

PARLIAMENT OF ROMANIA

SENATE

CHAMBER OF DEPUTIES

LAW  
129/06.30.1998  
on the Romanian Social Development Fund  
organization and operation<sup>1</sup>

The Parliament of Romania adopts this law

CHAPTER I - General Provisions

**Article 1. (1)** It is established the Romanian Social Development Fund- hereinafter referred to as the *Fund* - as a public interest-oriented organism, without a working (lucrative) purpose, Romanian legal entity with its headquarters in Bucharest.

**(2)** The Fund will develop its activity under the authority of the Government of Romania, under the provisions of this law.

**Article 2.** In the spirit of this law, the meaning of the words below is as follows:

**a)** *beneficiaries* are poor rural community groups, poor romma groups, disadvantaged groups and poor community-based productive groups and other social categories established, by a common agreement with the financer or donor, as eligible;

**b)** *poor rural communities* are groups of households and families within a village or an isolated human settlement facing the same problems and obstacles and having the same interests complying with the characteristics included in the Operational Manual of the Fund.

**c)** *disadvantaged groups* may comprise poor elderly with no family support, certain classes of ill people, homeless, women victims of domestic violence, poor women, poor parents with dependent children, street children, poor pregnant teenagers and other similar categories;

**d)** *poor community-based productive groups* or productive groups constituted by other social eligible categories, based on rural or urban communities, are those groups belonging to farmers, craftsmen and artisans and to other categories of craftsmanship;

**e)** poor romma groups are persons from urban or rural settlements mostly constituted from romma ethnics;

**f)** *the grant agreement* is an agreement between the Fund and “*de jure*” representatives of target beneficiaries or the intermediaries organizations, whichever is the case, under which the latter are granted money, referred to as *grants*, for the implementation of approved projects only;

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<sup>1</sup> The law was republished, based on the provisions of art. III, EGO no. 131/2004, in the Romanian Official Journal nr. 1243/2004 part 1. The republished version of the law was amended by GO no. 28/2006. This translation is based on the on the final and up to date version of the 129/1998 Law.

g) *project* is an initiative launched by target beneficiaries in compliance with the Fund by-laws;

h) a *facilitator* is an individual or a legal entity selected by the Fund which is committed to help a poor rural community, a disadvantaged group, a poor rural community-based productive group, or other eligible rural or urban social category as eligible to organize itself, identify its needs, prioritize them and prepare a project, to overcome communication and management problems during project implementation, to participate, after Fund's project closure, at the community durable development ;

i) *target beneficiary representatives* are, as the case may be, project management committees, for poor rural community groups and poor community-based productive groups or for other eligible social categories from rural or urban communities, or intermediaries organizations for disadvantaged groups, or territorial administrative entities alone and/or in partnership with NGO's, for poor romma ethnic communities;

j) *the project management committee* is the 3-member (manager, secretary and treasurer) project management unit designated by rural poor community groups, poor community-based productive groups, disadvantaged groups or other eligible social categories, originated in rural or urban communities, appointed by those in accordance with Legal personality acquirement procedure by poor community groups, poor rural or urban productive community groups and other eligible communities originated from rural or urban communities;

- k) project maintenance committee – is the unit constituted from at least 3 persons from the rural community group or from other eligible social categories, originated from urban or rural communities, empowered by the group members trough a official document legalized by the secretary of the territorial-administrative unit in which area the beneficiary group or community is based;
- l) *intermediaries organizations* may be NGOs (not-for-profit private legal entities without working/lucrative purpose) and local public administration agencies in partnership agreements with NGOs.

(2) In order to take advantage of the provision of this Law the groups mentioned above at the paragraph (1) items b) d) and e) and also the urban or rural eligible groups from other social categories, in accordance with align. 1, letter a), must become legal entities on the basis of an act of association of at least ten community members, or at least 30 members in the case of romma ethnics beneficiaries, registered at the local mayor's office that has jurisdiction over the respective community/settlement or beneficiary group, as the case may be. The legal entity set up following this procedure shall act only in the legal relationships for applying the provision of this Law and shall no longer exist after project implementation, according to Fund procedures.

**Article 3.** (1) The project categories financed by the Fund are:

- a) small infrastructure projects proposed by the poor rural community groups, defined in art. 2, align. 1, letter b);
- b) income generating activities projects proposed by the productive groups, defined in art. 2, align. 1, letter d);
- c) community social services projects proposed by intermediate organizations, defined in art. 2, align. 1, letter l);
- d) integrated projects or programs aimed to poor romma ethnic groups, as defined in art. 2, align. 1, letter e). The way in which the poor romma ethnic groups integrated programs and projects will be implemented will be established, by common agreement with the financers, trough the Operational manual;

- e) other project types considered as eligible, by common agreement with the financiers or donors, as the case may be.

**Article 4. (1)** The poor rural community group, the poor roma ethnic groups or other urban or rural eligible social categories group, may use their legal personality may use their legal personality obtained in accordance with article 2, alignment 2 only in the legal connections originated and linked with the project /program implementation and maintenance after the closing of the Fund's financial allocation. At Fund's financed program/project closure, the project maintenance committee undertakes all the rights and obligations of the project steering committee in relation with project resulted goods maintenance, undertaking, as the case may be, the last financial management operations, from the bank account opened for the Found financed project.

**(2)** The property rights over the assets resulted from small rural infrastructure projects are transferred, from the projects closure moment, to the territorial-administrative entities, under the obligations of maintenance along side with the project maintenance committee.

**Article 5. (1)** After the Found has approved the financing request, the productive group members from a poor community or the productive group from other urban or rural eligible community, groups that obtained legal personality in accordance with article 2 alignment 2, will form, in order to sign the grant agreement, a new legal person in one of the legal personality forms permitted by the legal provisions in power, in accordance with the particularities of the project approved by the Found.

**(2)** In the situation described by alignment 1, the legal person mentioned by article 2 alignment 2 cists to exist, in accordance with the procedures established by the Fund.

**(3)** The property rights over the goods purchased in order to implement the income generating activity projects are passing, at project closure date, to the newly created legal person in the conditions of alignment 1.

**Article 6.** The property rights over the goods purchased in order to implement the community social services projects are passing, at project closure date, to the intermediate organizations mentioned by article 2 alignment 1 letter 1, with the obligation for them to use them for the same purpose for which they were purchased.

**Article 7.** In the event that the provisions of the grant agreement are not followed the Fund will establish the procedures aimed to recover the grant sums still existing in the banc accounts.

**Article 8. (1)** The Fund purpose is to contribute to poverty reduction through financing projects in poor beneficiary communities, including here poor roma ethnic communities and for disadvantaged groups, upbringing the local managerial capabilities, sustaining the administrative decentralization, increasing the local organizational capacity.

**(2)** In order to extend its activities, taking use of its accumulated experience and complementing its financial resources, the Fund may undertake other activities in the social development area such as: training, assistance and consultancy.

**(3)** Founding of the projects mentioned at alignment 1 will be made based on a hierarchy established on the appraisal criteria and in accordance with the existing funds.

**(4)** The Fund is established for a initial period of 4 years and is a program of the Romanian Government, constituted with the financial aid of other international financial organizations and other donors from the country and abroad, of the state and local budgets. The Fund will continue its activities after the initial period of existence if it has financial resources to do so.

**Article 9. (1)** In pursuance of its aim, the Fund enjoys self-regulatory powers to issue rules and by-laws under this Law applicable to any person it enters into legal relationships with. The rules refer inter alia to the Fund Operational Manual, the Handbook for Administrative and Financial Procedures, the Guide for Appropriate Technologies Used in Infrastructure Projects, a Facilitator's Guide, the procedure for setting up as legal entity in conformity with the art. 2, paragraph (2) a. o., as required.

**(2)** Based on the Steering Committee decision will be established which of the regulations stipulated under paragraph (1) will be published in the Romanian Official Journal, Part I.

**(3)** Based on its own by-laws, the Fund administers its own budget.

**Article 10.** In order to attain its purposes, the Fund may open, if it is necessary, zonal local offices without legal personality.

**Article 11.** Management of the Fund is based on:

- a) administrative autonomy, based on the present law;
- b) has no political allegiance.

**Article 12.** The principles for the Fund's operation are:

- a) transparency regarding the management of its own budget;
- b) allocation of funds based on evaluation of submitted projects according with the Fund's requirements;
- c) demand-driven targeting of resources to poor rural communities and disadvantaged groups;
- d) community participation and partnership;
- e) cost efficiency of its projects;
- f) beneficiaries contribution (labor, in kind or/and cash) and, whenever is the case, intermediary organizations contribution for the projects completion;
- g) beneficiaries integrated problems assessment.

## **CHAPTER II - Fund Management**

**Article 13.** Management body of the Fund is vested in a 11-member Steering Committee comprised of:

- a) a representative of the Prime Minister;
- b) a representative each of the Ministry of Labor and Social Solidarity and Family, Ministry of transportation, Ministry of European integration, Ministry for inner affairs and administration, Romma National Agency;
- c) four widely recognized personalities in the civil society which are not members of NGOs involved in the Fund activity and which will be nominated by the President of Romania.

**Article 14. (1)** Steering Committee members are appointed by the management of these institutions for a four-year term of office;

**(2)** Steering Committee members mentioned at Article 13 letter a) and b) shall be nominated by Government Decision.

**(3)** At the first meeting of the appointed Steering Committee, its members will take the decision concerning to their proposal for the chairman position of the Steering Committee. Their proposal should be submitted to the prime minister for the approval.

**Article 15.** (1) Steering Committee members may be recalled by the nominating authority, under the following circumstances:

- a) if they committed a crime and were irrevocably sentenced or done anything that may affect the Fund's authority;
- b) if a conflict of interests has developed;
- c) if they fail to observe the principles provided in Article 12.

(2) The Steering Committee members appointed by the authorities mentioned in article 13 item a) and b) can be also recalled in case they have lost their position on which ground they have been appointed.

(3) The occurrence of one of those circumstances leading to the recall of the Steering Committee members shall be taken act of either by bringing it to the attention of the authorities mentioned in article 13 item a) and b) or by controlling act concluded by the bodies mentioned in article 40 of this Law.

**Article 16.** (1) The Steering Committee meets quarterly and whenever requested.

(2) The Steering Committee members will be paid based on fee-base for the participation at the meetings. The level of the meeting's fee will not exceed 25% of the gross salary of a secretary of state. For voyages in Fund's interest, the president and members of the Steering committee will benefit of transport and accommodations expenses supported in accordance with the legal provisions applicable for the persons similar in rank to the secretary of state budgetary category.

**Article 17.** The Steering Committee coordinates and controls the Fund's activities wherefore it has the following powers:

- a) to define the Fund's strategy and policies;
- b) to see that they agree with and complement the government's anti-poverty sectorial strategies and policies;
- c) to make the Fund's by-laws and rules;
- d) to approve the Fund's annual budget and activity report prepared by the Executive Director, to submit them to the Prime Minister and make them public in the Official Gazette of Romania, Chapter no.IV without incurring printing expenses.
- e) to see that its projects complement the projects undertaken by other organizations and avoid the duplication due to similar projects;
- f) to name independent external auditors of the Fund's financial statements and to receive their reports;
- g) to approve that regional branches of the Fund be set up;
- h) to appoint a 3 members subcommittee from the Steering Committee members in charge with the approval of the projects appraisal commissions' recommendations;
- i) to take any other measure for the Fund's aims to be attained;
- j) adopting any other measures imposed by the Fund purpose.

**Article 18.** (1) The Steering Committee meets according with article 16, paragraph (1), by request of the President or one-third of the Steering Committee members.

(2) The Steering Committee meetings are chaired by the President or by a Steering Committee member appointed by the President, if he is unavailable.

(3) The Steering Committee makes its decisions with a cvorum of at least seven attending members of which one shall be the President or a member duly empowered by the President to deputize for him.

(4) Should a conflict of interests develop for a Steering Committee member when a decision is put to the vote, that member shall not cast his vote, failing which he may be recalled and the decision canceled.

(5) The Fund's Executive Director attends Steering Committee meetings as an invited guest.

(6) The Steering Committee approves its own organization and operation by-laws.

**Article 19.** (1) The Fund's current affairs are managed by the Executive Director who is appointed by the prime-minister with the Steering Committee consultation and on the basis of qualifications and professional experience required for the position.

(2) In its activity the Executive Director will be helped by the Deputy director, employed in the labor law conditions.

**Article 20.** The Fund's Executive Director has following responsibilities and tasks:

- a) manage the Fund's divisions activity;
- b) supervise and guide the work of the Fund's regional branches;
- c) ensure the Fund's cooperation with central and local public administrative authorities as well as with NGOs;
- d) ensure that reports are written as well as any other materials, including the income and expenses budget and the annual activity report that must be put before the Steering Committee for consideration and approval;
- e) approve, within the powers given under this Law, disbursements to the Fund's regional branches;
- f) report from time to time to the Steering Committee on the stage of project implementation.

**Article 21.** (1) The Executive Director is the Fund's legal representative in its relations with individuals and legal entities as well as with the judiciary.

(2) The Executive Director hires and fires the Fund's staff subject to the provisions of the law and the Fund's by-laws. Furthermore, he/she contracts outside workers on the basis of relevant terms of reference established by the Steering Committee for a certain duration .

(3) The Executive Director shall conclude any legal act that is within the Fund's objectives and commit its assets, according to the regulations approved by the Steering Committee.

**Article 22.** (1) The Fund's Organizational Chart is approved by the Steering Committee based on the Executive Director proposal.

(2) In the organizational chart is mentioned a office for the poor roma ethnic groups relation and supplementary personnel in the existing structures, involved in the integrated project and programs implementation, as soon as the financial resources needed in order to function are committed, the necessary work space is provided, in accordance with the provisions of art. 35, along with the financial resources needed in order to finance this types of projects and programmes.

**Article 23.** (1) The Fund's professional staff are employed based on work contracts, or, as needed services contracts.

(2) The rights and duties of such staff, referred to in paragraph 1 - including their salaries - are defined by the Fund's by-laws.

(3) Regarding the financial resources management and the management of the assets belonging to the Fund , any person of those mentioned at paragraph (1) can be active subject of the public servants crimes.

### CHAPTER III - The Fund's Resources

**Article 24.** (1) At the Fund's start-up its patrimony is comprised of:

- a) the right of using on the assets disposed by Regia Autonoma "State Protocol Administration", according to this Law.
- b) the right of using on the office and communication 's equipment provided from international organization grants;

(2) Financial resources of the Fund are received from:

- a) international financial organizations;
- b) donations made by individuals and legal entities - both domestic and foreign;
- c) financial revenue in interest on current and deposit accounts of the Fund to be used exclusively for project financing.
- d) from own funds obtained from training, assistance and consultancy services undertook in the area of social development, funds that will be utilized for completing the funds destined to cover the current and functioning expenses and also for financing projects;
- e) local administrative budget sources within the limits approved by the local or county councils, as the case may be;
- f) from the state budget, limited to the equivalent in lei of 12,4 million US dollars, out of which the equivalent in lei of 300.000 US dollars for ensuring proper conditions for the extension of Fund activities as a result of involvement in preparation of integrated projects and programs for the poor roma ethnic communities. The sum of 12,4 millions US dollars can be afterwards supplemented through legal provisions through which will be approved new loans utilized by the Fund.

(3) The allocated annual amount of money from the state budget shall be provided in the budget of the Ministry of Public Finances.

(4) The Fund disbursements shall be deposited in a current interest account opened at a commercial bank .

(5) For the development of the Fund's activity during the first three months its expenditures shall be covered from the state budget, through the Government Reserve Fund. The amount of the needed financial resources will be approved through a Government Decision.

**Article 25.** The Executive Director manages the Fund's resources with utmost diligence in conformity with Steering Committee by-laws.

**Article 26.** (1) The Fund's resources may be used:

- a) to finance projects;
- b) to finance integrated projects;
- c) to cover its own overheads for the good function of the Fund.

(2) The end-uses of the fund's disbursements to projects are made only on the selective and competitive basis, detailed out in the Steering Committee by-laws.

(3) The maximum ceilings of the Fund's contribution to the projects accomplishment, as well as the eligible costs, are detailed in the Fund by-laws.

(4) Details regarding the destination of the financial resources are included in the by-laws approved by the Steering Committee.

**Article 27.** The Fund's resources may not be used :

- a) to buy land and buildings;
- b) to engage in any kind of speculation;
- c) to buy securities;

- d) to build on or develop the land owned by individuals or legal entities for a lucrative purpose beyond the Fund's concerns;
- e) to pay maintenance or recurrent costs for the infrastructure resulting from project implementation;
- f) to provide for any other operations that the Steering Committee by-laws approved.

## **CHAPTER IV - Fund Operation**

### **Section I - Generalities**

**Article 28. (1)** In its project financing effort, the Fund undertakes the following sequence of activities:

- a) promoting and disseminating information on its activities and eligible projects, as well as helping target beneficiaries and disadvantaged groups to identify their needs and design projects;
- b) designing the assessment, selection and approval mechanism for projects proposed by target beneficiaries;
- c) making the grant agreement with target beneficiary representatives, or whenever is the case, with intermediary organization;
- d) Organizing training and good practices exchange for the representatives of the beneficiaries;
- e) making disbursements for project implementation;
- f) monitoring, supervising and evaluating project implementation;
- g) assessing the execution of the grant agreement based on financial auditing expertise.

(2) All the operations above mentioned in paragraph 1 are established in Fund-s by-laws.

**Article 29.** As the activities provided by Article 28 unfold, the Fund enters into legal agreements with various partners such as trading companies, NGOs, local public administrations and individuals.

### **Section 2 - The Grant Agreement**

**Article 30. (1)** A Grant Agreement is made, in a written form, between the Fund represented by its Executive Director and the target beneficiaries representatives, on behalf and on account of those. In the case of the disadvantaged groups, the grant agreement is concluded between the Fund represented by its Executive Director and the intermediary organization in its own name and on the account of the disadvantaged group.

(2) The Grant Agreement framework is established in the Fund's by laws.

**Article 31.** The grant is disbursed in lei, at such a time as the agreement provides at the exchange rate in force on the day of the Fund's dollar bid for local exchange.

**Article 32. (1)** Using the grant for purposes other than provided by the Agreement renders it null and void and incurs, in addition to legal penalties, the termination of the grant agreement

without any intervention from judicial or arbitration authority.

(2) In case that it is uncovered that the grants have been used in purposes other than the ones stated in the grant agreements, recovering of sums from the beneficiaries will be made in accordance with the valid legislation ruling the expenditure of public funds, by the Fund along-side with the fiscal authorities, as long as the Fond functions, and afterwards, by the fiscal authorities.

**Article 33.** (1) Contracts between grant beneficiaries and third parties-entrepreneurs, suppliers and service providers shall be made in writing and are self-enforceable.

(2) Such contracts as provided in paragraph 1 shall make reference to the Grant Agreement, the grant and Fund involvement.

(3)The goods resulting from the execution of contracts provided in paragraph 1 by suppliers, entrepreneurs and service providers shall display visibly and in various ways the Fund's logo as defined in the by-laws.

**Article 34.** Should infringements of contractual obligations or inconsideration of the provisions of this Law or the Fund's by-laws be found in the course of monitoring, the Fund may terminate the Grant Agreement without recourse to a court of law or arbitration.

## **CHAPTER V - Final Provisions**

**Article 35.** The State Owned Company for the Administration of the State Protocol will make available for the Fund a building adequate for its headquarters, which will ensure the necessary space for the activities of the Office for the relation with the poor romma ethnic communities.

**Article 36.** For the duration of project initiation, designing, evaluation, selection, approval and implementation, target beneficiaries as well as their representatives and facilitators or intermediary organizations, as the case may be, are entitled to free legal assistance from local public administrations within the respective county - at every level - for the preparation and conclusion of all legal acts required by the procedures of the Fund.

**Article 37.** In accordance with the Accountancy Law No. 82/1991 and with the advise of the Ministry of Finance the project management committee shall keep single entry accounting records.

**Article 38.** Within 15 days of this Law taking effect the members of the steering committee and the executiv director will be appointed.

**Article 39.** Within 90 days of this Law taking effect, the Steering Committee shall adopt the Fund by-laws, shall approve the Fund's organizational chart and shall ensure the hiring of the required staff.

**Article 40.** (1) The legal controlling bodies shall check upon the way the financial resources of the Fund, provided from the state budget, the local budgets and from international financial organizations loans, are used by the Fund.

(2) The members of the steering committee, the executive director and Found staff are not responsible for the actions or inactions of grant beneficiaries, which are breaching the Fund provisions, after the proving that the Fund respected the provisions of the signed grant agreements, respective suspending or canceling project disbursement and/or following the applicable law.

**Article 41.** The financial resources borrowed by the Romanian State from the international financiers and disbursed to the Romanian Social Development Fund in order to carry out its activity are incurred obligations of the Romanian state and shall be repaid by the Ministry of Public Finances.

**Article 42.** The financial resources, which will not be spent during the Fund's operation period, will be transferred to the state budget.

*This Law was passed by the Chamber of Deputies in its meeting dated April 28, 1998, observing the provisions of Article 74 item (2) of the Constitution of Romania.<sup>2</sup>*

*for* CHAIRMAN OF THE CHAMBER OF DEPUTIES  
Andrei Ioan Chiliman

*This Law was passed by the Senate in its meeting dated June 8, 1998, observing the provisions of Article 74 item (2) of the Constitution of Romania.*

*for* PRESIDENT OF THE SENATE  
Cristian Sorin Dumitrescu

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<sup>2</sup> The law was republished, based on the provisions of art. III, EGO no. 131/2004, in the Romanian Official Journal nr. 1243/2004 part 1. The republished version of the law was amended by GO no. 28/2006. This translation is based on the on the final and up to date version of the 129/1998 Law.

**PRESIDENT OF ROMANIA**

**DECREE**

**on the promulgation of the Law on the Romanian Social Development Fund  
organization and operation**

According to Article 77 paragraph (1) and Article 99 paragraph (1) of the Constitution of Romania

**The President of Romania** decrees:

Single Article. - The Law on the Romanian Social Development organization and operation is promulgated and shall be issued in the Official Gazette of Romania.

**PRESIDENT OF ROMANIA  
EMIL CONSTANTINESCU**

Bucharest, June 24, 1998  
Decree no. 232.