

Analysis on the implementation of the principle of "do no significant harm" in investments of Latvia's recovery and resilience plan and recommendations for a more effective application of the principle in EU funds by Latvia's environmental NGOs

Summary

The principle "do no significant harm" (hereafter "DNSH") was introduced in the European Union (EU) to prevent short-sighted financial investments (i.e. those that could cause significant social or environmental harm in the long term) and to ensure that EU policies and programmes do not have a negative impact on the EU's environmental objectives. The DNSH principle was applied for the first time in EU in 2021 as a new safeguard for investments and reforms in national Recovery and Resilience Plans. Later, the principle was also applied to other EU funds, such as Cohesion Policy investments. It is expected to play an increasingly important role in the future, both in the next EU multiannual financial framework and in bank-financed investments. There is a need to assess the experience to date and analyse how the DNSH principle has been implemented in EU funds. The conclusions of such an analysis can help to improve the application of the DNSH principle at both EU and national level. In this report, three Latvian environmental NGOs (Green Liberty, World Wildlife Fund (Latvia) and Latvian Fund for Nature) have prepared recommendations for a more effective application of the DNSH principle in Latvia and the EU, based on an analysis of the investments selected by environmental organisations in the Latvian Recovery Plan and the organisations' experience in dealing with EU fund investments and projects.

The report provides an in-depth analysis of the Latvian Recovery Plan's investments in 1) flood risk reduction infrastructure, 2) investments in public infrastructure for entrepreneurs to develop industrial parks in the regions and 3) investments in country's regional and local road network. The report analyses various available documents and summarises the views of stakeholders involved in the implementation of the investments and makes recommendations to the European Commission on further strengthening the DNSH principle in EU funds, as well as on the further application of the DNSH principle in EU fund investments at national level.

The full report is available [here \(currently only in Latvian\)](#), but the full recommendations are available in English below.

Recommendations to the European Commission on further strengthening the DNSH principle in EU funds

1. Although the analysis of the three investments reviewed does not provide a comprehensive picture of the implementation of the Recovery Plan in Latvia, it still reveals that investment implementation can lead to situations where the requirements of the existing Latvian and EU legislation are not sufficient to avoid damaging the environmental objectives enshrined in the EU and LV policy documents and legislation (in particular the Taxonomy Regulation). Therefore, **the principle of "do no significant harm" and its observation as a prerequisite for EU public funding is also necessary in the future.**
2. The stakeholder responses also show that the current situation, in which the DNSH principle is applied in divergent ways across different EU funds and financial instruments, has created additional administrative burdens and hindrances for all parties involved in the implementation of the investment - both public authorities and beneficiaries. Therefore, in the next EU Multiannual Financial Framework, the application of this principle needs to be made uniform across as many EU Funds and financial instruments as possible. This would significantly reduce the administrative burden on public administrations and would also make the conditions much clearer for the beneficiary, which (especially in the case of public administrations, local authorities or public undertakings) often implements activities of a similar nature through different EU funds or financial instruments.

3. The analysis of environmental organisations clearly shows that more detailed sector-specific guidance is needed to strengthen a common understanding of what constitutes "significant" harm. **The technical guidance (guidelines) on DNSH for the next multiannual financial framework needs to describe the DNSH requirements for specific sectors (construction, transport, water, etc.)** in more detail, clearly indicating which actions should be funded and which should not to be funded, as is done in the Social Climate Fund's draft document on applying the DNSH principle, which was put out for public consultation in 2024.¹
4. To ensure that the principle of DNSH is not just a test of compliance with environmental legislation, **the European Commission's new DNSH technical guidance and guidelines should clearly define what requirements should be mandatory or recommendatory in addition to existing EU legislation in order to contribute to the achievement of the six environmental objectives set out in the EU Taxonomy Regulation** - e.g, the requirement to protect habitats and species of EU importance also outside protected areas, requirements to reduce fragmentation and degradation of species' habitats and land (for road, flood risk reduction, energy infrastructure and other construction-related investments).
5. We call on the European Commission to support **Member States in developing their own DNSH guidelines, agreed with the European Commission, based on upcoming EC technical guidances, which define:** 1) which existing national laws and regulations in specific sectors overlap with DNSH requirements, 2) which sector-specific DNSH requirements should be included in DNSH investment assessments, selection criteria and implementation rules in addition to existing national laws and regulations, 3) where appropriate, uniform national guidelines for compliance with DNSH requirements in specific sectors.
6. To reduce unnecessary administrative burdens, the European Commission, in its guidelines and technical guidance to DNSH assessors, should encourage **that DNSH assessments as much as possible minimise the duplication of existing building regulations and other existing regulatory requirements** that must be met in any case in order to obtain building permits and other authorisations. Where the EC requires a compilation of existing national building regulations and other legislative requirements that promote environmental objectives, Member States should be invited to describe these in national DNSH guidelines agreed with the EC (Recommendation 5), which can be referred to in DNSH assessments where appropriate.
7. To strengthen the adherence to DNSH principle not only on programme level but also in concrete projects, it is worth preparing **separate recommendations to the investment controlling authorities on the monitoring of compliance with DNSH conditions, defining at which stages the monitoring of project implementation would be necessary and what aspects should be addressed. Accordingly, such requirements could be integrated into the regulations governing the implementation of investments.**

Recommendations on further application of the DNSH principle in EU funds investments on national level (Latvia)

1. **Uniform national DNSH guidelines for the application of the DNSH principle to the use of EU funds would be necessary at least for the next EU multiannual financial framework** - they should be in line with the technical guidance and guidelines developed by the European Commission. Such guidelines would ensure a common understanding and application practice for both public and private persons (beneficiaries of EU funds). They would help to avoid differences of interpretation and ensure that all parties involved clearly understand how "harm" is identified and, for example, in which cases projects may be rejected. Their tasks:

¹ European Commission, [Consultation on the application of the "DNSH" principle under the Social Climate Fund](#), *European Commission*, 23.08.2024

- a. Detailing by sector (buildings, transport, energy, etc.), define the overlap of the requirements of the EC Taxonomy Regulation, its delegated acts, the technical guidance on the application of the DNSH principle on the one hand and the requirements of Latvian national legislation on the other hand, creating a list of those requirements which the investment implementor in a given sector will have to fulfil anyway, in accordance with the requirements of the existing legislation. If the European Commission allows it, not to require the beneficiary to re-certify compliance with conditions already covered by national legislation and without which the project could not be implemented (such as building regulations). This has the potential to significantly reduce the administrative burden of project evaluation, the conditions for the implementation of investment measures and the project evaluation criteria, reducing the time necessary for clearance and facilitating a quicker flow of investment into the economy.
 - b. Indicate additional measures or safeguards that are recommended or required to be included in the DNSH assessments at the programming stage to benefit the six environmental objectives of the Taxonomy Regulation (e.g. no harm to habitats of EU importance, including outside protected areas, integration of animal crossings, green culverts in road investments, etc.).
2. The analysis of the selected investments shows that **several of the sectors under consideration have repeated problems related to the achievement of EU environmental objectives that cannot be solved by DNSH assessments alone:**
- a. There are certain sectors or types of investment, such as road construction and renovation, where the development or refinement of national standards or best practice guidelines for certain environmental aspects are necessary to ensure uniform application of best practices. This is the case, for example, in road renovation, the construction of cycling infrastructure and similar measures affecting roadside trees. Such guidelines need to be more widely referred to in investment selection criteria and rules.
 - b. There are also sectors and types of investment projects, such as flood risk reduction investments, which require fundamental systemic changes in their design and implementation in order to facilitate the implementation of investments in line with the environmental objectives of the Taxonomy Regulation and the requirements of the DNSH.
3. In the investments reviewed, it has emerged that although the DNSH assessments promise that impacts will be assessed and mitigation measures will be provided for in the EIAs or preliminary EIAs, in real life there are situations where such assessments are not required by law and, in the end, the project does not include significant environmental requirements. **It is therefore necessary to identify, already at the stage of the DNSH assessments, the types of measures to be supported by the particular investment for which an environmental impact assessment (or an initial environmental impact assessment) would not be required under the legislation (e.g. in the case of road resurfacing) and to include in the DNSH assessments clearly defined mitigating requirements to be subsequently integrated into the project selection criteria, the legislation governing the implementation of the investment, etc.**
4. Prior to approval of the investment programme, **it is advisable to involve or consult nature protection and environmental experts or competent authorities (e.g. State Environmental Service, Nature Conservation Agency, Latvian Centre for Environmental Geology and Meteorology, Institute "BIOR", etc.)** in the preparation or assessment of DNSH assessments in order to take into account potential negative environmental impacts in the DNSH assessments in a timely and realistic manner and to improve the quality of those assessments. This would allow for greater attention to be paid to their prevention of potential negative environmental impacts during the preparation and implementation of investment projects.
5. Regarding the growing need to integrate the DNSH principle and other environmental requirements into EU fund investments, as well as to reduce misunderstandings and divergent interpretations on the application of

the DNSH principle itself, it would be desirable **to delegate one national authority and create an advisory function for it on compliance with horizontal environmental and climate principles (DNSH principle, Climate proofing, etc.).**

6. **It is recommended that the principle of "do no significant harm" as a horizontal principle be progressively incorporated into legislation and planning documents relating to construction, development or renovation of infrastructure.** Since Latvia's policies are linked to EU climate and environmental policies, the alignment of national legislation with this principle would ensure also better alignment of investments with the EU and Latvian environmental objectives and contribute, for example, to achieving good ecological status of waters or climate neutrality by 2050. This has the potential to reduce the administrative burden not only in project evaluation, but also in the development of conditions for the implementation of investment measures and project evaluation criteria, reducing the time needed for harmonisation and facilitating a faster flow of investments into the economy.
7. **The gradual extension of the principle to national financing would contribute to more sustainable development and promote coherence between the long-term objectives of the country and the European Union.** This would be an important step towards the gradual introduction of green budgeting in Latvia, which is already being implemented in a third of OECD countries.²

The report is prepared with the support of the project "Effective DNSH. Strengthening the application, implementation and monitoring of the principle of "no significant harm" in public investment projects", funded by the EU Recovery Fund. The funder is not responsible for the content of the report, which is the sole responsibility of the authors.



² Brusbārde, B. ["Zaļā domāšana valsts budžetā"](#). *Portāls makroekonomika.lv*, 14.07.2022