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## **Conditions for the Measure “Development of Cultural and Tourist Objects of National Importance” and Procedure for Preparation of Investment Assistance Plan**

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**2.09.2008 No. 8 (RTL 2008, 76, 1052) 13.09.2008**

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**2.10.2009 No. 9 (RTL 2009, 76,1114) 10.10.2009**

**3.05.2010 No. 9 (RTL 2010, 24, 426) 14.05.2010**

The Regulation is established on the basis of Subsections 12 (4) and 19 (4) of the Structural Assistance Act for 2007-2013.

### **Chapter 1 GENERAL PROVISIONS**

#### **§ 1. Scope of application of Regulation**

- (1) The Regulation establishes the conditions and procedure for the submission and processing of applications for and the use of the structural assistance (hereinafter *assistance*) to be granted under the measure “Development of Cultural and Tourist Objects of National Importance” (hereinafter *measure*) of priority axis 4 “Integral and Balanced Development of Regions” of the “Operational Programme for the Development of the Living Environment” (hereinafter *operational programme*) approved by the Government of the Republic on the basis of Subsection 3 (3) of the Structural Assistance Act for 2007-2013 and confirmed by the European Commission.
- (2) The measure shall be implemented throughout the territory of Estonia.

#### **§ 2. Definitions**

In this Regulation, the following definitions are used:

- 1) **construction work** means construction in the meaning of Subsection 2 (6) of the Building Act;
- 2) **structural design work** means design work in the meaning of Subsection 2 (4) of the Building Act;
- 3) **co-financier** co-financer – a partner participating in the project as specified by the beneficiary in the grant application: a local government unit, a legal person

in public law, a state authority, a non-profit association or a foundation or a company under the control of the public sector, who contributes to the project financially to cover the eligible self-financing and is not a contractor in the project

- 4) **visitor** means a person who visits a region outside their everyday environment by staying (tourist) or without staying there overnight;
- 5) **region** means a territory of one or several local governments, as well as a set of villages, a city district or a set of city districts which is characterised by the existence of a single centre or by similar socio-economic or cultural conditions;
- 6) **competitiveness of regions** means the ability of regions to create prerequisites for offering sustainable jobs, generating viable companies and involving private investments, as well as the ability to create prerequisites for stabilising or increasing the number of residents in and increasing the number of visitors to the region.

### **§ 3. Measure implementing authority and implementing agency**

- (1) The measure implementing authority shall be, in accordance with the Government of the Republic Regulation No. 111 of 19 April 2007 Appointment of Authorities Organising Grant of Structural Assistance for 2007-2013, the Ministry of the Interior.
- (2) The implementing agency for the measure shall be, in accordance with the Government of the Republic Regulation No. 111 of 19 April 2007 Appointment of Authorities Organising Grant of Structural Assistance for 2007-2013, the Enterprise Estonia (hereinafter *EE*).

### **§ 4. Objective of measure**

The general objective of the measure shall be to increase the competitive ability of Estonia as a tourist destination and of its regions on the international level, making the regions more attractive for visitors, investors and qualified workforce. The specific objectives of the measure shall be:

- 1) enhancement of Estonia's appeal as a travel destination, by way of developing cultural and tourist objects that are of interest to visitors, including visitors arriving from other countries;
- 2) prolongation of the time of stay of visitors arriving to Estonia from other countries;
- 3) improvement of the recognition of Estonia as a destination of cultural tourism and introduction of estonian cultural and historical heritage;
- 4) more attractive and competitive environment for visitors.

## § 5. Operations to be supported

(1) Within the framework of the measure, investments into the development of large-scale cultural and tourist objects that improve the competitive ability and reputation of Estonia as a tourist destination country shall be supported, with the help of which objects prerequisites are created to increase the number of visitors and prolongation of their time of stay.

(2) Within the framework of the measure, objects that are capable of providing quality services for approximately 1,000 visitors per day shall be supported, considering the needs of different target groups, including visitors from other countries.

(3) Within the framework of the measure, the following operations associated with objects specified in Subsection (1) shall be eligible for support:

- 1) construction work associated with development and purchase of immovable properties;
- 2) development of support infrastructure (car parks, access roads and trails, sanitary and waste disposal conditions, information boards and signs, etc.);
- 3) creation of a new exposition or improvement of an existing one;
- 4) purchase of furniture and equipment necessary for fulfilment of object functions;
- 5) feasibility studies and cost-benefit analyses, preparation of product concept and marketing strategy;
- 6) performance of geotechnical and geodetic explorations, structural design work, composition of exposition and internal decoration plans, composition of special conditions of heritage conservation with the necessary research, environmental impact assessment, owner supervision, managing construction projects, author supervision, conduct of building design documentation expert assessments and evaluations of construction works.

(4) Within the framework of the projects, the following operations supporting the objectives and main operations of the projects (proceeding from product concept and marketing strategy annexed to project) shall be additionally eligible:

- 1) development of regional co-operation networks and partnerships (including those between private and public sectors) (including seminars, roundtables);
- 2) organisation of object-specific training events contributing to quality product or service offerings;
- 3) object marketing operations;
- 4) launching object-specific regular events aimed at visitors;
- 5) providing public Internet access.

(5) Total expenditure of the operations provided for in Clauses (4) 1)-3) may not exceed 3% of the total eligible expenditure of the project.

(5<sup>1</sup>) Investments in objects, which are in the ownership or possession of companies, profit-making authorities or natural persons shall be eligible in case of hiking trails, observation towers and sites, opening of views, bicycle tracks and access roads, also in case of a fragmentary detail of the historic structure being revalued under the following conditions:

1) a public use agreement for at least five years as of the expiry of the project eligibility period must be concluded with the owner of the land;

2) in case of bicycle tracks and access roads, a servitude (also individual right of use) for at least five years as of the expiry of the eligibility period of project operations (hereinafter *project eligibility period*) has been established for the benefit of the applicant.

- (6) Within the framework of the measure, the following operations shall not be supported:
- 1) carrying out general work and management-related in-service training, language training, further education related to improving the employees' general level of education, practice, etc. non-object-specific training events;
  - 2) investments which main objective is to ensure provision of public services aimed at residents of the region (general education, local cultural and sports services, including premises, gymnasiums, stadiums, swimming pools meant for club and community activities; health and social services, including welfare homes, children's homes);
  - 3) development of accommodation and catering facilities and other services which, as a rule, are directed at raising net revenue;
  - 4) investments in objects which are in company, profit-making authority or private person ownership or possession, except if the right of superficies has been constituted with regard to such objects in favour of the applicant or on the conditions named in Subsection (5<sup>1</sup>);
  - 5) operations with regard to which the assistance is to be treated as aid to be granted by state in the meaning of Article 87 (1) of the Treaty Establishing the European Community.

#### **§ 6. Eligible and non-eligible expenditure**

- (1) Within the framework of the measure, eligible expenditure shall include such expenditure of the recipient or of the partners involved in implementing the project which is directly required for carrying out the eligible operations specified in Subsections 5 (1)-(4) and achieving the objectives of the project (including liabilities arising from Subsection 2 (1) of Government of the Republic Regulation No. 211 of 30 August 2007 "Conditions and Procedure for Notification and Disclosure of Grant and Use of Structural Assistance, Marking Objects Financed out of the Assistance and Reference to Contribution of the European Union").
- (2) The following restrictions have been imposed on the expenditure to be financed:
  - 1) the purchase of an immovable shall not exceed 10% of the total eligible expenditure of the project; The purchase of an immovable has to comply with Section 9 of the Government of the Republic Regulation No. 26 of 31 January 2007 "Conditions and Procedure for Determination of Eligibility or Non-eligibility of Expenditure of Structural Assistance for 2007-2013";
  - 2) salary and service expenses related to project management and overall costs of the project shall not exceed 5% of the total eligible expenditure of the project. It may cover the applicant's public utility, communication and transport costs and office supplies related to the project, as well as the wages and salaries related to project management. The staff and overall costs of the project shall be based on the actual project implementation costs and be calculated in accordance with the requirements provided for in Subsection 3 (8) of the Government of the Republic Regulation No. 26 of 31 January 2007 "Conditions and Procedure for Determination of Eligibility or Non-eligibility of Expenditure of Structural Assistance for 2007-2013";

- 3) the expenditure of structural design work, geotechnical and geodetic explorations, composition of exposition and internal decoration plans, cost of composition of special conditions of heritage conservation with the necessary research, environmental impact assessment and building design documentation expert assessments shall not exceed 10 % of the eligible expenditure of the project.
- (3) The following expenditure is not eligible:
- 1) Expenditure specified in Section 15 of the Government of the Republic Regulation No. 26 of 31 January 2007 “Conditions and Procedure for Determination of Eligibility or Non-eligibility of Expenditure of Structural Assistance for 2007-2013”;
  - 2) representation costs and gifts (including souvenirs and keepsakes);
  - 3) expenditure for which compensation has been earlier received from the state budget, the European Union or foreign assistance grants.
  - 4) other expenditure not related to eligible operations and not justified and insignificant from the point of view of implementing the project.
- (4) Value added tax shall be eligible if it can be certified that the person who incurred the eligible expenditure is not entitled, in accordance with the legislation regulating value added tax, to deduct the value added tax paid within the framework of the project from their taxable supply or to claim for refund of the value added tax and the value added tax is not compensated to the person in any other manner. If it is not possible to attain certainty with regard to the mentioned above, value added tax shall be treated as non-eligible expenditure.
- (5) Eligible expenditure shall not include transactions between associated persons in the meaning of Section 8 of the Income Tax Act, except if this is strictly necessary from the point of view of implementing the project.

### **§ 7. Eligibility period**

- (1) The eligibility period for the measure shall be from 1 January 2007 to 31 December 2015.
- (2) The starting and finishing date of the eligible project period shall be fixed in the approval decision for the application. In general, the starting date of the project eligibility period shall be the application submission deadline date or a later date. The last date of the eligible project period shall not be later than 31 December 2015.
- (3) A date earlier than the application submission date shall be established as the starting date of the project’s eligibility period, but not earlier than 1 January 2007. Before the application is submitted, only operations that concern feasibility studies and cost-benefit analyses, performance of geotechnical and geodetic explorations required for construction work, composition of exposition and internal decoration plans, structural design work, building design documentation expert assessment, environmental impact assessment, composition of special conditions of heritage conservation with the necessary research, or purchase of immovable property and the related expenditure are allowed.

### **§ 8. Financial assistance and self-financing rate**

- (1) The minimum amount of assistance per project shall be EEK 50,000,000. The maximum amount of assistance per project shall be EEK 500,000,000.
- (2) The rate of assistance shall be up to 85% of the eligible expenditure of the project.
- (3) Total self-financing shall not be less than 15% of the eligible expenditure of the project.
- (4) Self-financing means the financial aid a recipient or a co-financier provides the project. Self-financing includes only the eligible expenditure incurred by the recipient or co-financier. Self-financing shall not be included in the assistance and the assistance cannot be used for self-financing either.
- (5) The eligible co-financier's contribution shall not include the contribution made by natural persons and companies which are not controlled by public sector.

### **Chapter 3**

#### **REQUIREMENTS SET FOR APPLICANTS AND CO-FINANCIERS**

##### **§ 9. Requirements set for applicants and co-financiers**

- (1) Within the framework of the measure, applicants can be the following:
  - 1) local governments;
  - 2) foundations and non-profit associations;
  - 3) state authorities.
- (2) The following general requirements shall be applicable with regard to applicants:
  - 1) the applicant has repaid earlier in due course an amount received from the state budget, the European Union or foreign assistance funds and subject to repayment or, upon staggering of the repayment of the assistance, made the repayments during the prescribed time limit and in agreed amount;
  - 2) the applicant may not have state tax arrears, with the exception of cases where these are staggered. If there are staggered tax arrears, the payments shall have been made in compliance with the schedule. Proper fulfilment of the tax declarations submission obligation provided for in the Taxation Act is required from the applicant;
  - 3) if assistance is applied for the project or for individual actions of a project from several measures or other state budget, the European Union or foreign assistance funds at the same time, the applicant shall submit the respective information;
  - 4) the applicant shall certify the existence of the required funds for self-financing in accordance with the rates and conditions provided for in Section 8;
  - 5) the applicant has sufficient experience and knowledge for implementing the project;
  - 6) if the applicant is a local government, it shall have the applicable development plan in accordance with Subsection 37 (3) of the Local Government Organisation Act. If local governments submit a joint project, all local governments shall have an applicable development plan;

- 7) the applicant shall be an owner or a possessor or one of the owners or possessors of the object which is to be created or acquired or which value is to be increased during the project. In case a joint project involves several legal persons, an applicant shall be owner of at least one of the objects to be established or renovated in course of implementation of the project. In case of land and construction works which owner is the state, an agreement shall be concluded between a local government and the state that provides, inter alia, the obligation to preserve the object created, renovated or organised throughout the project for the objective specified in the project during not less than five years after the project eligibility period ends.
- (3) With regard to the co-financier, the provisions established with respect to the applicant and specified in Clauses (2) 1)-4) shall be applied.

#### **Chapter 4**

### **INVESTMENT ASSISTANCE PLAN FOR CULTURAL AND TOURIST OBJECTS OF NATIONAL IMPORTANCE**

#### **§ 10. Preparation of investment assistance plan for cultural and tourist objects of national importance**

- (1) The investment assistance plan for cultural and tourist objects of national importance (hereinafter *investment plan*) shall serve as the basis for applying for assistance from the measure.
- (2) The investment plan shall be approved by the Government of the Republic.
- (3) The investment plan shall be prepared as a single list for the period 2007-2013.
- (4) The investment plan shall consist of a list of eligible projects specified in Section 5 submitted by eligible applicants specified in Section 9. The investment plan shall be drawn up based on assessment of pre-applications to the extent of the measure's budget. A reserve list amounting to up to one-half of the measure's budget shall be added to the investment plan.
- (5) The investment plan shall be drawn up as a list specifying projects with the maximum amount of assistance, minimum self-financing rate and estimated total cost, together with estimated deadline of the beginning and termination of the implementation of the project..
- (6) Drawing up the investment plan shall be organised by the Ministry of the Interior.

#### **§ 11. Submission of pre-applications**

- (1) Pre-applications for inclusion of projects in the investment plan shall be submitted by legal persons or state authorities specified in Subsection 9 (1) to the Ministry of the Interior within at least two months after entry into force of this Regulation. The date for submission of pre-applications shall be established by the Minister for Regional Affairs.

- (2) The Ministry of the Interior shall notify the eligible applicants listed in Subsection 9 (1) of the initiation of drawing up the investment plan through a national newspaper and the website of the Ministry of the Interior.
- (3) A pre-application shall include the following information in the application form provided for in annex 1 to this Regulation.
  - 1) project schedule, including the estimated due date for submitting applications to EE, with quarter by quarter breakdown;
  - 2) information about the object's existing or intended ownership relations;
  - 3) object priority;
  - 4) project objectives and the relation thereof to the measure objectives;
  - 5) expected impact of the project;
  - 6) project justification and the potential project beneficiaries, including a description of the object target groups;
  - 7) description of the object and planned operations;
  - 8) planned project cost (expected eligible and non-eligible expenditure);
  - 9) planned sources of financing the project;
  - 10) readiness for implementation thereof (including procedures required to achieve readiness along with the approximate schedule).
- (4) Building design documentation of the preliminary design plan stage (in the amount described in EVS 2002 "Building Project") or more detailed project documentation shall be annexed to a pre-application.

## **§ 12. Processing and assessment of pre-applications**

- (1) In co-operation with EE, the Ministry of the Interior shall check if the project described in the pre-applications submitted meets eligibility criteria, requesting relevant additional information, if necessary.
- (2) The Minister for Regional Affairs shall form a committee for content assessment of projects described in pre-applications and approve project assessment methods.
- (3) Upon assessment of pre-applications, the following selection criteria shall be taken into account:
  - 1) project priority;
  - 2) expected impact of the project on achievement of measure objectives;
  - 3) expected sustainability of project results.
- (4) Pre-applications shall be assessed on a 0-4 scale. The priority list shall be formed based on summary grades awarded upon assessment in descending order.
- (5) Based on the priority list formed as a result of assessment, a draft investment plan shall be drawn up, which also includes reserve objects. Objects that have been awarded the summary grade of at least 2.5 upon the assessment may be included in the plan.
- (6) The draft investment plan shall be approved by the Monitoring Committee of the priority axis.

- (7) The Ministry of the Interior shall submit the draft investment plan as approved by the Monitoring Committee of the priority axis to the Government of the Republic for the approval thereof.
- (8) The applicants whose objects are included in the investment plan, including reserve objects, shall start the necessary preparation works in co-operation with EE, for submission of application.

### **§ 13. Amendment of an investment plan**

- (1) The Ministry of the Interior may initiate the amendment of the investment plan if it becomes evident that the implementation of the project specified in the investment plan is not possible under the conditions fixed in the plan, including if the project cost is increased, or if the application differs significantly from the pre-application. If the project cost is increased, including if it is due to changes in the project activities or objectives and if the balance of the budgetary funds of the measure allows, the amendment of the plan may be initiated in justified cases to increase the maximum amount of assistance approved for the project in the plan.
- (2) The Ministry of the Interior shall submit a proposal to the Government of the Republic for amendment of the investment plan that has previously been approved by the Monitoring Committee of the priority axis.

## **Chapter 5**

### **SUBMISSION AND PROCESSING OF APPLICATIONS, REQUIREMENTS FOR APPLICATIONS**

#### **§ 14. Submission of and requirements for applications**

- (1) EE shall start to receive applications upon coming into force of the investment plan. EE shall disclose a respective notice on its website.
- (2) If any circumstances become evident with regard to the investment plan projects due to which the application is not submitted to EE within one year as of the deadline specified in the plan, immediately after such circumstances become evident or by the due date specified in the plan the applicant shall submit to EE a new realistic schedule application. If the applicant does not submit a new schedule by the due date, the Ministry of the Interior may initiate amendment of the investment plan.
- (3) Applications shall be submitted by the owner or possessor of the object included in the investment plan, with regard to the indicative support means distribution schedule provided for in the investment plan.
- (4) An application for assistance shall be submitted to EE on the application form specified in annex 2. The project included in the application shall comply with the objectives of the measure provided for in the Regulation and other requirements of this Section, conditions set in the investment plan and the pre-application. The operations included in the project shall be eligible in accordance with the requirements specified in Sections 5 and 6.

- (5) The following shall be appended to the application form:
- 1) project description;
  - 2) project budget;
  - 3) project schedule;
  - 4) documents proving self-financing of the project;
  - 5) background information about the applicant and the co-financier(s) (not required in case of local governments or state authorities);
  - 6) curriculum vitae (CV) of the project team members;
  - 7) list of experts participating in the project and their curriculum vitae (CV);
  - 8) analysis to assess profitability and feasibility of the project, an exposition plan and a marketing plan;
  - 8<sup>1</sup>) financial analysis evaluating the income of the project on the basis of section 11 of the Government of the Republic Regulation No 26 of 31 January 2007, "The conditions of and procedure for determining the eligibility or non-eligibility of expenses under the structural assistance of the period 2007–2013". If it is determined as a result of the assessment that the project will earn net revenue during the useful life of the project assets, the planned eligible expenses of the project shall be reduced by a part of the net revenue amount corresponding to the proportion of the eligible expenses of the total costs of the project;
  - 9) comparable price calculation and the terms of reference or procurement documentation serving as its basis (including tender invitation documents, price offers by companies who participated in the tender, records of selection of a winning tender, etc.) or, in justified cases, reasoning behind the costs;
  - 10) a confirmation of the following: the applicant shall ensure preservation and public use of the property created or acquired as a result of the project for the objectives and under the conditions specified in the application and approval decision for the application within at least five years after the project's eligibility period is over and shall not conduct any property transactions that give an unjustified advantage to any person or authority during the aforementioned term or any transactions as a result of which the applicant earns net revenue from letting the property;
  - 11) a project implementation report submission schedule along with estimated payments prognosis.
- (6) Depending on the nature of the project the following shall be attached to the application:
- 1) copies of the co-operation agreements between the partner organisations participating in the project;
  - 2) permits required for project implementation, including building permits and approvals;
  - 3) assessment on the impact of the environment in accordance with the Environmental Impact Assessment and Environmental Management System Act;
  - 4) in case of buildings, building design documentation in accordance with the Building Act and the stage of the basic design in accordance with the EVS811: 2006 standard and requirements of Regulation No. 9 of the Minister of Culture of 30 June 2003 "Conditions and Procedure for Preparation of Conservation, Restoration, Repair and Construction Designs of Monuments and Construction Works Located in Heritage Conservation Area and Conduct of Prior Studies Therein and Procedure for Preparation of Special Conditions of Heritage Conservation";

- 5) in case of structures, the construction design in accordance with the requirements of Regulation No. 70 of the Minister of Economic Affairs and Communications of 27 December 2002 “Requirements for Construction Design to Be Submitted upon Applying for Building Permit” and in case of national cultural monuments, the requirements of Regulation No. 9 of the Minister of Culture of 30 June 2003 “Conditions and Procedure for Preparation of Conservation, Restoration, Repair and Construction Designs of Monuments and Construction Works Located in Heritage Conservation Area and Conduct of Prior Studies Therein and Procedure for Preparation of Special Conditions of Heritage Conservation”;
  - 6) documents certifying ownership rights or the right of use of the object whose value is to be increased as a result of the project, during the project’s eligibility period and at least five years after the project’s eligibility period is over;
  - 7) in case of purchasing construction works and used equipment, the seller’s certificate of the following: no European Union, state budget or foreign aid means have been provided with regard to the construction works as well as the used equipment during the previous 10 and 7 years, in accordance with the Clause 10 1) of the Government of the Republic Regulation No. 26 of 31 January 2007 “Conditions and Procedure for Determination of Eligibility or Non-eligibility of Expenditure of Structural Assistance for 2007-2013”, and an evaluation report drawn up by a certified real estate appraiser;
  - 8) documents and information additionally required by EE.
- (7) The application shall be submitted in writing or electronically in the digitally signed format. If the application is submitted on paper, an electronic application form, project, project budget and schedule shall be attached in addition.

#### **§ 15. Registration of applications, declaration of conformity of applications and applicants, and assessment**

- (1) Applications shall be accepted on a continuous basis in the order they are received.
- (2) Applications shall be processed and the decision on approval or denial of the application shall be adopted by EE.
- (3) All applications shall be registered.
- (4) The period of processing applications shall be, in general, up to 55 business days as of registration thereof. The applicant shall be notified of the decision on approval or denial of the application or of the current status of the application processing not later than in 55 business days. If some additional circumstances become evident, EE shall be entitled to extend the term of processing of the application up to 25 business days or stop the processing of the application.
- (5) The conformity of applications and applicants to the requirements provided for in Sections 5-9 and the pre-application shall be verified by EE.
- (6) An application or an applicant shall not be assessed as appropriate if at least one of the following circumstances occurs:
  - 1) the requirements provided for applicant or application in Section 15 of the 2007-2013 Structural Assistance Act for 2007-2013 or imposed in this Regulation have not been fulfilled;

- 2) the application contains inaccurate or incomplete information or the applicant attempts to influence the decision-making process through fraud or threats or in any other unlawful manner;
  - 3) the applicant fails to provide an opportunity for verification of conformity of the application to the requirements;
  - 4) the applicant fails to eliminate the deficiencies in the application during the term set out on the basis of Subsection (8);
- (7) EE shall be entitled to require submission of missing information or additional information. The applicant shall be required to reply to all the questions asked and he/she shall be required to provide an opportunity for verification of conformity of the application and the applicant.
- (8) If any inaccuracies are detected upon verification of conformity of the application and the applicant, the applicant shall be notified thereof immediately and a term shall be set out for rectifying the deficiencies. As a rule, up to 10 business days shall be granted for rectifying the deficiencies and the term of processing the application shall extend by the number of the days.
- (9) The applications conforming to the requirements shall be assessed by the Assessment Committee formed on the basis of Subsection 12 (2), proceeding from evaluation methods approved by the Minister for Regional Affairs. Compliance of applications with the pre-applications shall be assessed and assessment results shall be compared.
- (10) The applications shall be assessed separately in two assessment blocks:
- 1) the assessment criteria of the first assessment block are the project impact on achievement of the objectives of the measure and project sustainability;
  - 2) the assessment criteria of the second assessment block are project preparation quality, justification and quality of the project budget, and project feasibility and security with organisational resources.
- (11) The application shall be assessed on a 0–4 scale. The maximum summary grade awarded upon assessment of an application shall be based on the weighted average of the grades awarded on the basis of the assessment criteria specified in Subsection (10) separately in regard to both assessment blocks. The assessment of the application shall be deemed positive if the summary grade awarded upon assessment of both assessment blocks is not less than 2.5.
- (12) With regard to the applications which do not receive positive assessment in accordance with the assessment methods specified in Subsection (9) EE shall adopt a decision on denial of the application.
- (13) With regard to the applications which do not receive positive assessment in accordance with the assessment block specified in Clause 10 1), the Assessment Committee specified in Subsection 12 (2), in co-ordination with the Monitoring Committee of the priority axis, may make a proposal to the Government of the Republic for exclusion of the respective project from the investment plan.
- (14) Upon the proposal of the Assessment Committee, subject to approval shall be these applications which assessment results exceed the threshold set in Subsection (11).
- (15) A separate decision shall be adopted by EE with regard to approval or denial of the application. EE shall agree on the form of the decision with the Minister for Regional

Affairs. The decision on denial of the application shall specify reasons for the denial. The approval decision for the application shall specify the rights and obligations of the recipient and establish conditions. The decision shall provide, inter alia, the following:

- 1) the recipient;
- 2) the amount of the assistance in Estonian kroons;
- 3) the minimum amount of self-financing in Estonian kroons;
- 4) the project eligibility period;
- 5) obligations of the recipient;
- 6) conditions for payment of the assistance;
- 7) the submission of reporting;
- 8) bases for reclamation of assistance.

(16) The decision on approval, partial approval or denial of the application shall be announced to the applicant either in writing or electronically within five business days after the date of adoption of the resolution.

#### **§ 16. Amendment or repeal of an approval decision for an application**

- (1) The recipient shall apply to EE for amendment of the approval decision for the application in the following cases:
  - 1) if the sum of a budget line for a specific operation in the project budget that is transferred to another budget line is above 10% the limit of the budget line;
  - 2) if the project implementation term fixed in the application shall be extended or suspended or the operations or objectives thereof are to be amended.
  - 3) if the eligible expenses budget of the project is increased due to an increase in the public procurement cost in open procurement or due to a rise in the rate of value added tax stipulated in subsection 15(1) of the Value Added Tax Act and an increase of the amount of assistance is applied for on the conditions stipulated in subsection 18(5) of the Structural Assistance Act for 2007-2013;
  - 4) if the project eligibility period is longer than 60 months and an increase of the amount of assistance is applied for on the conditions stipulated in subsection 18(5) of the Structural Assistance Act for 2007-2013.
- (2) The amendments listed in Clause (1) 2) shall be co-ordinated with the Ministry of the Interior, Ministry of Culture and Ministry of Economic Affairs and Communications before amending the approval decision for an application.
- (3) EE may disapprove an application for amending the approval decision for an application submitted by the recipient if:
  - 1) the amendments are not in compliance with the content and objectives of the project;

- 2) the amendments are not in compliance with the requirements specified in the Regulation;
  - 3) in the event of amending the approval decision, the implementation of the project would not be completed by 31 August 2015;
  - 4) the financing budget of the measure does not allow any changes;
  - 5) the amendments are not justified.
- (4) As a rule, EE shall decide on amending the approval decision for an application within up to 30 business days as of registration of the respective application. In case additional circumstances become evident, EE shall be entitled to extend processing of the application by up to 21 business days.
- (5) The approval decision for the application may be repealed if any of the following circumstances occurs:
- 1) such circumstances become evident which preclude approval of the application if EE had only been aware of these earlier;
  - 2) the recipient has not begun to use the assistance during the term set out in the approval decision for the application;
  - 3) the recipient fails to comply with the provisions of the approval decision for the application or to use the funds under the prescribed conditions;
  - 4) the project cannot be completed by 31 August 2015;
  - 5) the application of the recipient concerning the amendment of the approval decision for the application is not approved and the recipient cannot continue to use the funds under the prescribed conditions;
  - 6) the recipient submits an application for repeal of the approval decision for the application.

### **§ 17. Submission and review of challenges**

Review of any challenges submitted against a decision or operation shall take place on the basis provided for in Section 34 of Structural Assistance Act for 2007-2013.

### **§ 18. Procedure for submission of major projects to the European Commission**

(1) The Ministry of the Interior shall submit the major project application agreed with the Managing Authority (using the model set out in Annex XXI to the Corrigendum to Commission Regulation (EC) No 1828/2006 of 8 December 2006, setting out rules for the implementation of Council Regulation (EC) No 1083/2006, laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund (OJ L 371, 22 December 2006, pg. 1-159)) to the European Commission for approval.

- (2) The pre-application applicant or the Ministry of the respective area of government shall prepare the documents necessary for submission of a request for assistance for major project.
- (3) Upon the request of the European Commission, the applicant shall be obligated to present additional information about the project.
- (4) EE shall suspend processing any application for the time of processing a request for assistance for mayor project by the European Commission.
- (5) The Ministry of the Interior shall forward the decision of the European Commission approving the major project to Enterprise Estonia. Enterprise Estonia shall pass a resolution of approval of the application and forward it to the beneficiary together with the decision of approval made by the European Commission.
- (6) With regard to mayor project that did not receive an approval from the European Commission, EE shall adapt a decision on denial of the application.

## **Chapter 6**

### **CONDITIONS FOR MAKING PAYMENTS OF ASSISTANCE, RIGHTS AND OBLIGATIONS OF RECIPIENT AND EE**

#### **§ 19. Conditions for making payments of assistance**

- (1) The assistance shall be paid to the recipient. Payments on the basis of partly paid expense documents shall be made to the beneficiary or the contractor.
- (2) Payment of the assistance shall be made on the basis of the ratio of the amount of assistance specified in the resolution on approval of the application and the total eligible expenditure, and the amount of the payable assistance cannot exceed the amount of assistance specified in the resolution on approval.
- (3) The **beneficiary** shall submit interim and final reports of the project to Enterprise Estoniaby the dates established in the resolution referred to in subsection 15(15). The **beneficiary** may submit a payment claim every three months or less frequently. In justified cases the **beneficiary** may submit interim reports more frequently.
- (4) On the basis of paid expense receipts the interim and final report shall be attached with copies of expense receipts (invoice, contract, and legal instruments) and of documents certifying the payment of expenditure, including with regards non-eligible expenditure. If payment on the basis of partially paid expense receipts is permitted according to Subsection (5), the interim report shall be attached with copies of expense receipts (invoice, contract, and legal instruments) and of documents certifying the payment of expenditure as to the self-financing specified in the resolution on approval of the application as well as to the non-eligible expenditure.
- (5) Payments on the basis of partially paid expense receipts can be made only in justified cases and within the framework of interim reports and only in accordance with the procedure provided for in Subsections 6 (2), (3) and (5)-(9) of the Regulation No. 15 of the Minister of Finance of 1 March 2007 “Conditions and Procedure for Payment of Structural Assistance for 2007-2013”.

- (5<sup>1</sup>) Prepayments can be made to the **beneficiary** in accordance with the procedure stipulated in Regulation No 15 of the Minister of Finance of 1 March 2007, "The Conditions of and Procedure for the Payment of Structural Assistance of 2007–2013". The prepayment claim shall be accompanied by an expense forecast, separately indicating the amounts of assistance and self-financing, as well as other documents requested by Enterprise Estonia.
- (6) After EE has approved project implementation interim or final reports, the recipient shall submit a respective application (hereinafter *payment claim*) for the payment of the assistance.
- (7) The payments shall be made in accordance with the procedure provided for in Regulation No. 15 of the Minister of Finance of 1 March 2007 "Conditions and Procedure for Payment of Structural Assistance for 2007-2013" in accordance with the actual certified eligible expenditure recorded in the payment claim.
- (8) EE shall process payment claims specified in Subsection (6) not later than within 16 business days after having received a payment claim for the recipient. Payment of assistance shall be made to the recipient in case of correct information on the 5<sup>th</sup> business day after the end of verification by EE of the payment claim in accordance with Regulation No. 15 of the Minister of Finance of 1 March 2007 "General Conditions and Procedure for Payment of structural Assistance for 2007-2013".
- (9) EE may adopt a decision on partial or full refusal of payment of the assistance if:
- 1) the submitted payment claim or expense receipts do not correspond to the prescribed requirements;
  - 2) the assistance is applied for in order to cover non-eligible expenditure;
  - 3) the project is related to repayment until final refunding of the reclaimable amount.

## **§ 20. Obligations of recipient**

The recipient shall be required:

- 1) to ensure the existence of the self-financing prescribed in the application and approval decision for the application;
- 2) to use the assistance in compliance with the submitted application and approval decision for the application;
- 3) to return to EE the assistance in cases specified in Subsection 26 (1) of the Structural Assistance Act for 2007-2013 or if so required by EE in accordance with the cases specified in Subsection 26 (2) of the aforementioned Act;
- 4) to submit, on the form, in the manner and within the term prescribed by EE, the required information and reports;
- 5) to keep separate accounts on the use of the assistance and self-financing. In the accounting of the recipient the project expenditure and the expense receipts and payment documents recording the aforementioned shall be clearly distinguishable from other expenditure, expense receipts and payment documents of the recipient;

- 6) to seek consent from EE if the budget line size prescribed for a specific project operation changes on the account of another budget line size by more than 10%;
- 7) to seek consent from EE for extension or suspension of the project implementation term included in the application or for amendment of the operations or objectives thereof;
- 8) to immediately notify Enterprise Estonia in writing of net revenue received as a result of the project, which has not been taken into account before the resolution of approval of the application, during the project and the useful life of the project assets, but not after the date established in subsection 26(5) of the Structural Assistance Act for 2007–2013;
- 9) to enable supervisory activities or audits to be carried out with regard to the expense receipts and payment documents recording use of self-financing, acquired equipment, materials and performed work, including enabling access for inspectors to the premises and territory that the recipient owns, rents or uses in any other manner;
- 10) to give all the required information and documents to the disposal of the inspector within five business days as of the receipt of a respective notice;
- 11) to render all possible assistance for carrying out inspection, audit and supervision;
- 12) to observe all the precepts issued as a result of supervisory operations and audits;
- 13) to submit to EE required information for preparation of the declaration on the winding-up of the assistance;
- 14) as a subject of the Public Procurement Act to observe, upon making procurements, the requirements established in the Public Procurement Act;
- 14<sup>1</sup>) to submit, if possible, three comparable price offers, if the **beneficiary** is not subject to the obligation to hold public procurements;
- 15) upon the use of the assistance, to indicate in the manner prescribed by Government of the Republic Regulation No. 211 of 30 August 2008 „Conditions and Procedure for Notification and Disclosure of Grant and Use of Structural Assistance, Marking Objects Financed out of the Assistance and Reference to Contribution of the European Union“ that it is structural assistance;
- 16) preserve the documentation and material relating to the application, assistance and implementation of the project in accordance with Section 5 of the Structural Assistance Act for 2007-2013;
- 17) to immediately notify EE in writing of all changes that concern presented information or of circumstances which affect or may affect the recipient`s unsatisfactory performance of obligations, including changes in the name or address or arising from the statutes or articles of association or changes in the authorised representatives, transformation, declaration of bankruptcy or appointment of liquidators, dissolution, etc., also in case the aforementioned changes have been registered in a public register or disclosed through the media;
- 18) to immediately notify EE in writing of high probability or inevitability of the negative result of the project that has become evident during implementation of

the project and of the questionable expediency of further continuation of the project;

- 19) to immediately notify EE in writing of adoption of a decision on transferring a business entity or a part of a business entity that forms a single entity and is basis for implementation of the project or on transferring objects or rights that belong thereto;
- 20) to ensure preservation and public use of the property created or acquired as a result of the project for the objectives and under the conditions specified in the application and approval decision for the application during not less than five years as of the expiry of the project eligibility period and not to conduct with the property any transactions that give unjustified advantage to any person or authority during the aforementioned term;
- 21) in case of transfer of rights with regard to the property created and acquired for the assistance to agree with EE on the conditions of transfer and further liability for the purposeful use of the property;
- 22) to ensure fulfilment of the obligations by the partner(s) involved in implementation of the project imposed on them by the cooperation agreement specified in Clause 14 (8) 1) and by other relevant orders in clauses 1), 2), 5), 8)-11) and 13)-20);
- 23) to refund the assistance reclaimed by the Implementing Agency in the amount and by the due date specified in the decision on recovery of sums;
- 24) to fulfil any other obligations provided for in legislation.

## **§ 21. Rights of recipient**

The recipient shall be entitled:

- 1) to change the project budget or operations approved by the approval decision or partial approval of the application without submitting to EE an application for amendment of the approval decision for the application if the project budget decreases and the objectives and extent of the operations fixed in the project do not change or if the budget line size set out in the project budget for a specific operation changes on the account of another budget line size not more than 10% and the objectives and operations foreseen in the project do not change. In such case EE shall be notified of the changes in advance;
- 2) to obtain information and advice from EE related to discharge of the obligations specified in Section 20.

## **§ 22. Obligations of EE**

EE shall be required:

- 1) to provide downloading the application and report forms and relevant instructional materials on its website;
- 2) to immediately notify recipients of any amendments made in legal acts that are used for administrating the assistance;

- 3) to review the applications specified in Clauses 16 (1) 1) and 2) not later than within 16 business days. In case of amendments specified in Clauses 20 6) and 7) (except extension of the project implementation term) before adoption of a decision EE shall be required to ask for a proposal from the measure committee for approval, partial approval or denial of the amendment. An application for amendment shall be approved by amending the existing approval decision for the application;
- 4) to approve or reject the reports specified in Clause 20 4) not later than within 21 business days as of the receipt thereof. EE shall be required to immediately notify the recipient of the decision on approval or rejection of the reports specified in Clause 20 4) and payment claims specified in Subsections 19 (8) and (9);
- 5) to provide the following information on its website after having received an approval decision for the application: name of the recipient, name of the supported project, amount of the assistance, total cost of the project objectives, project operations and project period;
- 6) not to disclose, in accordance with Subsection 25 (6) of the Structural Assistance Act for 2007-2013, the information (except the information specified in Clause 5)) or documents that concern applicants in the course of processing.
- 7) to preserve the documentation related to applying for and implementation of the projects at least until 31 December 2025.

### **§ 23. Rights of EE**

EE shall be entitled:

- 1) to carry out supervisory activities or audits with regard to the expense receipts and payment documents recording use of the assistance and self-financing, acquired equipment, materials and performed work;
- 2) to require submission of additional relevant information and documents with regard to the project operations and expenditure included in the application;
- 3) to reduce the funding if self-financing is less than the sum specified in the project budget or the approval decision for the application;
- 4) to recover the funding for the following stage of the project by the expenditure incurred during the previous stage of the project and not being in conformity with the conditions of the use of the assistance;
- 5) to reclaim the assistance if such circumstances become evident due to which the implementation or continuation of the project cannot be considered expedient or it is or may be impossible to implement or continue the project;
- 6) to withdraw the funding if during the project implementation the recipient has submitted false information or concealed any information;
- 7) to repeal the approval decision for the application if project has not been launched within 63 calendar days as of receiving the decision or the project commencement date if this is later;

- 8) to reclaim the assistance if the conditions of Clauses 20 19)-21) have been violated within five years as after the project eligibility period is over;
- 9) to reclaim the assistance if the recipient has violated any other obligations related to the project and provided for in legislation.

## **Chapter 7 IMPLEMENTING PROVISIONS**

### **§ 24. Application of Regulation**

The Regulation shall be applied from 1 January 2007.

Siim Kiisler  
Minister for Regional Affairs

Märt Kraft  
Secretary-General