



PL-BY-UA
2014-2020

**Rules of Procedure of the Joint Monitoring Committee
for the ENI Cross-border Cooperation Programme
Poland-Belarus-Ukraine 2014-2020**

adopted by the Joint Monitoring Committee on 23 March 2016
and updated via written procedure finalised on 13 December 2016

LIST OF ABBREVIATIONS

EC	European Commission
ENI Regulation	Regulation (EU) No 232/2014 of the European Parliament and the Council of 11 March 2014 establishing a European Neighbourhood Instrument
EU	European Union
EUSBSR	European Union Strategy for the Baltic Sea Region
IR	Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument
JMC	Joint Monitoring Committee
JTS	Joint Technical Secretariat, appointed as Intermediate Body
MA	Managing Authority
National Authority	National Authority
Programme	ENI Cross-border Cooperation Programme Poland-Belarus-Ukraine 2014-2020
PSC	Project Selection Committee
TA	Technical Assistance

Preamble

The EU Member State Poland and the Partner States Belarus and Ukraine,
on the basis of:

- Regulation (EU) No 232/2014 of the European Parliament and the Council of 11 March 2014 establishing a European Neighbourhood Instrument (hereinafter referred to as the ENI Regulation),
- Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument (hereinafter referred to as the IR),
- ENI Cross-border Cooperation Programme Poland-Belarus-Ukraine 2014-2020 approved by the Commission Decision No. C(2015) 9138 final of 17 December 2015 on the Joint Operational Programme Poland-Belarus-Ukraine 2014-2020 for the ENI Cross-border Cooperation Programme for the years 2014-2020 to be financed from the general budget of the European Union (hereinafter referred to as the Programme)

have set up the Joint Monitoring Committee for the ENI Cross-border Cooperation Programme Poland-Belarus-Ukraine 2014-2020 (hereinafter referred to as the JMC).

Article 1

Tasks

1. The JMC is responsible for the quality and efficiency of the implementation of the Programme. The JMC shall monitor the Programme implementation and progress towards its priorities using the objectively verifiable indicators and related target values defined in the Programme. The JMC shall examine all issues affecting the Programme performance.
2. In particular, the JMC shall take the following decisions concerning the Programme:
 - a. approve the Managing Authority's (hereinafter referred to as the MA) work programme and financial plan, including planned use of TA;
 - b. monitor the implementation by the MA of the work programme and financial plan;
 - c. approve the criteria for selecting projects to be financed by the Programme;
 - d. be responsible for the evaluation and selection procedure applicable to projects to be financed by the Programme (selection of projects);
 - e. approve any proposal to revise the Programme;
 - f. examine all reports submitted by the MA and, if necessary, take appropriate measures;
 - g. examine any contentious cases brought to its attention by the MA;
 - h. examine and approve the annual report referred to in Art. 77 of the IR;
 - i. examine and approve the annual monitoring and evaluation plan referred to in Art. 78 of the IR;
 - j. examine and approve the annual information and communication plans referred to in Art. 79 of the IR.
3. Furthermore, the JMC shall:
 - a. approve the waiver decisions submitted by the MA referred to in Art. 75 of the IR;
 - b. provide a forum for discussion and information exchange of issues relating to the implementation of the Programme, its evaluation and adaptation with the aim of ensuring high quality of the implementation process.
4. The JMC may issue recommendations to the MA regarding the Programme implementation and evaluation. It shall monitor actions undertaken as a result of its recommendations.

Article 2

Composition

1. The JMC shall include representatives of the cooperation areas involved (one regional representative per region), representatives of the national authorities responsible for the Programme, and other representatives appointed by each participating country.
2. The following institutions from Poland, Belarus and Ukraine shall nominate in writing a voting member for the JMC:
 - a. Poland:
 - 1) National Authority (Ministry of Economic Development),
 - 2) Ministry of Foreign Affairs,
 - 3) Marshal Office of Podlaskie Voivodeship,
 - 4) Marshal Office of Mazowieckie Voivodeship,
 - 5) Marshal Office of Lubelskie Voivodeship,
 - 6) Marshal Office of Podkarpackie Voivodeship,
 - 7) Relevant Euroregions, i.e. Niemen, Puszcza Bialowieska, Bug, Karpacki (one representative of all Euroregions on a rotation basis),
 - 8) Ministry of the Interior and Administration.
 - b. Belarus:
 - 1) National Authority (Ministry of Foreign Affairs),
 - 2) Ministry of Economy,
 - 3) Brest Regional Executive Committee,
 - 4) Grodno Regional Executive Committee,
 - 5) Minsk Regional Executive Committee,
 - 6) Gomel Regional Executive Committee,
 - 7) State Customs Committee,
 - 8) Relevant Euroregions, i.e. Nieman, Belovezhskaya Pushcha, Bug (one representative of all Euroregions on a rotation basis).
 - c. Ukraine:
 - 1) National Authority (Ministry of Economic Development and Trade),
 - 2) Ministry of Foreign Affairs of Ukraine,
 - 3) Volynska Oblast State Administration,
 - 4) Lvivska Oblast State Administration,
 - 5) Zakarpatska Oblast State Administration,
 - 6) Rivnenska Oblast State Administration,
 - 7) Ternopil'ska Oblast State Administration,
 - 8) Ivano-Frankiv'ska Oblast State Administration.
3. In addition to the voting members of the JMC, also the following institutions shall be represented in the JMC by the non-voting observers:
 - a. Poland:
 - Control Contact Point (Center of European Projects),
 - Audit Authority (Ministry of Finance).
 - b. Belarus:
 - Control Contact Point (EU International Technical Assistance Centre in the Republic of Belarus),
 - Ministry of Finance.
 - c. Ukraine:
 - Control Contact Point (Ministry of Finance),
 - Relevant Euroregions, i.e. Bug and Karpaty (one representative of both Euroregions on a rotation basis).

4. In addition to the duly appointed representatives, in order to ensure the close association of different stakeholders or experts in the implementation of the Programme, other participants may be invited to participate in the meetings of the JMC (as the non-voting observers) according to the issues of the JMC concern and subject to the approval of the Chairperson of the JMC. Among such observers, in order to ensure that the Programme implementation process is appropriately aligned with the EU Strategy for the Baltic Sea Region as well as that the synergies of the Programme with the EU Internal Security Fund actions are provided, the representatives of Polish coordinator of the EUSBSR and ISF Responsible Authority may be invited to the JMC meetings.
5. The representatives of the participating states shall be appointed on a functional basis and not on a personal basis.
6. Institutions which have appointed the JMC voting members and non-voting observers are entitled to nominate also their deputies. Any appointment and any recall of a JMC member and/or a deputy shall be reported in writing to the MA without delay.
7. The voting members and non-voting observers may participate in the meeting together with their deputies. If a voting member participates in the JMC meeting together with a deputy, only a member shall have the voting right and a deputy acts as a non-voting observer. The deputy of the member shall have the voting right only in case a JMC member is not able to attend a meeting. If both voting member and his deputy cannot participate in the JMC meeting, ad hoc voting deputy can be appointed under the conditions of Art. 2.6 of the JMC Rules of Procedures. If voting member or his deputy cannot participate in the JMC meeting, ad hoc non-voting deputy, replacing one of them, can be appointed under the same conditions.
8. Before each JMC meeting the members of particular national delegation select one representative who shall act as the head of the national delegations. The heads of the JMC national delegations shall closely cooperate with the JMC Chairperson during the JMC meetings.
9. EC representatives shall be invited to participate in each meeting of the JMC in an advisory capacity.
10. JMC participants shall be bound by the JMC Rules of Procedures.
11. List of the names of the institutions (and their organisational units) represented in the JMC shall be published on the Programme website.

Article 3 Chairmanship

1. The JMC shall be chaired by a non-voting representative of the MA.
2. The Chairperson is responsible for the proper functioning of the JMC.
3. The Chairperson shall:
 - a) convene the JMC meeting on its own initiative or, in justifiable cases, following the duly justified request of any participating country or of the EC; the date of JMC meeting is set on the basis of the Programme implementation progress and in consultation with NAs;
 - b) approve the draft agenda of the JMC meeting, before it is sent out;
 - c) chair the meetings;

- d) include extra points in the agenda in the course of the JMC meeting, if sufficient evidence of their urgency is provided;
- e) ensure that the JMC decisions are in compliance with regulations and provisions in force.

Article 4
Joint Technical Secretariat

1. The JTS acts as secretary of the JMC. It shall assist the JMC and the JMC Chairperson.
2. The JTS shall perform all duties necessary for the proper work of the JMC. In particular the JTS shall:
 - a) prepare (unless other institutions involved in the Programme are responsible for the task) and distribute electronically to all participants supporting documents needed to conduct discussions on the items on the agenda of the JMC meeting,
 - b) prepare (unless other institutions involved in the Programme are responsible for the task) and distribute electronically to all JMC voting members, non-voting observers and their deputies supporting documents needed to conduct the written procedure,
 - c) organize and carry out the preparation of the JMC meetings and assist its activities,
 - d) draft minutes of the JMC meetings, including justifications of the decisions taken by the JMC,
 - e) ensure that decisions of the JMC have been executed,
 - f) confirm that conditions set out by the JMC, concerning projects, have been met by beneficiaries,
 - g) ensure, on request of the JMC, sufficient publicity of the Programme and the JMC work,
 - h) assist any working group, appointed by the JMC,
 - i) update the list of the JMC members and their deputies.
3. If necessary, the JTS is supported by the Branch Offices.

Article 5
Meetings

1. The JMC shall meet as often as necessary and at least once a year.
2. Expenses related to the organization of the JMC meetings shall be financed by the Technical Assistance budget in accordance with rules agreed by the JMC. The participation of only one representative from each institution mentioned in Art. 2 (2–4) may be covered from the Programme budget. The MA and NAs will support the members of the JMC in obtaining visas.
3. The JMC meetings are not open to public. Documents disclosed to the JMC participants shall be used only for the purpose directly related to the works of the JMC.
4. On behalf of the Chairperson, the agenda of the meeting shall be sent by JTS electronically together with the invitation to the JMC voting members, non-voting observers and their deputies at least 21 calendar days in advance. All the necessary documents for the discussion and approval of the JMC shall be sent by JTS electronically at least 14 calendar days in advance. In exceptional cases the documents may be sent out shortly before the meeting, but not less than 3 working days.
5. A report of the evaluation performed by the Project Selection Committee (hereinafter referred to as the PSC) together with application forms of the projects to be discussed and voted

on shall be made available by the JTS at back-office at the Programme website at least 14 calendar days prior to the convened meeting.

6. As a rule, the minutes from the JMC meeting shall be drawn up by the JTS directly after the meeting. The minutes shall contain a list of decisions taken by the JMC during the meeting. These minutes approved by the JMC shall be published on the Programme website as soon as possible after the meeting.
7. The JMC meeting shall be recorded.

Article 6

Decision-Making

1. The JMC shall take decisions by consensus among all the national delegations of the participating states. However, in justified cases, when consensus cannot be achieved as a result of prior consultations between the delegations of participating countries, it may put certain decisions to a vote, particularly those relating to the final selection of projects and the grant amounts allocated to them. Each participating country shall have one vote, regardless of the number of members within its delegation. Each national delegation is responsible for the internal decision making process. Decision rights may not be delegated to other countries, other JMC members or third parties.
2. Votes are cast in favour or opposed. Abstention from voting has no effect on the outcome of the vote.
3. In case of opposition by one or more delegations, the Chairperson may decide on initiating a written procedure or postponing the decision for the next JMC meeting. In such cases the Chairperson may decide to set up a Working Group or to organize the next JMC meeting as soon as possible.
4. The comments made by the observers attending the meeting may be taken into account.
5. The JMC may also take decisions through written procedure at the initiative of the MA or one of the participating states. In this case the Chairperson shall send the draft decision via the JTS to all JMC members, their deputies and observers by electronic mail. Delegations of the participating states shall have 14 calendar days from dispatch of the proposal by the JTS to respond in writing. If no written objection to the procedure or to the draft decision has been received within the deadline, the decision is deemed to be taken by the JMC. In case of disagreement any member may request that the decision will be discussed at a meeting. In any case, after the given deadline has expired, the JTS shall inform all members on whether the decision is deemed to be taken or what objections have been raised. The 14 calendar day time limit may be shortened by MA in cases of emergency and the need to take a decision urgently, but in any case the deadline for submission of comments may not be shorter than 3 working days.
A list of the successfully finalised JMC written procedures is published by the JTS on the Programme website immediately after the JMC members are informed on the results of the written procedure.
6. In case the MA has objections concerning the compliance of a JMC decision with regulations and provisions in force, the decision shall be taken with reservation until the MA will have clarified the matter with the EC. In case that no compliance should be asserted or no clarification could be obtained, the respective decision will not come into force. The MA will

report the result of its communication with the EC to the JMC members. A new JMC decision shall take the report into consideration.

Article 7

Selection of projects

1. Concerning the selection of projects, the following rules shall apply:
 - the JMC shall take decisions on the basis of recommendations of the PSC,
 - the JMC shall either approve or reject an application or approve it under conditions,
 - the JMC shall in particular make sure that the selected applications correspond to objectives and published criteria of the Programme,
 - no project failing to pass the quality assessment threshold may be approved.

2. In case of approval of a project with recommendations the following rules shall apply:
 - as a rule the JMC shall approve project applications with recommendations only if the recommendations have been set out in writing beforehand as part of the assessment report or if they can be clearly defined as a result of a JMC meeting,
 - recommendations shall be clearly defined and be recorded in the respective report on the evaluation; they shall be communicated to the lead beneficiaries by the JTS,
 - the JTS shall subsequently check whether the conditions have been fulfilled or not. If it detects that the conditions have not been fulfilled, the project has to be rejected.

3. When taking decisions referred to granting funds to projects, the JMC shall endorse the results of the whole evaluation process approved beforehand by the PSC. The results and recommendations of the PSC may only be amended by the JMC in case of obvious infringement against the evaluation procedures in force. If the JMC decides not to follow all or part of the recommendations of the PSC, it shall explain its decision in writing, provide comprehensive justification and present encroachment to the procedures regulating the evaluation process which were not respected.

Article 8

Impartiality and confidentiality

With regard to the final choice of projects and grant amounts as well as examining the contentious cases of recovery notified by the MA, it shall be ensured that any decision of the JMC is free from bias and not influenced by partial interest of any of the individual JMC members. According to this principle each JMC member is obliged to sign a declaration of impartiality and confidentiality, which is attached to these Rules of Procedure as a template. The Chairperson shall ensure that all participating JMC members, their deputies and observers have signed this declaration before every relevant meeting.

Article 9

Working Groups

The Chairperson may propose to the JMC to establish working groups in order to support the implementation of the Programme.

Article 10

Working language

1. Polish, Ukrainian and Russian are the languages of the JMC meetings. If necessary, the interpretation into English will be provided. Documents prepared for and discussed by the JMC, as well as minutes from its meetings are in English.

2. The language of the JMC written procedure is English.

Article 11
Validity and revision

These Rules of Procedure enter into force on the day of adoption by the JMC. They may be amended by decision of the JMC according to Article 5 and in agreement with the MA.

Annex 1: Template of declaration of impartiality and confidentiality acc. to Art. 6.

ANNEX 1

to the Rules of Procedure of the Joint Monitoring Committee
for the ENI Cross-border Cooperation Programme
Poland-Belarus-Ukraine 2014-2020

DECLARATION OF IMPARTIALITY AND CONFIDENTIALITY

I, the signatory _____

have been appointed by _____

as a **member / deputy of a member / observer**¹ of the Joint Monitoring Committee for the ENI Cross-border Cooperation Programme Poland-Belarus-Ukraine 2014-2020.

I am aware of the provisions stipulated in Article 6 of the Rules of Procedure of the JMC, whereupon any assessment and/or decision concerning the final choice of projects and grant amounts as well as examining the contentious cases of recovery notified by the MA shall be free from bias and not be influenced by partial interest of any of the individual JMC members.

I declare that I shall execute my responsibilities impartially and objectively.

Should one of the following circumstances come into being during the procedure of a funding decision (including the assessment) or when examining the contentious cases of recovery notified by the MA, I will declare this immediately to the JMC Chairperson and to the minutes of the JMC meeting:

- The above-named authority acts as lead partner or as project partner who have submitted an application to the Programme;
- I have personal or professional or institutional involvement in one or more projects to be approved by the JMC;
- I am not independent of all parties which stand to gain from the outcome of the selection process; to the best of my knowledge and belief, there are facts or circumstances, past or present, or that could arise in the foreseeable future, which might call into question my independence in the eyes of _____ one or more parties;
- I have been employed by an applicant, their consortium members or subcontractors within the previous 3 years.

I will then not participate in the discussion nor the voting on the matters in which I declared the conflict of interests. I accept furthermore that, if I have neglected to give the necessary statement as mentioned above, the JMC Chairperson has the right to demand my resignation of the JMC immediately.

¹ Delete the irrelevant

Finally I declare that any information or documents ("confidential information") disclosed to me or discovered by me or prepared by me in the course of or as a result of the above mentioned procedures will be used only for official related purposes.

Place and date: _____

Signature: _____