative in the SOP ARD Monitoring Committee.

**Implementation of the SPD Bratislava Objective 2 (SPD2)**

**A. System of implementation for the SPD2**

The Managing Authority for the SPD2 is the Ministry for Construction and Regional Development of the Slovak republic (MCRD).

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37 Since implementation of the SAPARD programme was carried out in the same way by the SAPARD agency, it will not be described separately.
1. **Call for proposals and preparation of applications:** The applicant shall submit the application documentation to the SPD 2 Managing Authority (SPD2 MA) on the basis of call for proposals, published in media, press or on the web page.

2. **Project selection process:** The project selection process includes formal check (the applicant can complete his documentation until the given deadline), the review of the suitability, evaluation and ranking of the projects according to the pre-defined criteria and a point’s evaluation system, and selection of projects by the **Selection Committee**. There are three Selection Committees established for implemantation of the SPD2.

Each evaluation chart is divided into two parts. Part A - disqualification criteria and part B – professional evaluation. Application (project), which will be evaluated with “NO” in the part A shall be excluded from evaluation or returned to the applicant for completion. In the part B projects are scored according to the specific criteria. Applicants with the highest score receive priority.

Part A is elaborated and evaluated by responsible employee of the Managing authority for SPD 2. Part B is evaluated by internal and external evaluators appointed on the basis of the selection procedure.

3. **Mechanisms of the project selection:** the MA SPD2 shall submit the documentation to the internal and external evaluators and to the Audit department of the Agency for support of regional development (ASRD). Based on the written statements submitted by the evaluators and the Audit department, the MA SPD 2 shall prepare a summary statement to the individual projects for the **Selection Committee**. Selection Committee, appointed by the minister of the MCRD SR on the proposal of the SPD2 MA, shall be governed by its statute an standing order. The Selection Committee shall decide on the approval of projects and the amounts of assistance on the basis of the submitted documentation.

**B. Evaluation of the implementation system for SPD2**

It is not clear yet whether the Selection Committee will include also representatives of NGOs or other social and economic partners. In the reply to the request for information to the MA of the SPD2 from August 2004 it was stated that membership of the Selection Committee was being discussed. In the statutes of the Selection Committee for the SPD2, it is stated that its composition will be based on the partnership principle and equality between men and women.

**Conclusions**

NGOs were repeatedly asking for implementation of the partnership principle in programming, implementation and monitoring according to the EC directives. However, definition of the partnership principle in the Directive EC 1260/1999 laying down general principles of the Structural Funds allows for a broad interpretation. Therefore, state authorities tend to exclude NGOs from committees involved at the management of EU funds and at the same time to declare that the committees are established in line with the partnership principles.
As already mentioned in the report, NGOs did not have real chance to influence preparation of the programme complements and thus to influence discussion on the implementation system of the operational programmes, as well.

In this sense, an important development was achieved recently, thanks to the initiative of an independent NGO team monitoring management of the EU funds (the Watchdog team). The Watchdog team initiative described in the fourth chapter of this paper resulted in the adoption of a governmental resolution requesting the implementation of a set of legal and institutional measures that would eliminate the problems with nepotism and conflict of interest in management of the EU funds in Slovakia.
3. Monitoring of the Structural Funds and SAPARD Programme

This section will address some of the problems and issues related to the NGO participation at the Monitoring Committees (MCs) and with the role and work of the MCs. Since all of the Monitoring Committees for the programmes met only once or twice so far, conclusions derived from the analysis can be only limited.

A. Structure of MCs

<table>
<thead>
<tr>
<th>Programming documents</th>
<th>Monitoring committee</th>
<th>Number of NGO members</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Development Plan (NDP) as a basis for Community Support Framework (CSF)</td>
<td>National Monitoring Committee for CSF (NMC CSF)</td>
<td>1</td>
</tr>
<tr>
<td>OP Basic Infrastructure (OP BI)</td>
<td>Monitoring Committee for OP BI</td>
<td>1</td>
</tr>
<tr>
<td>SOP Industry and Services (SOP IS)</td>
<td>Monitoring Committee for SOP IS</td>
<td>0</td>
</tr>
<tr>
<td>SOP Agriculture and Rural Development (SOP ARD)</td>
<td>Monitoring Committee for SOP ARD</td>
<td>1</td>
</tr>
<tr>
<td>Single Programming Document NUTSII-Bratislava Objective 2 (SPD Obj2)</td>
<td>Monitoring Committee for SPD Obj2</td>
<td>1</td>
</tr>
<tr>
<td>Single Programming Document NUTSII-Bratislava Objective 3 (SPD Obj3)</td>
<td>Monitoring Committee for SPD Obj3</td>
<td>1</td>
</tr>
<tr>
<td>National Plan for Development of Agriculture and the Countryside</td>
<td>Monitoring Committee for SAPARD</td>
<td>3</td>
</tr>
</tbody>
</table>

B. The role and work of the committees

Monitoring of the CSF and the Operational Programmes (OPs) is under the responsibility of the relevant Managing Authorities and under the control of the CSF Monitoring Committee and Operational Programme Monitoring Committees respectively.

The Monitoring Committee (MC) for CSF and MCs for other OPs were established in accordance with the Article 35 of the Council regulation No 1260/1999 by the Slovak Government. Although these committees were formally established by the 31 August 2002 deadline set up in the Action Plan for the Chapter 21 on Regional Policy, none of them had their constitutive meeting before October 2003. Moreover, the original structure of MCs was changed following the merger of the three OPs at the beginning of 2003. The Monitoring Committee for SAPARD was also established by the Slovak Government in accordance with the Article 35 of the Council regulation No 1260/1999.

The CSF Monitoring Committee and the OP Monitoring Committees carry out functions related to programming (approval of the respective Programme Complement and any adjustment to it) and monitoring of implementation (e.g., approving the Annual Report and the Final Report before their submission to the Commission, reviewing progress towards achieving the objectives of the SFs assistance, examining the results of implementation, etc.) and other policy decisions (considering and approving any proposal to amend the content of the Commission decision on the contribution of the Funds, proposing to the MA adjustments...
or review of the SFs assistance). The rules of work of all the MCs are given by statutes approved by the MCs and, if they decide so, by rules of procedure.

C. NGO participation in the MCs

According to a governmental resolution, each MC should consist of representatives of state institutions and agencies, regional governments, social partners and representatives of the business sector in equal proportion, with NGOs being included among the social partners. Citizens NGOs were usually offered one seat in the MCs, except the MC for SOP Industry and Services where NGOs where denied representation, despite the fact that originally the Ministry of Economy asked the G3S to propose a NGO candidate. After the G3S proposed a candidate that had been chosen by the NGO community on a basis of open and democratic selection process, the MoE SR not only rejected the candidate but also refused to accept any other NGO candidate, despite appeals of the NGOs to the Ministry of Economy to appoint their nominee to the MC.

Another problem is that the system of nomination of citizens NGOs to the committees for EU funds has not been developed yet. Gremium of the Third Sector (G3S) is the only structure recognized by government as the umbrella platform for NGOs. Therefore, only the G3S was being asked by ministries to nominate NGO representatives to the committees for EU funds. This resulted in the situation that NGO representatives were not nominated on the basis of a democratic process with approved and clear rules. Many times the selection was rather random, in some cases NGO candidates were not even consulted or did not know about their nomination by the G3S. It has to be pointed out, that even though G3S tried to inform well known NGOs about the possibilities to nominate their candidates, the problem of such a disorganized approach lied in the fact that NGO community was not informed properly about the open nomination process, as well as about the nominees and approved candidates and therefore a democratic nomination and selection process had not taken place.

Experiences from the first meetings of several MCs are discussed in the next part of the chapter:

The Monitoring Committee for Community Support Framework

The NGO member of the MC for CSF was nominated to the Committee by the G3S without even being informed about the fact. He was only notified by the minister of the MCRD about his appointment as a member of the MC. Since the NGO representative was previously a

38 On the request for information to the Ministry for Economy about NGO participation in the MC, the Ministry responded: “In the MC also professional non-governmental organizations are represented, which nominated their representatives to the MC. They include Association of the Industrial Unions of the SR, the Slovak Small Business Union, Association of Banks of the SR, Union of Hotels and Restaurants of the SR”. On the question about securing the partnership principle in the MC, since there was no NGO representative included in the MC, their reply was: “Since there are NGOs represented in the MC, the question is irrelevant” (Answer to the request for information to the Ministry of Economy of the SR dated July 11 2004, registered under No. info1079/2004-010).

39 A platform of NGOs, that had been active mainly in 1990-2000, is considered by the government to be an umbrella representative of the NGO community. As such, the G3S is asked by governmental institutions to nominate NGO candidates to various committees. The problem lies in the fact that currently the G3S is only a formal and non operational structure and almost no communication exists between G3S and other NGOs. Moreover, most of the NGOs do not wish to be represented by G3S.
member of the National Monitoring Committee for pre-accession funds which had just finished its operation, he was already knowledgeable and prepared for his tasks. The problem lies in the fact, that the NGO community was not informed about the process of nomination and election properly, neither by the G3S nor by the MCRD SR.

The only meeting of the MC for CSF so far was held on March 24, 2004. At the meeting, the already approved CSF, operational programmes and state of their implementation were presented to the MC members. Participants were also informed about the state of preparation of the NDP for 2007-2013 programming period.

At the meeting, the ENGO representative stressed the fact that NGOs were not satisfied with their involvement on the preparation of the NDP for 2004 – 2006 and appealed on the ministries to involve NGOs in the future. The minister of MCRD SR responded that they were also not satisfied with involvement of NGOs and confirmed that the ministry counted on involvement of NGOs on the programming for the next programming period.

Regarding the work of the NGO representative at the Committee, he considered delivery of the documents to be discussed at the MC meeting 10-14 days prior to the meeting to be insufficient for serious preparation. He would also need to receive more background documents related to the agenda, comments and explanations of the contents of materials. In the response to his comment that the representatives of social partners at the MC were not prepared properly for their role, he was informed that trainings for the MC members were under preparation.

The expenses of the representatives of social partners at the MC related to their work in the MC are not reimbursed. Since NGOs usually do not have any special budget for work in the committees, at least travel and communication costs should be covered by the MA according to the NGO representative.

The Monitoring Committee for OP for Basic Infrastructure

There were two sessions of the MC (December 2003 and March 2004) so far. On the first meeting, statutes and the draft programme complement (PC) for OP ZI were approved for submission to the EC, despite the written appeal of the NGO representative of the MC submitted before the meeting, in which he was asking for postponement of the decision. The reason for his objection was that absence of full and timely information prior to the meeting prevented him from full participation. First of all, he did not receive written invitation to the meeting and therefore he was not familiar with the programme of the meeting. Secondly, he was invited by phone only one working day prior to the meeting and also the PC was delivered to him just one working day before the meeting. He pointed out that due to this fact he was not able to consult the draft PC with NGOs that he was representing at the MC. He asked for postponing of the approval of the PC, also due to the fact, that there was no public discussion held on the document. As the NGO representative concluded in his appeal, the conditions of the Article 15, par. 6 of the EC Directive No 1260/1999 were not fulfilled. He objected also several other formal shortcomings of the procedure of the PC approval and therefore he asked for postponing of the decision on the PC. Among the main objections of the NGO representative towards the PC was exclusion of NGOs as the final
beneficiaries from certain measures. According to him, his comments were not properly treated and with some minor exceptions not adopted.

Despite his request, the PC for the SOP BI was approved by the MC for submission to the EC. The written appeal of the NGO representative of the MC was attached to the minutes of the meeting upon his request.

There were also other shortcomings reported by the NGO member of the MC. For example, opinions of the NGO representative at the meeting were not recorded properly and were not taken into account. He also considered the leadership of the meetings by the Minister (head of the MA) to be chaotic and not properly organised. Problems occurred also with the minutes that were not sent to MC members in time.

NGO member at the MC was also questioning the fact that documents to be discussed were given to them 10-14 days before the meeting, most of the time without additional explanations and background information, which did not give enough time to the members to properly understand them, to consult them with the MA and with other NGOs and to prepare proposals that would be discussed and adopted by the NGO community. Given that the meetings of the MC are held only two times a year, it should be possible to provide the documents to MC members much earlier.

The decisions at the meeting are made by consensus, in case the consensus is not reached, voting takes place. The statement/explanation about negative voting of some members has to be attached (if provided) to the minutes.

One day training for members of all the MCs was organized, but according to the NGO member of the MC no additional training for members of the MC for OP BI was held.

Regarding transparency of the MC work and informing of the public, there are also considerable shortcomings. At the time of the preparation of this report neither statutes nor list of the members of the MC for OP BI were placed on the website of the Ministry, not even mention minutes from the MC meetings. The documents and the minutes were therefore placed on the website on EU funds, established and operated by several NGOs (www.eufondy.org)

The Monitoring Committee for SOP Industry and Services

Two meetings of the MC were held so far (November 200, March 2004). Since there is no representative of NGO in the MC, NGOs were not able to participate on the commenting of the Programme Complement of the SOP IS and will not be able to take part on the monitoring of the programme. Brief informations about the results of the meetings of the MC are placed on the website of the Ministry.

The Monitoring Committee for SOP Agriculture and Rural Development
Two meetings of the MC were held by the time of the preparation of the report. On the preparatory meeting (No 0) the proposal of statutes was prepared. The first regular meeting was held on 27 May 2004, the statutes were approved and a draft of the Programme Complement was commented and approved.

The proposals of the NGO representative on changes to the statutes and to the increase of transparency of the MC work were easily accepted and adopted by the MC. It proved to be much more difficult to enforce changes in the content of the Programme Complement. For example, the regional development NGO representative’s proposals on specific evaluation criteria for project selection that are part of the PC were not adopted due to the negative attitude of the majority of governmental officials in the MC. Still, the NGO representative managed to pass an important decision that for the next meeting both sides would prepare and submit quantified arguments supporting their proposals for the criteria. Based on the arguments, the controversial issues would be discussed and voted on again at the next meeting.

So far, only limited observations about the influence of the NGOs on the work of the committee and on monitoring of the programme can be drawn. The NGO representative in the MC of the SOP ARD has had good experience with acceptance of her proposals by other social and economic partners at the MC. According to the NGO representative at the MC, the rate of acceptance of her comments by the MC depended to a large extent on two important factors – the strength and relevance of arguments and the positive attitude of the chairman of the MC to the NGOs. During the first two meetings of the MC of SOP ARD, the chairman (usually the head of the Managing Authority for the Operational Programme, i.e., a government official) appreciated the contribution of the NGOs in the MC and did not assume a negative stance to their proposals.

The NGO representative received invitations to the meeting and all the materials to be commented on the meeting in time and therefore she had time to discuss the materials with other NGOs prior to the meeting. The minutes of the meeting were prepared and some months later also placed on the website, as well as the statutes and the list of the members of the MC. All the comments of the NGO representatives were discussed and questions answered. Decisions in the committee are to be taken on the basis of consensus, if it is not possible, the majority voting of the members present at the meeting decides. However, the number of the representatives of the ministries and of other state agencies is higher (11 people) than the number of the social partners represented at the MC (6 people). In case the overvoted members require so, the note about the rejected proposal shall be amended to the minutes from the meeting.

The members of the MC were prepared for their task on a training led by foreign experts. The first day, the training was conducted for members of all the monitoring committees, the next two days the training was specifically focused on the MC for SOP ARD.

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40 For example, that the minutes from the MC meetings will be placed on the governmental website, all information will be sent not only to members of the MC but also to the alternate members, relevant information from the MC is also to be sent to an umbrella NGO working on rural development (the Rural Parliament).

41 Representatives of other organisations, such as the Union of the Owners of Non-State Forests, the Slovak Chamber of Food and Agriculture and the Union of Cities and Villages of Slovakia.
The Monitoring Committee for SAPARD

Similarly like in case of the MCs for Structural Funds, the role of the MC for SAPARD was to select the criteria for selection and evaluation of the projects within each measure of the programme SAPARD, to evaluate the progress in achieving the goals of the programme, to monitor the results of the programme, the mid-term evaluation of the programme, comment and approve annual and final reports about the programme realisation before sending them to the European Commission, to comment and approve each suggestion for changing of the programme, to propose each change or correction of the programme, to inform the public about the results and progress of the programme, as well as several other smaller activities mentioned within the Statutes of the Monitoring Committee of the Programme SAPARD.

The MC for SAPARD had its preparatory meeting (No 0) in April 11, 2001. There were six meetings of the SAPARD MC held in 2001 – 2003. Meetings of the Committee were usually held twice a year.

Ministry of Agriculture appointed NGO members from organizations that had been actively participating on the preparation of the National Plan for Development of Agriculture and the Countryside, the SAPARD programme. Those NGOs had been also actively communicating with the DG Agriculture in their effort to enforce implementation of their proposals to the plan and gained considerable reputation and authority.

Each representative (NGOs including) of the MC had a possibility to comment on the procedures, on the whole programme SAPARD and to propose changes.

It was important, that the NGO representatives were actively communicating with the DG Agriculture and actively proposing their agenda, since the representatives of the Ministry of Agriculture were not used to take NGOs opinion into account before. Only through recognition of the environmental NGO DAPHNE by the EC, attitude of the Ministry improved and they were prepared to accept NGOs’ proposals, as well as offer a seat to the representative of DAPHNE in the MC for SAPARD.

Since the MC has to approve the programme and the monitoring indicators, environmental NGO’s should have an opportunity to ensure that environmental aspects are taken into consideration in the implementation of every measure in order that environment and biodiversity is conserved.

However, according to the member of the MC representing the DAPHNE NGO “there is no time and space to take into account all environmental aspects of the measures”. Also she stated that “environmental aspects are very broad and there is lack of experts and knowledge on this issue within the Monitoring Committee and lack of co-operation between the agricultural and environmental sectors.”

Decisions at the MC were taken through consensus. The minutes from the MC meetings were made public on the Ministry website. Members of the MC were informed about the date of the next meeting and received materials to be discussed usually a month, at least 15 days before the meeting but in some cases the documents they were delivered only one day before the meeting. Travel costs for the members from further part of Slovakia were reimbursed.
There were no trainings for the NGO representatives or other members of the Committee. At the same time, the programme SAPARD as a pre-accession fund was considered to be “a training” for all representatives of the Committee.

Conclusions:

NGO representatives in the MCs for SFs were appointed based on their previous involvement and experience in the field. However, the system of nomination of NGO representatives to the MCs was not clear so far and needs to be standardized. Existence of such a system is important for more efficient participation of the NGO representatives in the committees and for creation of a functioning network of NGOs on the EU funds issues. In this way, the representatives would be able to report back from their work to their constituencies, to consult important issues with the NGO community, to prepare common NGO standpoints, proposals and policy approach to important documents and topics discussed at the committees, to receive necessary support and to utilize the knowledge and expertise of all the involved NGOs.

There are no sufficient tools created by the state authorities to support the effective participation of NGO representatives at the MCs. Unlike the officials, NGOs are not properly trained for their work at the committees, their work at the MCs is mostly not part of their job description and therefore, they need to sacrifice their free time to prepare themselves for the MC meetings, they are not paid for their work at the MCs, even though it requires a lot of expertise and time for preparation, participation, and follow-up. Moreover, their expenses are not reimbursed and they have problems to find additional funds for their NGOs to support their work. Obviously, technical assistance from the EU funds allocated for the state authorities to manage EU funds, should be extended also to NGOs having their representatives at the committees established for the management of the EU funds. Only in this way the problems can be overcome and a fruitful and effective participation can be secured.

NGOs should pay more attention to the work of the MCs and other committees for management of EU funds, since they will discuss documents and issues of crucial importance for the society. On the other side, clear and transparent processes organised by the state authorities should secure that NGOs and their representatives receive timely and sufficient information on all the important issues related to the management of the EU funds.

4. Systemic response to allegations of nepotism and conflict of interest

*Flaws in management of the PHARE-funded granting schemes in 2003 led an independent NGO watchdog team*[^42] *to analyse problems reported by many potential beneficiaries, ranging*
from NGOs and small businesses to municipalities. In January 2004, the analysis was submitted to the Anti-Corruption Unit of the Office of Government and the Ministry of Justice, which were responsible for fighting corruption in general, but not explicitly in supervising EU funds. The watchdog team initiative finally resulted in the adoption of a governmental resolution requesting the implementation of a set of legal and institutional measures that would eliminate the problems.

The watchdog team called for comprehensive review of all legal regulations and guidelines regulating the access of potential beneficiaries to information on EU funding, project evaluation and selection processes, monitoring and supervision, as well as all measures to ensure transparency and eliminate conflict of interests in these areas. In addition, the unification of practices used by different managing authorities was requested and the team asked for the adoption of clear, strict, binding and enforceable rules to prevent past bad practices.

In May 2004, the Government’s Anti-Corruption Unit prepared in response to the NGO watchdog team request a detailed legal survey on the quality of existing legal measures to prevent abuses, irregularities and corruption in the management of EU Funds in response to the watchdog initiative. Although a few of the managing authorities seemed reluctant to cooperate, the others, namely the Ministry of Social Affairs and the Ministry of Finance, actively supported this initiative.

The result of the legal survey revealed not only holes in existing legislation and unclear guidelines allowing the arbitrary interpretation of rules but also a lack of understanding of regulations by different authorities. In June, representatives of the watchdog team accepted the invitation of the Anti-Corruption Unit and Minister of Justice to assist in drafting a set of measures for improvement of the existing state of affairs and actively participated in this process. The draft document was then submitted to all managing authorities and implementing agencies for comments. In July, the Minister of Justice submitted to the Government a report on the outputs and recommendations resulting from a survey entitled “Legal Protection from Non-Transparency, Abuses and Conflicts of Interests Related to Decision-Making on EU Funds in Slovakia”. The report included a proposal to transpose all proposed measures into the current regulations of all relevant authorities.

On August 18, 2004, the Slovak Government adopted resolution #797 requesting “unification and adjustment of all legal and other regulations of the central state authorities of the Slovak Republic including relevant manuals, handbooks and guidelines as well as other guiding acts according to the (above mentioned) report by October 30”. The Minister of Justice was charged “to create a clear definition of conflict of interests and to define liability of persons involved including definition of sanctions for violations of principles on conflicts of interest” by the end of August. All tasks from the report became obligatory for all managing authorities and must be implemented by specific deadlines.
Conclusions

The first result has emerged on September 9, when the Minister of Justice announced the „Rule on Banning Conflicts of Interest“ (see Annex below), which is generally seen as a very progressive achievement. The other actions are to follow.

The adoption of the resolution is a good news for Slovakia. For years, public officials on various levels took advantage of missing or vague rules which gave them room for arbitrary decisions. Obviously, they usually refused to listen to NGOs demanding a change of the rules. The August 18 resolution may end this period and is one of the first resolutions on the management of public funds in Slovakia that establishes responsibilities for public officials from the public interest – not state administration’s – perspective.

No one could have expected that the state administration would agree to initiate a process that would culminate in limitations of its own powers. Further, few anticipate that the resolution itself will halt bad practices, if not implemented properly and if such implementation is not seriously monitored and supervised. For this reason, the NGO watchdog team not only had to initiate the process, but must also ensure that the adopted measures are respected.

Annex

The rule on banning conflicts of interest

Art. I

As part of all decision-making processes connected to the redistribution of EU Structural Funds and the Cohesion Fund, the prevention of conflicts of public and private interest (hereinafter „conflicts of interest“) of all interested persons on the side of applicants for state aid, as well as on the side of the persons representing decision-making and evaluating bodies (hereinafter „stakeholders“ – their specification is included in Article II) must be addressed. Conflicts of interest are defined as a situation in which due to personal or other similar relationships of stakeholders, an interest on the objective and impartial administration of public functions related to the preparation and implementation of calls for proposals under programmes funded from the EU funds as well as evaluation and selection of the projects submitted is disrupted or threatened. Personal or other similar relationships are considered to be: family relations, emotional proximity, political proximity and economic or any other interests not related to the public interest, shared with the applicant for the non-recourse financial support from the SFs, CF, state budget or other public sources.

All relevant agreements on the provision of state aid must contain a provision on the abandonment of the contract and return of award, in cases in which the responsible authority investigating a claim or other similar petition comes to the conclusion that the rule on banning conflicts of interest has been violated.

Each stakeholder on the side of the evaluating or decision-making authority is obliged to report on the conflict of interest to the relevant body, as soon as it comes to his/her attention and s/he cannot make decisions nor influence the process in any way with respect to the further process connected to the conflict of interest. If employees are involved, the violation of this rule shall be treated according to the relevant legal regulations as a breach of discipline or infraction on work discipline. With respect to persons in relations other than employment, the relevant contracts (e.g., work contracts) must state that
violation of the rule on banning conflicts of interest constitutes a reason for unilateral withdrawal from contractual relations.

Art. II

The rule on banning conflicts of interest is binding and refers to the following areas and stakeholders. Definition of these areas and stakeholders does not affect the right of Managing Authorities (MA) and Mediation Organs under the MA to adopt stronger rules to enforce the rule on banning conflicts of interest.

Preparation and submission of projects

- Persons entrusted by the MAs to provide information for applicants of proposals (at the level of the central bodies of the state administration and other public institutions, e.g. the Regional Self-Government) must not be involved in the preparation, submission or implementation of projects;
- Persons participating in the preparation of the calls for proposals, granting schemes or state aid schemes (at the level of the central bodies of the state administration and other public institutions, e.g., the Regional Self-Government) must not be involved in the preparation, submission or implementation of projects within the given call for proposals, granting schemes or state aid schemes;
- Persons participating in the preparation and implementation of the projects of the state administration (at the level of the central bodies of the state administration and other public institutions, e.g., the Regional Self-Government) must not be involved in the evaluation and selection of projects within the given call for proposals, granting schemes or state aid schemes.

Assessment of administrative compliance

- Persons entrusted by the MAs to conduct an assessment of administrative compliance must not be involved in the preparation, submission or implementation of projects.

Evaluation and selection of the projects

- Persons entrusted by the MAs to evaluate the projects must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes;
- External evaluators must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes;
- Members of selection committees must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes;
- Any other persons participating in the evaluation and selection of the projects or in supervision of these processes must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes.