

Riga

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To:
European Commission
Directorate-General for Budget
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

Directorate-General for Regional and Urban Policy
B-1049 Brussels
Belgium

Emails: Themis.Christophidou@ec.europa.eu, stephanie.riso@ec.europa.eu

Dear Sir/Madam,

Subject: Clarification Request on Conflict of Interest Guidelines Impacting Latvia's NGO Sector.

We are writing on behalf of the non-governmental organization (NGO) sector in Latvia to express our profound concerns regarding the interpretation and application of conflict of interest guidelines as outlined in the Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation 2021/C 121/01 (C/2021/2119).

Our concerns stem from the broad and ambiguous nature of these guidelines, which has led to substantial legal uncertainty within our sector. This is particularly pertinent in relation to our longstanding collaboration with state institutions like the Society Integration Foundation (SIF) and the impact on our involvement in project evaluation committees, planning and monitoring of distribution of the EU funding, as well as general engagement with state institutions.

We acknowledge the efforts of both the Central Finance and Contracting Agency (CFCA) and the SIF in being considerate and forthcoming. The CFCA, a key institution subordinated to Latvia's Ministry of Finance, is pivotal in managing foreign investments and overseeing the distribution of EU funds within Latvia. Similarly, the SIF's involvement is critical in evaluating and approving NGO projects, making their understanding and interpretation of the guidelines equally important.

They have assured us of assessing each case on its merit. However, there remains uncertainty in the interpretation of conflicts of interest as per the guidelines, with definitive assessments being possible only in cases with authoritative European Commission interpretations. This

scenario does not afford us the legal certainty needed for smooth operation. Moreover, it is essential to recognize that the involvement of the NGO sector itself is pivotal in ensuring full transparency and accountability in government procedures.

We seek specific clarifications on the following points:

Evaluation and Approval of Projects by Former or Current NGO Members or Employees: We are facing significant uncertainty regarding the capacity of NGO representatives to impartially evaluate or approve EU-funded projects for organizations with present and past affiliations. This includes current or prior membership, employment, or collaborative efforts. For instance, there is a lack of clarity on whether representatives from one organization within an umbrella group can impartially evaluate projects from another organization under the same umbrella. Similarly, it is unclear to what extent the conflict of interest rules apply to situations where umbrella organizations aim to sub-grant EU funds to their member organizations. Such scenarios are common in our sector, where interconnectedness is often a strength, yet under the current guidelines, it could be perceived as a conflict of interest. This ambiguity hinders the ability of NGOs to effectively collaborate, especially in the context of large networks of NGOs working towards common goals.

Participation of NGOs in SIF Board (Council): The SIF Board plays a crucial role not only in approving the results of NGO project competitions but also in approving the rules (terms of reference) for these competitions, ensuring a structured and transparent approach to project evaluation. Despite the Board's vital functions, there is a notable hesitation among NGOs to apply for positions on the SIF Board, primarily due to concerns regarding the potential violation of EU conflict of interest regulations. This apprehension extends to any form of involvement that might risk the reputation of other organizations, even those with distant affiliations. To mitigate concerns of conflict of interest, the SIF Board is establishing a policy whereby any member with doubts about their potential conflict of interest abstains from voting, commenting, and participating in discussions on related issues. This precautionary measure aims to maintain the integrity of the Board's decisions. However, it remains unclear whether abstention alone is sufficient to address the conflict of interest, or if further measures, such as resignation from the Board, are necessary. This ambiguity contributes to the reluctance among NGOs, potentially leading to a shortage of qualified candidates for the SIF Board, which in turn could undermine the Board's effectiveness and the fair evaluation of NGO projects. It is crucial to emphasize that the SIF Board is a unique entity that epitomizes transparency, where government and NGO representatives are equally present and make decisions on an equitable basis. This balanced representation is fundamental in ensuring that decisions made by the SIF Board are fair, transparent, and beneficial to all parties involved, reinforcing the Board's commitment to upholding the highest standards of integrity and impartiality.

Harmonization of Evaluation Procedures by SIF: Ongoing discussions on harmonizing rules related to EU funds and state budget funds stem from a desire to streamline procedures and ensure consistency across funding sources. This initiative, while aimed at simplifying regulatory compliance, has raised significant concerns. The possibility of implementing stricter EU conflict of interest rules for all NGO-related funding through SIF, in contrast to Latvia's effective existing framework, prompts apprehension. Such a change could severely impact NGOs' roles in supervising, evaluating, and approving a wide array of public funds. It's crucial to consider the efficiency of Latvia's laws, notably since NGO representatives on the SIF Board are treated as public administration officials, adhering to stringent national

regulations for declaring and preventing conflicts of interest. The main challenge is to avoid complicating well-established processes under Latvian standards through the harmonization of these rules to a potentially higher standard.

Moreover, the **European Commission's current funding model, designed to allow larger organizations to sub-grant to smaller NGOs**, especially in the "EU-13" region, encounters a significant obstacle due to its apparent clash with conflict of interest regulations. This conflict poses a challenge to critical initiatives such as EuropeAid DEAR, CERV, and the Financial Partnership Agreement. The model's primary aim is to promote solidarity and cooperation within the civil society sector. However, the rigorous enforcement of these regulations may unintentionally establish hurdles that complicate the legal and financial responsibilities for projects, thereby detracting from the Commission's overarching objective of strengthening civil society.

The essence of this problem lies in how the strict application of conflict of interest rules can inadvertently impede the participation of NGOs in the funding process. This issue manifests through restrictive eligibility criteria, complex compliance demands, perceived conflicts of interest, administrative burdens, and a tendency towards risk aversion among organizations. Such challenges can lead to delays in funding, reduced availability of resources for NGOs, and ultimately, limit the diverse and vibrant growth of the civil society sector. This situation contradicts the Commission's commitment to empowering smaller NGOs and fostering a collaborative network across the European Union, particularly within the less-developed "EU-13" region.

Therefore, we urgently request:

Definitional Clarity: A more precise definition of conflict of interest scope, enabling NGOs to navigate risks without compromising their participation in essential roles.

Practical Application in Small Countries: Adaptation of these guidelines to the realities of smaller countries like Latvia, where sector interconnectivity is high, and NGO expertise is crucial for project evaluation and implementation.

These clarifications are crucial for maintaining the integrity and effectiveness of EU funding distribution and ensuring effective collaboration between NGOs and state institutions in Latvia.

We look forward to the European Commission's guidance and support in resolving these concerns.

For any further clarifications or discussions, please feel free to contact our designated liaison:

Contact Person for Further Clarifications:

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Thank you for your attention to this critical issue.

Yours sincerely,

Kristīne Zonberga,
Director of Civic Alliance Latvia

Information about the CAL:

Civic Alliance Latvia (CAL) is the largest umbrella organization for non-governmental organizations (NGOs) in Latvia, dedicated to advocating for the interests of the NGO sector. CAL's mission is to strengthen civil society in Latvia by supporting the common interests of NGOs and fostering a conducive environment for their activities. Civic Alliance - Latvia represents more than 140 member organizations, collectively encompassing approximately 70,000 individuals – equivalent to 70% of all those involved in NGOs in Latvia. Additionally, it represents about 27,500 individuals overseas, accounting for 11% of the Latvian diaspora.

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