

**FULL EX-ANTE IMPACT ASSESSMENT ON THE  
POLICY OF THE BULGARIAN GOVERNMENT  
AIMED AT CHANGING THE LEGAL FRAMEWORK  
REGULATING THE RELATIONS IN THE AREA OF  
MANAGEMENT OF THE EU STRUCTURAL AND  
INVESTMENT FUNDS**

**SUMMARY**



Sofia, 2015

## **CARRYING OUT THE ASSESSMENT**

The impact assessment is carried out on the basis of a contract for assignment by the Administration of the Council of Ministers of the Republic of Bulgaria. The scope of the contract is: "Preparation of full ex-ante impact assessment of the Bulgarian governmental policy aimed at changing the legislative framework, regulating the relations in the area of management of the EU structural and investment funds."

The overall objective of the contract is to assess the impacts of any change in the legal framework in the sphere of management of the European structural and investment funds, that involves simplification, recast, consolidation and codification of the existing rules and norms, including through the introduction of new regulatory measures aimed at increasing the efficiency of the management and control of these funds in Bulgaria for the new programming period 2014 – 2020.

## **METHODOLOGY**

In preparing the IA the Center for Regulatory Impact Assessment used its own elaborated methodology for carrying out impact assessments in Bulgaria, based on the following strategic documents:

1. A Guide to RIA, adopted by the Council of Ministers Decision № 549 of July 25, 2014;

2. A Guide to RIA of the Council of Ministers in 2009, published on the portal for public consultations the Council of Ministers;

3. A Guide to Impact Assessment in Bulgaria commissioned by PHARE Project BG-0103.01 "Strategic planning and coordination" as a result of close cooperation between the administration for the Council of Ministers of the Republic of Bulgaria and a consortium of experts;

4. Guidelines for IA of the European Commission 2009;

5. Guidelines for IA adopted by the UK Government in their current versions;

6. Manual for impact assessment of the UK Department for Business, Innovation and Skills;

7. Toolbox for impact assessment of the UK Department for Business, Innovation and Skills in 2011 and others.

The methodology for conducting the ex-ante impact assessment includes two separate toolboxes:

- Methods and tools for data collection and information

- Methods and tools for analyzing data and information

The IA applied qualitative and quantitative approaches to data collection in order to gather the most comprehensive base of information. From the many existing techniques the following basic methods and tools were used: documentary analysis, interviews with stakeholders, research.

In preparing this IA the following methods and tools to analyze the data and information collected were used:

- SWOT analysis (Strengths, weaknesses, opportunities, threats);

- Qualitative analysis (qualitative research);

- Costs – benefits Analysis and

- Benchmarking.

## **POLICY CONTEXT**

The issue about the selection of the approaches and measures to best regulate the relations in the area of management of the EU structural and investment funds are the key prerequisite for the implementation of the EU policies and strategies. They are particularly relevant in a changing environment due to the dynamics of the socio-economic conditions and the changing of priorities related to the closure of the old and the launch of new programming period.

At EU level, the Commission and institutions - legislators of the Union have long ago embraced the so called uniform approach to regulation of the European structural and investment funds by introducing identical, by their virtue, nature rules contained in Regulations with equal position in the hierarchy of the normative acts referring to all five structural and investment funds of the EU:

- The European Regional Development Fund;
- The European Social Fund;
- The Cohesion Fund;
- The European Agricultural Fund for Rural Development;
- The European Fund for Maritime Affairs and Fisheries.

The goals pursued by this approach are several, of which the more important are:

- Improving the coordination in the management of the funds at Union level;
- Ensuring consistency of the implementation of ESIF;
- Ensuring maximum accessibility to funds to their addressees;
- Achieving clear synergy between ESIF and The Strategy “Europe 2020”.

## **ANALYSIS AND RESEARCH**

The enhancement of the economic, social and territorial cohesion and solidarity among the member - states is one of the main goals of the European Union. Achieving it is a shared competence of the Union and the member - states. To ensure the achievement of the common public goal of cohesion, the Union is developing and pursuing policies and initiatives of its own. One of the main set of instruments for implementing that goal is the one of the EU funds. The utilization of the financial resources from the EU funds creates relationships which have as an object the public budgetary, financial resources of the EU and the separate member - state. Participants in these relations are public entitles – authorized by a state and legal entity - private or public beneficiary of the funds. The utilization of the financial resources from these funds is done for the achievement of predefined objectives and within a specified period of time – the programming period.

The European Union and the member - states by a duly regulated procedure providing for a shared management, determine the specific designation of the financial resources for each member - state in order to find the most efficient use of resources to achieve the public policy objectives. The European Union, through its legislative acts governs the conditions for the use of these resources. The member - states are those who pursue and ensure the implementation of these policies.

## **STAKEHOLDERS**

As a component of the preparation of this impact assessment a sociological survey was carried out with the aim to summon the attitudes of the stakeholders towards the proposed changes in the regulation of the system of management and control of funds from ESIF. For this purpose the following target groups and stakeholders were interviewed:

- Representatives of the State Administration from the separate directorates - managing authorities of EU programs;

- Representatives of the State Administration from the separate directorates - beneficiaries of European projects;
- Representatives of the business;
- Representatives of municipalities, experts involved in the preparation and implementation of projects funded by the European Commission;
- NGOs.

### **PROBLEM DEFINITION**

Currently in Bulgaria the system of management, coordination, implementation, monitoring and control of EU funds is facing problems on several main levels - strategic, institutional and regulatory. The problems at the strategic level concern the possibility of the state to maximize the impact of cohesion policy of the Union. The problems at the institutional level arise from the lack of a comprehensive institutional framework covered with clear statutory rights and responsibilities of the parties involved in the management and control of EU funds and a mechanism to ensure effective coordination and interaction between them. The problems at regulatory level are associated with unpredictability of the environment, complexity, ambiguity and lack of legal certainty caused by unstable, fragmented and significant volume of inconsistent terminology within the legal framework.

### **MAIN OBJECTIVE**

Implementation of change in the legal regulation of the system of management, coordination, implementation, monitoring and control of EU funds, which would lead to an optimal solving of the existing problems at all levels - strategic, institutional and regulatory.

### **SPECIFIC AND OPERATIONAL OBJECTIVES**

#### *Specific objectives*

Identifying an option for regulation by improving and simplifying the existing legal framework which leads to predictability of the environment, accessibility and comprehensibility of the legislation, reducing the administrative burden and increase of the legal certainty for the addressees.

#### *Operational objectives*

The selected option for the regulation must contribute to the elimination or reduction of the currently existing characteristics of the legislation as instability, changeability, increased dynamics, unpredictability, fragmentation, regulatory inflation, huge volume and complexity.

### **IDENTIFICATION OF OPTIONS**

The analyses, studies and researches conducted within the frame of this IA lead to the conclusion that there is a need from improvement of the legal framework regulating the relations in the area of management of the European Structural and Investment Funds in relation to which the following types of regulatory intervention, which differ in their approach and intensity have been identified:

#### **OPTION 0 - DO NOTHING**

#### **OPTION 1 - LEGISLATIVE MEASURES**

#### **OPTION 2 – SUB-LEGISLATIVE MEASURES.**

### **ANALYSIS OF IMPACTS AND COMPARING THE OPTIONS**

To make a complete analysis of the effects of legislation so far and the expectations of future changes to this framework a quantitative and qualitative appraisal of the results achieved so far regarded as benefits and costs associated with regulation is to be done. The first step of this activity is to identify the key impacts that the implementation of the current

model has produced, and then to make estimations of the basic expectations related to the implementation of the concrete options for regulation of the range of social relations at stake.

With the IA an attempt to explore the so called distributive impacts was made. Options that generally would be of benefit to society can have both positive and negative impacts on stakeholders which are unevenly distributed between them over time. Therefore, different types of impacts and related key issues are reviewed collectively as a combination of distributive impacts that affect the separate stakeholders.

The conclusions made from the entire IA analysis show that defined problems in the systemic of management, coordination, implementation, monitoring and control of EU funds in Bulgaria would find their best solution by implementing a differentiated approach to regulation. Within its frame the social relations from this system that are subject to permanent regulation for which there is a public interest related to the predictability of the environment, legal certainty or priorities set by the EU are removed from the current scope of the regulation and are governed by higher in terms of stability level, which is provided by the law as a statutory normative act. The rest of the social relations that are specific, related to the specifics of individual operational programs remain in the field of regulation by sub-legislation. Such an approach could be implemented by selecting the identified OPTION 1 - LEGISLATIVE MEASURES, which is recommended by this impact assessment.

### **RECOMMENDATIONS ON MONITORING AND EVALUATION**

We recommend performing ongoing monitoring of the progress of achievement of the identified objectives which to start immediately after the entry of proposed regulatory measures into force. We recommend that a further evaluation of the effects from the application of the law is done within a term not longer than 24 months after entry into force.

### **CONCLUSION**

This full ex-ante impact assessment of the policy of the Bulgarian government aimed at changing the legal framework regulating the relations in the area of management of the ESIF is specific for several reasons. It is done upon the assignment of the Bulgarian government after the initiative of the Deputy Prime Minister for European Funds and Economic Policy Mr. Tomislav Donchev, which is still a rare practice in Bulgaria. It was assigned in the right moment, in terms of the good practice of carrying out IA, at a sufficiently early stage of the policy cycle when public the discussions and consultations for selecting the appropriate option to governed the addressed social relations were still on-going.

Therefore, the fact of its assignment and carrying out could serve as a good practice that should be followed when decisions of major significance are made relating the regulation and evaluation of the progress in achievement of the objectives of regulatory models already established, especially for cases when they affect a wide range of social relations and significant public interests.