

Comparison of the Legislative Requirements Governing the 2014-2020 Programming Period and the 2021-2027 Programming Period in the Slovak Republic

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Abstract. The programming period is a seven-year period in which the Member States of the European Union can draw funds for activities supported by the European Structural and Investment Funds. The institutional, procedural arrangements for the implementation of the European Funds within the Member States are regulated by European and national legislation. The paper aims to compare the 2014-2020 programming period and the 2021-2027 programming period in terms of the setup of processes resulting from national legislation. The comparison will be based on the comparison of Act 292/2014 on the Law on the and Law 121/2022 Coll. on contributions from European Union funds and on amendment and supplementation of certain acts. By analyzing the above-mentioned laws, we have found that from the institutional and procedural point of view, changes have been made in the setting of the new programming period. These changes could simplify the implementation of the European Structural and Investment Funds in Slovakia in the coming years.

Keywords: European Structural and Investment Funds, Programming Period, Legislation.

JEL classification: R58, H70

1 Introduction

The European Union's regional policy, otherwise known as Cohesion Policy or Economic, Social, and Territorial Cohesion Policy, is one of the most important investment instruments. According to the European Commission, more than 365 billion of the European budget has been allocated in the 2014-2020 programming period (European Commission, 2014). The main feature of this policy is the principle of

solidarity through which funds are redistributed from more economically advanced states to less developed, underdeveloped states, or poor states to reduce regional disparities and improve the quality of life of the population (Wokoun, 2011). Structural policy is a part of economic policy. Its key role is to enable weak, structurally disadvantaged regions to minimize their disadvantages and provide them with access to overall economic development and growth. EU structural policy is considered a complement to national regional policy (Bauer, 2001). Structural policy and structural funds as an instrument are by their very nature directly aimed at reducing disparities between regions as well as reducing disadvantaged regions or areas of member states. In other words, it is a policy whose main objective is to provide Member States with the financial means to ensure economic and social development and thus move closer to the developed countries (Kováčik, 2019). The principles of the European Union's regional policy are divided into five basic areas. The main principles - programming, concentration, partnership, additionality, and monitoring and evaluation are supplemented by the authors Marek, and Kantor (2009) with other principles, namely subsidiarity, coordination and harmonization, integration, convergence, compatibility, and proportionality. The implementation of the Structural Funds of the European Union is conducted in a Member State through operational programs. These are medium-term documents drawn up for predefined areas, which contain the objectives and main needs of the sector, a full description of the measures planned to achieve the main objectives and needs, and a financial plan and provisions for securing it. An operational program is developed by the relevant central government body with the participation of socioeconomic partners by the objectives and priorities set out in the national plan (Kováčik, 2019).

2 Methodology

The institutional and procedural set-up of the programming period is regulated by European and national legislation. Given the gradual transition in the implementation of the European Structural and Investment Funds to the programming period 2021-2027, it is important to compare the settings and differences in the two programming periods.

The paper aims to identify the main differences in the settings in both programming periods based on Act 292/2014 on the contribution provided by the European Structural and Investment Funds and on the amendment and supplementation of certain acts and Act 121/2022 Coll. - Act on the contributions from the European Union funds. In the paper, we focused on the differences resulting from the approved Act 121/2022 Coll. - Act on contributions from European Union funds.

The methods used in the paper include analysis and comparison. Analysis was used in the study of the individual laws and then the comparison of the laws was conducted.

3 Main findings

The set-up for the implementation of the European Structural and Investment Funds is legislatively regulated in each programming period. In the 2014-2020 programming period, the provision of contributions from the European Union funds is regulated by Act 292/2014 of the Collection of Laws on the contribution provided from the European Structural and Investment Funds and on the amendment and supplementation of certain acts. The law entered into force on 1 November 2014.

The programming period 2021-2027 is regulated by Law 121/2022 of the Collection of Laws. Act 121/2022 is divided into 8 parts and includes and regulates general provisions, the competence of the authorities, the procedure for granting the contribution, specific procedures for granting the contribution, the procedure for granting the contribution to the financial instrument, financial relations for granting the contribution, the settlement of financial relations and the management of the State's receivables and the last eight parts relate to common and transitional provisions.

3.1 General provisions - European Union funds

The first and significant difference in the programming periods under review is the number of funds from which Member States will draw funding. In the 2014-2020 programming period, implementation took place from the five funds listed in Table 1. In the 2021-2027 programming period, two funds remain the same - the European Regional Development Fund and the Cohesion Fund. The European Social Fund Plus will focus on the social area, promoting employment and inclusion.

Table 1. European Structural and Investment Funds in the 2014-2020 and 2021-2027 programming periods

Funds for the 2014-2020 programming period	Funds for the 2021-2027 programming period
European Regional Development Fund	European Regional Development Fund
European Social Fund	European Social Fund Plus
Cohesion Fund	Cohesion Fund
European Maritime and Fisheries Fund	European Maritime and Fisheries and Aquaculture Fund
European Agriculture Fund for Rural Development	Asylum, Migration, and Integration Fund
-	Internal Security Fund
-	Financial support instrument for border management and visa policy
-	Just Transition Fund

Source: Law 292/2014 of the Collection of Laws. Act on contributions from European Union funds and on amendments to certain acts and Act 121/2022 of the Collection of Laws. Act on contributions from European Union funds and amend certain laws.

To support local fishing and local communities, the European Maritime, Fisheries, and Aquaculture Fund was established and continues the objectives of the European Maritime and Fisheries Fund.

In the context of the current European challenges, additional funds have been established to support the Member States of the European Union: The Asylum, Migration and Integration Fund, the Internal Security Fund, and the Just Transition Fund. The specific objective of the Just Transition Fund is "to enable regions and people to address the social, employment, economic and environmental consequences of the transition to achieve the Union's 2030 climate goals and the 2050 climate-neutral economy based on the Paris Agreement" (Ministry of Investment, Regional Development and Informatization, 2021, p.3).

3.2 Competence of the Authorities

The role of the Government of the Slovak Republic under Law 121/2022 is to designate the Managing Authority and approve the Partnership Agreement of the Slovak Republic for the years 2021-2027 and to approve the Operational Program, except for the Asylum, Migration, and Integration Fund, the Internal Security Fund and the Instrument of Financial Support for Border Management and Visa Policy. Compared to the previous period 2014-2020, the competencies of the Government have been reduced. The government has also been tasked with appointing additional bodies. Based on a proposal from the managing authority, it designated the intermediate body, the audit authority, and the paying agency.

The Ministry of Investment, Regional Development, and Informatization of the Slovak Republic remains the central coordinating body for the next programming period. The Ministry of Finance will be the paying authority for the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund, and the Equitable Transition Fund. The paying authority shall perform the same tasks and activities as those conducted by the certifying authority.

In the programming period 2021-2027, new bodies are also created whose competencies have not yet been regulated in the law. For integrated territorial development, a Partnership Council and a Sustainable Urban Development Cooperation Council are created. According to Law 121/2022, the role of the Partnership Council is to coordinate the preparation and implementation of the integrated spatial strategy and approve the integrated spatial strategy and the project plans for the integrated spatial investment. The same activities focusing on sustainable urban development arise for the Sustainable Urban Development Cooperation Council. The status, composition, tasks, performance of activities, and method of decision-making shall be approved by the Ministry of Investment, Regional Development, and Informatization and submitted for approval by the higher territorial unit or municipality.

The newly established body is ensuring the protection of the financial interests of the European Union. The programming period 2021-2027 is ensured by the Office of the Government of the Slovak Republic. The main activities resulting from the law are the protection of the financial interests of the European Union, the collection of data on

irregularities, and the reporting of irregularities to the European Commission. The Office of the Government of the Slovak Republic is the coordinating body for the fight against fraud. The Ministry of Finance of the Slovak Republic is the coordinating body for financial instruments. The Office of the Government of the Slovak Republic continues to function as the body ensuring the protection of the financial interests of the European Union. The managing authority has the right under the law to authorize the intermediate body in writing to conduct certain activities. In the programming period 2021-2027, only a ministry, other central government body, or a state contributory organization may be designated as an intermediate body.

As intermediary bodies were designated individual ministries - Ministry of Labor, Social Affairs and Family of the Slovak Republic, Ministry of Education, Science, Research and Sport of the Slovak Republic, Ministry of Transport and Construction of the Slovak Republic, Ministry of Environment of the Slovak Republic, Ministry of Economy of the Slovak Republic, Ministry of the Interior of the Slovak Republic, Office of the Government of the Slovak Republic - Office of the Government Plenipotentiary for Roma Communities, Slovak Innovation and Energy Agency and the Office for Public Procurement (Ministry of Investment, Regional Development, Informatization of the Slovak Republic, 2023). The Managing Authority for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument of Financial Support for Border Management and Visa Policy programs develops and approves the management system for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument of Financial Support for Border Management and Visa Policy programs and its changes.

The Managing Authority has been given the responsibility under the law for making payments to the beneficiary, which were previously conducted by the Paying Authority.

3.3 Procedure for granting the allowance

The applicant shall apply following a call for applications. The place of publication of the call is changed. Calls for proposals were previously published on the provider's website. According to Law 121/2022 on contributions from European Union funds, the call should be published in the information monitoring system. Similarly, changes to a call or cancellation of a call will be communicated to applicants within the information monitoring system. Another change about the call for proposals is the reduction of the deadline for completing or amending the application, from the previous 15 days to 10 days.

Similar changes apply to the project plan. The call for project proposals is also being moved from the website to the information monitoring system. Another change is that the evaluation report, because of the evaluation process of the project plan, can be part of the conditions for the grant.

In addition to the conditions for sending a written proposal for the conclusion of the contract and setting a deadline for the acceptance of the proposal, the applicant is also required to fulfill another condition. Neither the provider nor a member of its statutory or supervisory body may have been convicted of a valid offense of subsidy fraud, an offense of damage to the financial interests of the European Union, an offense of

procurement and public auction rigging, an offense of bribery, an offense of indirect corruption or an offense of receiving and granting an undue advantage.

The granting of an additional allowance was also regulated as part of the special procedures for granting the allowance. An additional contribution could be granted if there was an increase in the total eligible expenditure of the project relating to the main activities of the project and without the payment of which it would not be possible to achieve the objectives of the project as set out in the contract. At the same time, the provider must have funds available to provide the additional contribution. This part in Law 121/2022 is not.

3.4 Specific procedures for granting the allowance

In the area of national projects, there is a change in the means of communication. Also in this area, instead of a website, there will be a switch to an information monitoring body through which the provider will invite the prospective applicant to publish and submit the national project.

Integrated territorial investment projects or sustainable urban development projects that are part of an integrated territorial strategy or part of a sustainable urban development spatial strategy are introduced as part of the new law. The application and approval process are no different from other projects. The Integrated Spatial Investment and Integrated Spatial Investment for Sustainable Urban Development projects have replaced the area of major projects in Law 292/2014.

In the area of technical assistance, the Slovakia-Czech Republic and Slovakia-Austria cross-border cooperation programs and the Asylum, Migration and Integration Fund, the Internal Security Fund, and the Financial Support Instrument for Border Management and Visa Policy will be implemented on a flat-rate basis.

3.5 Procedure for granting a contribution to a financial instrument

The fifth part of Law 121/2022 deals with the procedure for granting a contribution to a financial instrument. That Part regulates the possibilities for granting a contribution to a financial instrument, the rules for granting a contribution to a financial instrument, and the implementation of the financial instrument. At the same time, the rules for the use and reimbursement of the financial instrument contribution and the rules for the reimbursement of the financial instrument contribution in the event of financial correction are also regulated. The financing agreement and the contract with the financial intermediary are also defined.

The financial instrument contribution is granted based on a Financing Agreement for an existing or newly created financial instrument. Examples of such a contribution are to invest in the equity of the institution to contribute to the financial instrument in the form of a separate block of funding or to a special account of the institution implementing the financial instrument. The recipient of a contribution to a financial instrument shall apply for a contribution to the financial instrument by the contract.

In addition to the financing agreement, a contract with the financial intermediary shall also be adopted. This is a contract concluded between the beneficiary of the

financial instrument and the financial intermediary. In addition to the rights and obligations of the parties, the general terms and conditions of these contracts are set out in the law. The financial intermediary shall be obliged to use the financial facility contribution by the contract with the investment strategy of the financial facility until the end of the financial facility. Both the final beneficiary and the intermediary are obliged to use the funds to meet the objectives of the program.

3.6 Financial relations in the granting of the allowance

After the entry into force of the contract or the entry into force of the decision, the provider may request the contribution using a payment request. The reimbursement of the funds shall be made by the beneficiary by the conditions laid down in the contract or decision. In the event of an obligation on the part of the beneficiary to reimburse a financial contribution that does not exceed EUR 100 without interest, the provider shall not apply the reimbursement. Compared to the previous programming period, the amount where the provider does not claim reimbursement has increased. In the programming period 2014-2020, the amount was set at up to € 40. For cross-border cooperation programs, the amount has not changed, the value cannot exceed €250 in an accounting year.

3.7 Settlement of financial relations and administration of the State's claims and common and transitional provisions

In addition to the provider, the provider of the contribution to the financial instrument, the audit authority, and the paying authority have been added as eligible entities to conduct financial corrections. A financial correction may be made by an entity before the closure of the project. The last eighth section of the law deals with the conflict of interest, processing of personal data, disclosure, information monitoring system, and information system for accounting of European Union funds. The information monitoring system refers to the public administration system administered by the Ministry of Investment, Regional Development, and Informatization.

4 Conclusion

The correct procedural and institutional set-up of the programming period contributes to the efficient and effective implementation of the European Structural and Investment Funds. Therefore, we consider it important to know the setting of the programming period, the foundations of which are legislatively regulated.

The paper aimed to highlight the differences in the procedural and institutional setup of the 2014-2020 and 2021-2027 programming periods. In the paper, we focus on identifying the differences resulting from the national legislation, Act 292/2014 on the contribution provided by the European Structural and Investment Funds and on the amendment and supplementation of certain acts, which were in force and effect during the 2014-2020 programming period. Law 121/2022 of the Collection of Laws - Law on

Contributions from European Union Funds and on Amendments and Additions to Certain Laws, valid and effective during the programming period 2021-2027.

Differences in the setting of the programming period can be seen in both institutional and procedural settings. A summary of the main differences starts with the creation of new European Union funds, which will finance the objectives and priorities of the 2021-2027 programming period, while at the same time a single operational program - Slovakia - is being created. In addition, there is an institutional change where the competencies of the authorities are changing. New bodies are also created in the new programming period which were not present in the previous programming period. There is also a change in communication with the applicant. There is a shortening of deadlines and an increase in financial limits.

The main objective of the changes resulting from Law 121/2022 is to simplify the implementation process for the applicant, and the beneficiary and to speed it up.

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