



Poland

Legislation

In Poland, there were no major discrepancies between the rules contained in European and national legislation. The complete structure of the applicable legislation is as follows: 1) ESIF Act, 2) Horizontal Guidelines of the Ministry of Development (MIR), 3) detailed description of the OP priority axes and detailed description of the management and control systems issued by the MA, 4) other documents (instructions, manuals). The absence of legal force in most of the documents mentioned above and their binding force set only by contracts allow more flexibly adaptation to possible changes, although their enforcement may be more difficult in practice.



Positive aspects

- ▶ Absence of fundamental contradictions with EU principles and rules
- ▶ Transparent rules and online availability of ESIF documents to applicants and beneficiaries
- ▶ Manuals for specific procedures for applicants / beneficiaries issued by the MA
- ▶ Cooperation between MIR, MA of ROP and other partners on creation of implementation rules

Negative aspects

- ▶ Large volumes of ESIF-related documentation
- ▶ Many rules contained only in documents without proper legal force
- ▶ Restrictive interpretation of discrepancies (especially in case of public procurement) and financial instruments
- ▶ Disputes related to VAT as (non)eligible expenditure

Key aspects of the legislation

1

Methodological environment

MIR, as coordination authority, issues horizontal guidelines binding especially for other IS institutions. MAs issue their own documents, with a main goal of making the rules for applicants or recipients more transparent. These documents are binding for the beneficiary under the grant agreement.

2

Access to the ESIF documents

All legal and non-legal documents (including their changes) regarding ESIF are available on the MIR and Regional MA's websites. Quite fragmented rules are explained in the accompanying manuals and instructions of the MA.

3

Decentralization followed by unification

Decentralization in the ESIF implementation across ROPs is reflected in the adoption of different forms of supporting documents across the regions. This is being balanced by the effort of the MIR to unify the system through the ESIF and horizontal directives.

4

Resolution of irregularities

Irregularities are based on the ESIF Act and the Public Finance Act. As irregularity is understood any violation of the EU and national law. The resolution lies with the Managing Authorities, the unjustifiably paid funds are recovered through administrative decisions.



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