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## **Conditions and procedure for providing assistance for development of structures, joint projects and export capacity of creative industries**

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Amended by the following acts  
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17.05.2016 - RT I, 27.05.2016, 1 - 30.05.2016 The words „section 6“ and „§ 6“ have been replaced throughout the Regulation with „section 6 subsection 1“ or „subsection 6 (1)“.

The Regulation shall be laid down on the basis of § 14 of the 2014-2020 Structural Assistance Act.

### **Chapter 1**

#### **General provisions**

##### **§ 1. Scope of application**

(1) The Regulation has been laid down in order to implement the objectives of the activities “Development of creative industries incubation”, “Development of support structures of creative industries,” “Development of export capacity of the enterprises acting in the area of creative industries,” “Binding creative industries with other sectors (small-sized projects)” and “Development of creative industries infrastructure and technological capacity” under priority axis “Development of small and medium-sized enterprises and strengthening competitiveness of regions” of “Operational Programme of Cohesion Policy funds for 2014–2020” (hereinafter operational programme)” measure “Development of creative industries” (hereinafter the measure).

(2) Activities mentioned in subsection 1 are based on thematic objective of the operational programme “Small and medium-sized enterprises are guided by growth and export” and support achievement of the objectives under “Estonian entrepreneurship growth strategy 2014–2020” deriving from two objectives under the competitiveness agenda “Estonia 2020”: to increase productivity per an employee to 80% compared to the average EU indicator and the employment rate to 76% in the 20–64 year age group.

(3) If a support is considered *de minimis* aid for the purposes of Article 3 of Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1–8) (hereinafter the DMA regulation), then the support shall be granted pursuant to the provisions of the aforementioned Regulation and § 33 of the Competition Act. Support to be granted to all the activities mentioned in subsection 6 (1) can be considered *de minimis* aid.

(4) If a support is considered a state aid covered by the block exemption, then the support shall be granted pursuant to the provisions of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107

and 108 of the Treaty (OJ L 187, 26.06.2014, p. 1–78) (hereinafter block exemption regulation), and § 342 of the Competition Act. The activities listed in subsection 6 (1) are subject to the following categories of aid mentioned in the block exemption regulation:

1) the support for the activities mentioned in clause 2 can be granted as an aid for culture and heritage conservation pursuant to Article 53;

2) the support for the activities mentioned in clauses 3 and 4 can be granted as an aid for consultancy in favour of SMEs pursuant to Article 18 or as an aid to SMEs for participation in fairs pursuant to Article 19 or as an innovation aid for SMEs pursuant to Article 28 or as an aid for process and organisational innovation pursuant to Article 29 or as a training aid pursuant to Article 31;

3) the support for the activities mentioned in clause 5 can be granted as a regional investment aid pursuant to Article 14 or as an aid for culture and heritage conservation pursuant to Article 53 or as aid provided for sports and multi-purpose recreational infrastructure pursuant to Article 55, or as aid to for investment in local infrastructure pursuant to Article 56.

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(5) If a support is considered a state aid pursuant to Article 107 (1) of the Treaty on the Functioning of the European Union, the support shall be granted pursuant to the provisions of § 342 of the Competition Act.

(6) The Regulation shall not be applied to the cases provided by subsections 2, 3, 4 and 5 of Article 1 of the block exemption regulation and subsection 1 of Article 1 of the DMA regulation.

(7) Entrepreneur(s) subject to an outstanding recovery order following a previous Commission decision or judgement of the Court of Justice declaring an aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation.

## **§ 2. Terms**

For the purpose of this Regulation, the following definitions shall apply:

- 1) ‘creative industries’ takes up an economic sector that is based on individual and collective creativity, skills and talent, and which enables the creation of welfare and jobs by making and using intellectual property as the main sales argument, and where creative persons are central to the processes. Creative industries consist of the following sectors: architecture, audiovisual sector (including movie and video, broadcasting), design, performing arts, publishing, art, cultural heritage (including museums, libraries, handicrafts), entertainment software (including games and entertainment environments), music, advertising;

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1^1) A sector related to creative industries is an economic sector that is found in the value chain of cultural and creative processes in the links of creation, production, distribution, intermediation and that of ensuring availability, and the main input that creates added value of which comes from the fields of creative industries;

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1^2) a creative person is a person established in sections 2 and 3 of the Creative Persons and Artistic Associations Act;

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2) ‘entrepreneur’ is a legal person registered in Estonia, sole proprietor, any other person engaged in economic or professional activities, an association which is not a legal person. The provisions concerning entrepreneurs apply to the state, local governments, legal persons in public law and other persons performing administrative duties if they participate in a goods market;

3) ‘small and medium-sized enterprise’ or ‘SME’ is an entrepreneur meeting the criteria established for small and medium-sized enterprises in Annex 1 of the block exemption regulation;

4) ‘creative entrepreneur’ is an undertaking, who according to the commercial register is acting in one or more sectors of creative industries;

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5) a start-up company is a company that has been entered in the commercial register not earlier than 24 months prior to joining the activities of the project;

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5) ‘starting entrepreneur’ is an entrepreneur which is being founded or an entrepreneur which has been entered in commercial registry no later than 24 months ago at the moment of joining the project activities and in which other legal person can have a 25% participation. Person having a participation in a starting entrepreneur cannot have or have had previously more than 32% participation in the enterprise which is or has been a person liable to value added tax;

6) ‘beneficiary’ is a SME registered in Estonia and gaining benefit within the framework of the measure, to whom incubator, regional or sectoral development centre is providing services related to business development or who is participating in the project activities. A SME partner participating in the implementation of project activities can also be a beneficiary, but a beneficiary does not necessarily have to be a project partner;

7) ‘partner’ is a natural person, legal person, state authority, local government authority or international organisation participating in the implementation of the supported project activity and incurs expenditures in the course thereof;

8) ‘incubator’ is a legal person providing services related to business development to pre-incubants or incubants, who owns or manages a set of tangible and suitable assets (infrastructure, inventory) needed to fulfil such a task and has necessary competencies for provision of services.

9) ‘business incubation or incubation’ is offering a suitable infrastructure to business start-ups that supports their networking (including cross-sectoral cooperation) and implementation of development programmes (including integrated development of team, business model, product and services) corresponding to the needs and specific characteristics of target groups, which help entrepreneurs to move on to the next development stages. Incubation is divided into pre-incubation and main incubation. For the purposes of this Regulation, business incubation service is also considered to be the implementation of business accelerators aimed at start-up businesses in the sectors of creative industries and sectors related thereto.

10) ‘regional development centre of creative industries’ is a support structure engaged in development of creative industries within at least one county for the purpose of increasing regional competitiveness

by developing the potential of creative industries, whose main activity is comprehensive counselling of creative entrepreneurs starting their business and acting in the activity area of the centre, enhancement of cooperation between creative entrepreneurs, entrepreneurs of other areas of activity, public sector and third sector, development of export potential, developing and putting into practice innovative solutions and raising awareness about creative industries;

11) 'sectoral development centre of creative industries' is a support structure acting in one or more sector(s) (or subsectors) of creative industries, whose main activity is strengthening of sectoral business potential and export capacity nationwide, comprehensive counselling of creative entrepreneurs acting in the sector, supporting cooperation between creative entrepreneurs and entrepreneurs of other areas of activity, raising awareness, conduction of research work and developing and putting into practice innovative solutions;

12) 'e-service' is a portal located at the web page of the 2nd level intermediate body, for the use whereof a person representing the support applicant (hereinafter the applicant) shall conclude the contract for the use of e-service and mandatory terms and obligations whereof have been made available to the applicant in the e-service portal of the 2nd level intermediate body.

### **§ 3. Purpose and result of granting a support**

(1) The purpose of granting a support is to link the potential of cultural and creative sectors to entrepreneurship, in order to contribute to the increase of enterprises having new ambitious business models, to enhance export capacity and create added value to the other economic sectors through creative industries upon development of business models, products and services and sales and marketing.

(2) Granting a support results in the following:

1) increase in the number of exporting enterprises;

2) increase of added value per employee created by SMEs;

3) increase of profit per enterprise in the sector of creative industries in comparison with the Estonian average;

4) increase of profit per employee in the sector of creative industries in comparison with the Estonian average;

(3) This Regulation shall contribute to the achievement of the following output indicators of the measure:

1) number of enterprises receiving aid;

2) number of new beneficiary enterprises;

3) number of aided enterprises which have participated in the network.

### **§ 4. 1st level intermediate body and 2nd level intermediate body**

(1) 1st level intermediate body is the Ministry of Culture (hereinafter the 1st level intermediate body).

(2) 2nd level intermediate body is Enterprise Estonia (hereinafter the 2nd level intermediate body).

## **§ 5. Filing a challenge**

It is possible to file a challenge against a decision or act of the 1st level intermediate body or the 2nd level intermediate body pursuant to § 51 of the 2014–2020 Structural Assistance Act. A challenge proceeding shall be conducted in compliance with the Administrative Procedure Act and a decision on a challenge shall be made within 30 calendar days as of the filing of the challenge. The 1st level intermediate body is a body conducting the proceeding of challenges.

## **Chapter 2**

### **Supported activities, eligibility of costs and extent of support**

## **§ 6. Supported activities**

(1) Support shall be granted to the project the activities whereof contribute to the achievement of purpose mentioned in § 3 of this Regulation - at least two performance indicators, wherefrom at least one is the performance indicator mentioned in clause 1 or 2 of subsection 2 of § 3 - and within the framework whereof:

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1) an incubator or business accelerator is providing services to business start-ups in the subsectors of creative industries, which serve as prerequisites for the growth, sustainability and internationalisation of these start-ups or  
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2) through regional and sectoral development centres, competitiveness, sustainability and export capacity of creative entrepreneurs is increased, their cooperation with each other and cooperation with other economic sectors is enhanced, or

3) entrepreneurs acting in the sectors of creative industry are improving their export capacity, exchanging, inter alia, information and contacts and organising seminars, trainings, study trips, contact events, development programmes, counselling and mentorship, new products and services are being developed and their placing on the market is supported, one shall participate in fairs and conduct research needed for entering new markets or

4) development and cooperation projects between creative entrepreneurs and entrepreneurs of other sectors, related to the sectors of creative industries are started and implemented or  
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5) there will be implemented an infrastructure supporting the development of creative entrepreneurship pursuant to the market failure, demand and potential of the region or sector and/or a technology will be acquired which increases the productivity of creative entrepreneurs and added value of products.

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(2) Granting a support results in the following:

- 1) activities provided by clause (1) 1) contributing to achieving the output indicator provided in clause 3 (3) 2);
- 2) activities provided by clauses (1) 2)-4) contributing to achieving the output indicator provided in clause 3 (3) 1);

3) activities provided by clause 1) (5) contributing to achieving the output indicator provided in clause 3 (3) 3);  
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(3) In the case of granting repeated support on the basis of the Regulation to the same activity provided in the clauses (1) 2)-4), the activities of the project are not required to contribute to the achievement of output indicators provided in subsection 3 (3).

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## **§ 7. Eligibility of costs**

(1) Justified costs, which are needed for the implementation of the activities confirmed by the grant decision and in compliance with terms provided by § 2 of the Government of the Republic Regulation No 143 of 1 September 2014 “Terms and Conditions for considering eligible the expenses to be reimbursed from the 2014–2020 Structural Assistance, payment of support and making financial corrections” (hereinafter the joint regulation) and by this Regulation and in accordance with the European Union and national law, shall be considered eligible.

(2) Eligible cost must be created in the course of the activities to be supported and implemented during the eligibility period of the project. Eligible cost must be paid by the beneficiary or partner during the eligibility period of the project or within 45 calendar days after the eligibility period of the project, but no later than on 31 August 2023.

(3) If a support is considered *de minimis* aid for the purposes of the DMA regulation, the following costs, which are needed for the achievement of the purpose and results mentioned in § 3 and carrying out the activities under clauses 1–4 of subsection 1 of § 6 pursuant to the ceilings provided by § 9 and the grant decision, shall be considered eligible:

1) personnel expenditure of the employees, who are directly related to the implementation of project pursuant to the requirements provided by § 3 of the joint regulation;

2) indirect costs mentioned in subsection 5 of § 9 of the joint regulation calculated on the basis of 15% of eligible direct personnel expenditure;

3) transportation and accommodation expenses of the employees, who are directly related to the implementation of project, and daily allowances of assignments abroad to the extent of the ceilings provided by relevant legislation;

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3<sup>^</sup>1) transportation and accommodation expenses of persons engaged in the project, including beneficiaries;

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4) for the purposes of subsection 4 of § 48 of the Income Tax Act, the expenses considered as fringe benefits and taxes payable thereon in case of the expenses provided by the Regulation;

5) expenses made for bought-in services, including bought-in training, counselling, expert, information and advertising services and research work;

6) renting and leasing expenses related to seminars, trainings, study trips and contact and marketing events, costs related to the preparation and production of materials and transportation and accommodation expenses of external actors;

7) in compliance with Article 70 of the European Parliament and Council Regulation (EU) nr 1303/2013 (hereinafter the common provisions regulation), the costs related to participation in foreign fairs in the European Union and aimed at target markets outside the Union and attending foreign fairs, including registration and participation costs of fair and expenses of fair tickets, rent expenses of exhibition space and billboard or stand and design and performance thereof, transportation, insurance, storage and customs expenses related to the transportation of fair stand to the foreign country and back;

8) service fees of the undertaking offering media and advertising services related to the development of product or service brands of the products or services that are developed during the project, costs related to the development of visual identity aimed at target markets of products and expenses for registration of trademarks in target markets;

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9) costs related to the preparation of advertising materials introducing products and services that are developed during the project, including costs related to the development of e-marketing solutions;

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10) costs related to the participation of entrepreneurs in international competitions and international public procurements.

(4) If a support is considered *de minimis* aid for the purposes of the DMA regulation, the following costs, which are needed for the achievement of the purpose and results mentioned in § 3 and carrying out the activities under clause 5 of subsection 1 of § 6 pursuant to the ceilings provided by § 9 and the grant decision, are considered to be eligible:

1) pursuant to the procedure provided by the Building Act, costs related to the design work, building work, owner supervision and building work management, costs related to the establishment of communications needed for the functioning of the construction work (water and sewerage systems, land improvement systems, external lighting, electricity and transmission connections, heating utility lines) within the borders of the registered immovable in the ownership or at the disposal of the applicant, expenses for the establishment of technological systems within the construction work and connection fees;

2) expenditure created as a result of purchasing office equipment and furnishings needed for provision of services to be offered to entrepreneurs or under a lease contract, except when a lessor is not a credit or financing institution acting on the basis of the Credit Institutions Act;

3) expenditure created as a result of purchasing machinery or equipment increasing productivity of creative entrepreneurs and added value of products or under a lease contract, except when a lessor is not a credit or financing institution acting on the basis of the Credit Institutions Act;

4) in compliance with Article 71 of the common provisions regulation, the costs related to the acquisition of tangible assets and the costs related to the acquisition of intangible assets, if it shall be considered to form a part of the beneficiary's fixed assets and remains, as of the receipt of final payment, to be linked for at least five years to the project for which a support is granted, it is used only in the beneficiary entrepreneur, it is regarded as a depreciable asset and is acquired on market terms and from the third person who is not related to the purchaser;

5) costs of setup and initialization contained in the purchase price of tangible assets or the cost of finance lease;

6) expenses made for bought-in services, including bought-in counselling and expert services and research work;

7) indirect costs mentioned in subsection 5 of § 9 of the joint regulation calculated on the basis of 15% of eligible direct personnel expenditure;

(5) In addition to the non-eligible costs listed in § 4 of the joint regulation, in case of granting *de minimis* aid within the framework of the Regulation the following costs shall be considered non-eligible:

1) costs related to the acquisition of tangible assets, except in the cases provided by clauses 2 and 4 of subsection 4;

2) costs related to the purchase and lease of a vehicle;

3) costs related to the general management of the organisation, including the salaries of management board;

4) income tax from transactions between associated persons in the meaning provided in section 8 of the Income Tax Act;

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4<sup>1</sup>) costs of the transactions performed between associated persons provided in clauses 8 (1) 1)-7) of the Income Tax Act;

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5) representation expenses and costs of gifts;

6) costs paid in cash.

(6) If a support is considered a state aid covered by the block exemption for the purposes of the block exemption regulation, the following costs shall be considered eligible by types of aid:

1) in case of the aid to be granted on the basis of Article 14, investment costs in tangible and intangible assets, the estimated wage costs arising from job creation as a result of an initial investment, calculated over a period of two years;

2) in case of the aid to be granted on the basis of Article 18, the costs of consultancy services provided by external consultants;

3) in case of the aid to be granted on the basis of Article 19, the costs incurred for renting, setting up and running the stand for the participation of an entrepreneur in any particular fair or exhibition;

4) in case of the aid to be granted on the basis of Article 28, costs for obtaining, validating and defending patents and other intangible assets; costs for secondment of highly qualified personnel from a research and knowledge-dissemination organization or a large enterprise, working on research, development and innovation activities in a newly created function within the beneficiary and not replacing other personnel; costs for innovation advisory and support services;

5) in case of the aid to be granted on the basis of Article 29, personnel costs; costs of instruments, equipment, buildings and land to the extent and for the period used for the project; costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions; additional overheads and other operating costs, including costs of materials, supplies and similar products, incurred directly as a result of the project;

6) in case of the aid to be granted on the basis of Article 31, trainers' personnel costs, for the hours during which the trainers participate in the training; trainers' and trainees' operating costs directly relating to the training project such as travel expenses, materials and supplies directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the training project; costs of advisory services linked to the training project; trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training;

7) in case of the aid to be granted on the basis of Article 53, costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if at least 80 % of either the time or the space capacity per year is used for cultural purposes; costs for the acquisition, including leasing, transfer of possession or physical relocation of cultural heritage; costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication; costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors; costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project.

8) in case of the aid to be granted on the basis of Article 55, investment costs in tangible and intangible assets; [RT I, 27.05.2016, 1 – entry into force 30.05.2016]

9) in case of the aid to be granted on the basis of Article 56, investment costs in tangible and intangible assets; [RT I, 27.05.2016, 1 – entry into force 30.05.2016]

(7) If a support is considered a state aid covered by the block exemption for the purposes of the block exemption regulation, in addition to the non-eligible costs listed in § 4 of the joint regulation and subsection 5, the following costs shall be considered eligible by types of aid:

1) in case of the aid to be granted on the basis of Article 18, costs of a continuous or periodic activity and the entrepreneur's usual operating costs, such as routine tax consultancy services, regular legal services or advertising;

2) in case of the aid to be granted on the basis of Article 31, accommodation costs, except for the minimum necessary accommodation costs for trainees' who are workers with disabilities;

(8) Pursuant to the Regulation, the costs related to the fulfilment of obligations arising from subsection 1 of § 2 of the Government of the Republic Regulation No 146 of 12 September 2014 “Requirements and procedure for the public disclosure of the provision of the 2014–2020 Structural Assistance, marking of the objects financed from the support and making the reference to the participation of the European Union“ shall be considered eligible.

## **§ 8. Eligibility period of project**

(1) Eligibility period of the project is a period which is set out in the grant decision, when the project activities start and end and in the course whereof expenditure occurs.

(2) Eligibility period of the project activities starts from the date of submission of application or the later date indicated in the application or provided by the grant decision and ends on the date indicated in the application or provided by the grant decision, but no later than on 31 August 2023. Applicant cannot start the activities to the project or assume obligations for the implementation thereof before filing a respective application to the 2nd level intermediate body.

(3) Duration of the eligibility period of the project containing the activities mentioned in clauses 1 or 2 of subsection 1 of section 6 shall be up to 24 months.

(4) Duration of the eligibility period of the project containing the activities mentioned in clauses 3 or 4 of subsection 1 of section 6 shall be up to 12 months.

(5) Duration of the eligibility period of the project containing the activities mentioned in clause 5 of subsection 1 of section 6 shall be up to 36 months.

(6) Upon occurrence of extraordinary and unforeseeable circumstances beyond the control of the beneficiary, the latter can apply for extension of the eligibility period of the project under the terms provided by § 22 and provided that the eligibility period of the project shall not exceed the due date laid down in subsection 2. If the application for extension of the eligibility period of the project has been satisfied, the eligibility period of the project shall be considered to be terminated on the date provided by the decision regarding the amendment of the duration of the eligibility period.

(7) Project shall be considered to be terminated after the approval of final report by the 2nd level intermediate body and making final payment to the beneficiary.

## **§ 9. Maximum amount and percentage of support**

(1) Maximum amount of the support applied for shall be:

1) for the project containing the activities provided by clauses 1 and 2 of subsection 1 of section 6 - 300,000 euros per an applicant;

2) for the project containing the activities provided by clause 3 of subsection 1 of section 6 - 50,000 euros per a project;

3) for the project containing the activities provided by clause 4 of subsection 1 of section 6 - 20,000 euros per a project;

4) for the project containing the activities provided by clause 5 of subsection 1 of section 6 - 1,000,000 euros per an applicant;

(2) If a support is considered *de minimis* aid for the purposes of the DMA regulation, then maximum ceiling of the support shall be the following:

1) for the activities provided by clause 1 of subsection 1 of section 6 - 75% of the value of eligible cost;

2) for the activities provided by clause 2 of subsection 1 of section 6 - 80% of the value of eligible cost;

3) for the activities provided by clause 3 of subsection 1 of section 6 - 70% of the value of eligible cost;

4) for the activities provided by clause 4 of subsection 1 of section 6 - 50% of the value of eligible cost;

5) for the activities provided by clause 5 of subsection 1 of section 6 - 80% of the value of eligible cost;

(3) If a support is considered a state aid covered by the block exemption for the purposes of the block exemption regulation, the maximum ceilings of the support by types of aid shall be the following:

1) in case of the aid to be granted under Article 14 - 25% of the value of eligible cost which can be increased up to 35% for a medium-sized enterprise and up to 45% for a small-sized enterprise;

2) in case of the aid to be granted under Article 18 - 50% of the value of eligible cost;

3) in case of the aid to be granted under Article 19 - 50% of the value of eligible cost;

4) in case of the aid to be granted under Article 28 - 50% of the value of eligible cost which can be increased up to 100% of the value of eligible cost, provided that total amount of the aid to be granted for counselling and support services of innovation shall not exceed 200,000 euros per an entrepreneur for a three-year period;

5) in case of the aid to be granted under Article 29 - 50% of the value of eligible cost;

6) in case of the aid to be granted under Article 31 - 60% of the value of eligible cost for medium-sized enterprises and 70% of the value of eligible cost for small-sized enterprises;

7) in case of the aid to be granted under Article 53 - 80% of the value of eligible cost;

8) in case of the aid to be granted under Article 55 - 80% of the value of eligible cost;

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9) in case of the aid to be granted under Article 56, the aid component is calculated on the basis of previous relevant forecasts, taking into account that the aid sum cannot exceed the difference between eligible costs and the operating profit of investment, but not over 80% of the value of eligible cost;

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10) in the case provided by subsection 4 of section 1, the amount of the support to be granted for the project cannot exceed the notification thresholds laid down in Article 4 of the block exemption regulation.

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(4) self-financing must cover a part of the eligible cost, which is not reimbursed from the support.

(5) If a beneficiary partner participates in carrying out activities of the project, in case of the activities mentioned in clauses 1, 2 and 4 of section 1, self-financing must cover at least a half of financial contribution of the beneficiary partner. Beneficiary partners shall not pay service fees specified in clause 26 (1) 7).

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(6) In the case laid down in subsection 3 of article 1, the amount of *de minimis* aid granted to one entrepreneur within the current financial year and two previous financial years along with the support applied for within the framework of the measure, must not exceed the maximum amount of *de minimis* aid, i.e. 200,000 euros.

(7) In the case laid down in subsection 3 of article 1, the amount of *de minimis* aid granted to an entrepreneur, who is acting in the area of road transport and transporting goods for a rent or a fee,

within the current financial year and two previous financial years along with the support applied for within the framework of the measure, must not exceed 100,000 euros.

(8) In case of granting the aid mentioned in subsection 3 of § 1 to the entrepreneurs belonging to a group or having other kind of relationships with each other, the entrepreneurs having any of the relationships referred to in subsection 2 of Article 2 of the DMA regulation, shall be considered to be a single entrepreneur.

The aid mentioned in subsections 3, 4 or 5 of section 1 may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same — partly or fully overlapping — identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under the relevant regulations.

(10) In case of granting the aid mentioned in subsection 3 of § 1, the rules for cumulation of *de minimis* aid laid down in subsection 5 of Article 1 of the DMA regulation shall be taken into consideration. In case of granting the aid mentioned in subsection 4 of § 1, the rules for cumulation of *de minimis* aid laid down in Article 8 of the block exemption regulation shall be taken into consideration.

### **Chapter 3**

#### **Requirements for applicant, partner and application**

##### **§ 10. Requirements for applicant and partner**

(1) Applicants can be legal persons in private law registered in Estonia, who meet the terms laid down in this Regulation.

(2) Support for the activities listed in clauses 3 and 4 of subsection 1 of section 6 can be applied by SMES and for the activities listed in clause 4 by the SMES who are not acting in the sectors of creative industries.

(2<sup>1</sup>) In the case of a creative entrepreneur SME applying for support for an activity specified in clause 6 (1) 3), the annual sales revenue from the fields of creative industries of that SME, based on the most recent report of a financial year that is available in the commercial register, has to be at least EUR 50,000.  
[RT I, 27.05.2016, 1 – entry into force 30.05.2016]

(2<sup>2</sup>) In the case of a partner applying for support for an activity specified in clause 6 (1) 4), the annual sales revenue from the fields of creative industries of that partner, based on the most recent report of a financial year that is available in the commercial register, has to be at least EUR 20,000.  
[RT I, 27.05.2016, 1 – entry into force 30.05.2016]

(3) In order to provide the service mentioned in clause 1 of subsection 1 of section 6, an applicant must also meet the requirements laid down in clause 8 of § 2.

(4) Applicant and partner must meet the requirements provided for in sections 2 and 3 of the Government of the Republic Regulation No 133 of 21 August 2014 “Requirements for the application for structural support and the processing of the application and conditions for establishment of the terms for granting a support for the period of 2014–2020” (hereinafter the application processing regulation).

(5) In addition to the provisions of subsection 4, an applicant and/or a partner must have properly fulfilled the obligation for submission of the tax return provided by the Taxation Act and must be in possession of sufficient means for self-financing and payment of the non-eligible costs needed for the implementation of the project.

(6) If an applicant applies for the support that shall be considered to an aid for the purposes of subsections 3 and 4 of § 1, an applicant, a partner and a beneficiary must meet the terms laid down in the block exemption regulation.

### **§ 11. Obligations of applicant**

Applicant shall be obliged to:

1) undergo a preliminary counselling pursuant to subsections 3 and 4 of subsection 1 of § 14, in order to apply for the support of the activities listed in clauses 1, 2 and 5 of § 6;

2) verify that the information submitted in the application corresponds to the requirements and terms provided by this Regulation;

3) at the request of the 2nd intermediate body, submit additional information within 10 working days in a requested format;

4) allow the 2nd intermediate body to verify the compliance of application and applicant with the requirements, including the on-the spot verification, if necessary;

5) verify the capacity for payment of non-eligible costs and self-financing and existence of other means or documents;

6) notify the 2nd intermediate body immediately of the amendment of the data submitted in the application or the occurrence of circumstances that might affect making a decision about the application or fulfilment of obligations by the support applicant;

7) fulfil other obligations laid down in subsection 2 of § 21 of the Structural Assistance Act and legislation.

### **§ 12. Application requirements**

(1) In addition to the provisions of subsection 1 of § 4 of the application processing regulation, an application must meet the following requirements:

1) the project described in the application shall contribute to the achievement of at least two performance indicators of the measure mentioned in subsection 2 of § 3, wherefrom at least one is the performance indicator mentioned in clause 1 or 2 of subsection 2 of § 3, and at least one output indicator of the measure mentioned in subsection 3 of § 3. In the case of granting repeated support to the same activity provided in the subsection 6 (1), the activities of the project are not required to contribute to the achievement of output indicators provided in subsection 3 (3);

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2) support can be applied for only one activity at a time which is mentioned in clauses 1-5 of subsection 1 of § 6;

3) the amount of the support applied for shall not exceed maximum amounts of the support mentioned in subsection 1 of § 9 and ceilings of the support mentioned in subsections 2 and 3 of § 9;

4) project budget contains a sufficient amount of self-financing, taking into consideration the differences provided for in subsections 4 and 5 of § 9;

5) eligibility period of the project corresponds to the terms provided by § 8.

(2) In addition to the approvals provided for in of subsection 2 of § 4 of the application processing regulation, an application must contain the following data and documents:

1) applicant's general data, including business name, description of main activity and economic indicators of the applicant;

2) upon inclusion of partners, general data about the project partners;

3) activity plan and schedule of the project;

4) data relating to the project, including name, purpose, expected results and outputs and impact of the project, place of implementation of the project, budget by activities, general cost of the project, amount of the support applied for, amount of self-financing;

5) description of the project team;

6) a copy of the applicant's articles of association, if the latter is not available in commercial register;

7) a copy of the last annual report approved by the authorised representative of the applicant (with the auditor's report if the applicant is subject to audit) if the report is not available in the commercial register and if the applicant has been active for at least 6 months in the ended financial year preceding the application process;

8) the applicant's current balance sheet and their profit-and-loss account for the current financial year as of the last completed quarter;

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9) when applying for support for activities provided in clauses 6 (1) 1), 2), 5), the business plan of an incubator, business accelerator, regional or sectoral development centre which has to contain, inter alia, information about development vision, mission, objectives, expected results, target group, market situation and marketing strategy, business plan or activity plan, schedule or financing plan for the implementation of development strategy along with performance indicators and profit forecast for three accounting years following the submission of the application;

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9<sup>1</sup>) in the case of applying for support for the activities mentioned in clauses 6 (1) 3), 4), forecasts for cash flows of the applicant project for the three years after the end of the eligibility period;

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9<sup>2</sup>) in the case of applying for support for an activity specified in clause 6 (1) 5), the documents that prove the right of ownership or right of use (in the case of such right) of the property or rooms, where as a result of the investment described in the application, an object will be produced or purchased technology will be used; and comparable price calculations that are the basis for the investments along with terms of reference on which the calculations were based;

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10) upon inclusion of partners, a copy of partnership or consortium agreement concluded between the applicant and partner(s) participating in the project;

- 11) curricula vitae of the project manager and the persons involved in the project management;
  - 12) power of attorney, if the authorised representative of the applicant is acting on the basis of an authorisation;
  - 13) information about fulfilment of the DMA criteria.
- (3) If an applicant has simultaneously applied for a support for the project or some activities of the project from several measures or from other means of national or the European Union budget or foreign aid, the applicant must submit relevant information.

## **Chapter 4**

### **Support application**

#### **§ 13. Opening of call for proposals**

- (1) Budget and schedule of the call for proposals shall be approved by the manager of the 2nd level intermediate body. (1) Budget and schedule of the call for proposals shall be agreed beforehand with the 1st level intermediate body.
- (2) The 2nd level intermediate body shall publish a notification of the deadline and budget of the call for proposals in a nationwide newspaper and on its webpage [www.eas.ee](http://www.eas.ee) at least 30 days before the opening day of the call for proposals.
- (3) In agreement with the 1st level intermediate body, the 2nd level intermediate body can organise more than one call for proposals.
- (4) Applicant can apply for a new support for the activities mentioned in clauses 3 and 4 of subsection 1 of § 6 after termination of the previous project containing the same activities. New support for the activities mentioned in clauses 1, 2 and 5 of subsection 1 of § 6 can be applied for after termination of the previous project containing the same activities.

#### **§ 14. Deadline for application for support and procedure for submission of application**

- (1) Support for the activities mentioned in clauses 1, 2 and 5 of § 6 shall be applied for in rounds. Application shall be submitted within the deadline notified pursuant to subsection 2 of § 13.
- (1<sup>1</sup>) An applicant can apply for support based on a single application during one call for proposals. [RT I, 27.05.2016, 1 – entry into force 30.05.2016]
- (2) Applications related to the activities mentioned in clauses 3 and 4 of subsection 1 of § 6 shall be submitted on a rolling basis. As of the moment when a monetary amount applied for in registered applications, for which a grant decision or a decision of refusal to satisfy an application has not been taken, becomes equal or exceeds the budget balance available in the current year for financing the applications, the latter shall be processed in the order in which they were submitted.
  - (3) Before applying for the support for the activities mentioned in clauses 1, 2 and 5 of subsection 1 of § 6 an applicant must undergo a preliminary counselling. To this end, an applicant shall submit to the 2nd level intermediate body a project description for the deadline established by the schedule of the call for proposals, and the 2nd level intermediate body shall give a written feedback regarding the description, assessing the application of subsections 3, 4 or 5 of § 1 and merits of the project,

feasibility of planned activities and amount of the support applied for. The 2nd level intermediate body shall give a feedback pursuant to the assessment criteria laid down in subsection 1 of § 18.

(4) Application and the project description mentioned in subsection 3 shall be submitted through the e-service of the 2nd level intermediate body by the authorised representative of the applicant with a digital signature.

## **Chapter 5**

### **Processing of application**

#### **§ 15. Processing of application**

(1) In the case of a failure to submit the application within the time limit, the term for the submission of the application shall not be restored and the application shall not be accepted by a decision pursuant to subsection 3 of subsection 1 of § 21 of the Structural Assistance Act. 1) If an applicant has not undergone a preliminary counselling pursuant to subsections 3 and 4 of § 14, in order to apply for the support of the activities listed in clauses 1, 2 and 5 of § 6, the application shall not be accepted by a decision.

(2) The 2nd level intermediate body shall forward to the applicant a decision of refusal to satisfy an application with a digital signature within 10 working days from submission of application.

(3) Deadline for processing of the applications related to the activities mentioned in clauses 1, 2 and 5 of subsection 1 of § 6 shall be 42 working days from the closing date of the call for proposals.

(4) Deadline for processing of the applications related to the activities mentioned in clauses 3 and 4 of subsection 1 of § 6 shall be 30 working days from the submission of applications.  
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(5) If a support shall be considered a state aid mentioned in subsection 5 of § 1, the deadline for processing the application shall be extended by the period during which the European Commission shall process the respective state aid notification.

(6) In the course of processing of application, the 2nd level intermediate body can request from the applicant explanations and additional documents regarding the data submitted in the application, if the aforementioned body is of the opinion that the application is not sufficiently explicit or has deficiencies, specifying which circumstances need additional clarification, supplementation or provision of additional information. If a deficiency has been eliminated, the claim relating thereto shall be deemed to be satisfied. In order to eliminate deficiencies, the deadline for processing the applications can be extended by up to 10 working days.

(7) The 2nd level intermediate body shall make a decision of refusal to satisfy an application without substantive assessment thereof, if an applicant has not eliminated the deficiencies by the deadline mentioned in subsection 6.

#### **§ 16. Procedure for considering applicant, partner and application to be in compliance with the requirements**

(1) The 2nd level intermediate body shall consider applicant and partner to be in compliance with the requirements, if they meet the requirements provided by § 10.

(2) The 2nd level intermediate body shall consider application to be in compliance with the requirements, if all the requirements concerning the application and provided by § 12 are met.

(3) In case of failure to meet the requirements by applicant, partner or application, the 2nd level intermediate body shall make a decision of refusal to satisfy an application without substantive assessment of the application. The respective decision shall be made within 10 working days as of the submission of application.

(4) Application shall not be considered to be in compliance with the requirements, if at least one of the following circumstances occurs:

1) application does not meet the requirements provided by § 12 and applicant has not eliminated the deficiencies occurring in the application by the required deadline;

2) applicant and/or partner tries to affect the processing of application by fraudulent or threatening behaviour or by any other unlawful action;

3) applicant and/or partner does not allow to perform the on-the spot verification of the data submitted in the application at an applicant and a partner pursuant to subsection 7 of § 21 of the Structural Assistance Act.

(5) The 2nd level intermediate body shall forward to the applicant a decision of refusal to satisfy an application with a digital signature within 10 working days from making of the respective decision.

#### **§ 17. Formation of evaluation committee**

(1) For selection of projects, the 2nd level intermediate body has a right to form an evaluation committee, the composition whereof shall be agreed with the 1st level intermediate body before the deadline for submission of applications. Composition of evaluation committee shall be disclosed on the web page of the 2nd level intermediate body.

(2) If necessary, the 2nd level intermediate body shall involve in the evaluation process additional experts, whose expert assessments shall be taken into account by the committee in the evaluation process. Expert involvement shall be agreed beforehand with the 1st level intermediate body.

(3) Pursuant to the Anti-corruption Act, the members of the evaluation committee and experts must declare their impartiality and independency on the applications, applicants and partners. Upon occurrence of incompliant connection, a person concerned must remove himself/herself pursuant to the procedure and terms laid down in § 10 of the Administrative Procedure Act.

(4) The 2nd level intermediate body shall establish for the applicant a term for a maximum of 10 working days to answer the questions of experts and the term for processing the application shall be extended accordingly.

#### **§ 18. Evaluation, selection criteria and selection procedure of applications**

(1) The applications, which have been considered to be in compliance with the requirements, shall be evaluated on the basis of the following selection criteria representing the following percentages of the total grade:

1) impact of the project on achievement of the objectives under the measure – 30% of maximum total grade;

2) merits of the project – 25% of maximum total grade;

3) cost effectiveness of the project – 20% of maximum total grade;

4) capacity of the applicant (and partners) for the support to implement the project – 25% of maximum total grade;

(2) Evaluation shall be performed according to the evaluation methods approved by the 2nd level intermediate body. Upon preparation of evaluation methods, the 2nd level intermediate body shall be guided by the selection criteria mentioned in subsection 1. The 2nd level intermediate body shall submit the evaluation methods to the 1st level intermediate body for confirmation before the approval of the methods and publish the evaluation methods on its web page on the first day of the receipt of applications at the latest or the day of announcing the call for proposals in compliance with subsection 3 of § 7 of the application processing regulation.

(3) Projects shall be evaluated by the selection criteria mentioned in subsection 1 on the scale of 0–4.

(4) Points given by evaluators shall be added up and the amount obtained shall be multiplied by the percentage of respective evaluation criterion mentioned in subsection 1, as a result whereof a respective point shall be formed for each evaluation criterion. Maximum total grade given upon evaluation of application shall be formed on the basis of weighted average of the points of evaluation criteria listed in subsection 1. In the case of application in rounds, there will be formed a ranking of applications on the basis of total grades.

(5) In the case of application in rounds, preference shall be given to the project with higher rate of self-financing, if there are equal total grades. If the rate of self-financing appears to be equal as well, preference shall be given to the application having higher grade of evaluation criterion mentioned in subsection 1 of section 1.

## **§ 19. Conditions and procedure for satisfaction of application**

(1) In the case of satisfaction of an application, the 2nd level intermediate body shall make the grant decision within the term established by subsections 3 or 4 of § 15. (1) In case of refusal to satisfy an application, the 2nd level intermediate body shall make the decision of refusal to satisfy an application within the term established by subsections 3 or 4 of § 15 or subsection 3 of § 16.

(2) The following applications, which have been considered to be in compliance with the requirements, shall be satisfied, if such applications:

1) have received a total grade of at least 2,50 on the basis of the selection criteria listed in subsection 1 of § 18, and

2) have not received a grade less than 2,00 in any of the selection criteria listed in subsection 1 of § 18.

(3) In the case of application in rounds, applications are subject to satisfaction according to the ranking formed in the course of evaluation until exhaustion of the resources allocated for the support to be granted within the call for proposals.

(4) Rights and obligations of the beneficiary and conditions shall be established in the grant decision.

(1) In addition to the provisions of subsection 4 of § 8 of the application processing regulation, the grant decision shall establish the following:

- 1) a total grade given to the application;
- 2) conditions for the implementation of a project, including term for starting to implement the project activities;
- 3) reporting period, terms and procedure for submission of reports;
- 4) conditions for payment of support and estimated schedule.

(5) Application and additional information related thereto shall form an integral part of the decision made about the application pursuant to subsection 6 of § 8 of the application processing regulation. It is not obligatory to refer in the decision made about the application to the information contained in the application; however, a relevant reference can be made, if this information shall be taken into consideration upon decision-making in the wording used in the application.

(6) If a support shall be considered to be an aid mentioned in subsection 3 of § 1, the grant decision shall specify that the aid to be granted is considered to be *de minimis* aid for the purposes of the DMA regulation and a reference to this regulation shall be made.

(7) If a support shall be considered to be an aid mentioned in subsection 4 of § 1, the grant decision shall specify that the aid to be granted is considered to be a state aid covered by block exemption for the purposes of the block exemption regulation and a reference to this regulation shall be made.

(8) If a support shall be considered to be a state aid mentioned in subsection 5 of § 1, the grant decision shall not be made before the European Commission has taken, or is deemed to have taken, a decision authorising state aid notification. After the European Commission has made the aforementioned decision, a respective information shall be added to the grant decision.

## **§ 20. Conditions and procedure for refusal to satisfy an application**

(1) In addition to the cases provided by this Regulation, application shall not be satisfied also in the cases mentioned in subsections 2 and 3 of § 8 of the application processing regulation.

(2) In addition to the cases provided by subsection 1, the 2nd level intermediate body can refuse to satisfy an application, if it becomes evident in the course of evaluation of the set of information gathered in the course of processing of the application that the objectives of the project can be achieved without a support.

(3) Pursuant to clause 6 of subsection 2 of § 8 of the application processing regulation, a decision of refusal to satisfy an application shall be made regarding the applications being processed, the financial value whereof shall exceed the available budget balance and which shall not be subject to partial satisfaction pursuant to subsection 1 of § 9 of the application processing.

(4) The information provided by subsection 5 of § 8 of the application processing regulation shall be set out in the decision of refusal to satisfy an application.

## **§ 21. Partial satisfaction or grant decision with the secondary condition of application**

(1) Application shall be subject to partial satisfaction pursuant to the provisions of subsection 1 of § 9 of the application processing regulation and also in the cases when:

- 1) support has been applied for the activities or payment of costs which are not eligible or justified in terms of objectives, results or outputs of the project;
- 2) payment of a part of self-financing is not feasible to the extent of the budget submitted in the application;
- 3) objectives, results or outputs of the project can be achieved also for a smaller amount of the support than the one to be applied for;
- 4) financial value of the application exceeds the budget balance available for financing of applications.

(2) Pursuant to subsection 1 of § 9 of the application processing regulation, application can be partially satisfied provided that the applicant agrees with a proposal of the 2nd level intermediate body to reduce the amount of the support applied for and or to change the activities planned to be implemented in the course of the project. If an applicant shall not agree with the proposal made by the 2nd level intermediate body, the latter shall make the decision of refusal to satisfy an application within the term established by subsections 3 or 4 of § 15.

(3) The grant decision can be made with the secondary condition pursuant to subsections 2 and 3 of § 9 of the application processing regulation.

(4) A beneficiary shall not be entitled to receive payments of support on the basis of the grant decision with the secondary condition. A beneficiary shall have a right to receive the payments related to the support, when the 2nd level intermediate body has ascertained the occurrence or performance of the secondary condition on the basis of the information submitted by the beneficiary, except for the cases when the 2nd level intermediate body shall be able to obtain information from information system or register or data source.

(5) The decision for partial satisfaction of an application or the grant decision with the secondary condition shall be formalised pursuant to subsection 4 of § 20.

## **Chapter 6**

### **Amendment and revocation of grant decision**

#### **§ 22. Amendment of grant decision**

(1) The grant decision shall be amended on the basis of a respective written application submitted by the beneficiary at the initiative of the 2nd level intermediate body or through e-service under the terms and pursuant to the procedure provided by § 10 and 11 of the application processing regulation.

(2) A beneficiary shall be entitled, without submitting an application for amendment of the grant decision, to amend the budget by expenditure types up to 20% in comparison with the provisions of the grant decision, provided that a total volume of eligible costs of the project and percentage of the support shall not be changed. The 2nd level intermediate body shall be notified of the possible amendment in a format that can be reproduced in writing before making the amendment.

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(3) The grant decision can be amended until the end of the eligibility period of the project, but not after termination of the project activities.

(4) In the case of changes in the grant decision regarding the circumstances mentioned in clauses 1–4 of subsection 2 of § 10 of the application processing regulation, a relevance and need for these changes shall be examined before making the respective decision and, if necessary, taking into consideration selection criteria of the projects provided by subsection 1 of § 18 and involving experts and evaluation committee, if appropriate.

(5) The 2nd level intermediate body has a right to refuse to amend the grant decision or accept the changes in the case provided by subsection 2, if the desired amendment might jeopardise achievement of the expected result of the project or termination of the project activities in the eligibility period.

(6) The 2nd level intermediate body shall make a decision about amendment of the grant decision within 20 working days after the receipt of respective application.

(7) Grant decision can be amended retroactively as of the date of submission of the amendment application to the 2nd level intermediate body, if it shall contribute to the achievement of project results and the amendment is justified.

### **§ 23. Revocation of grant decision**

(1) The grant decision shall be revoked partially or fully pursuant to subsection 3 of § 22 of the Structural Assistance Act or subsection 3 of § 47 of the aforementioned law.

(2) Beneficiary undertakes to return the received support according to the decision mentioned in subsection 1.

(3) In addition to the cases provided by subsection 3 of § 22 of the Structural Assistance Act or subsection 3 of § 47 of the aforementioned law, the 2nd level intermediate body shall revoke the grant decision partially or fully in the following cases:

- 1) beneficiary has not started to use the support within the term established by the grant decision;
- 2) beneficiary does not comply with the provisions of the grant decision or is not using the support under the established conditions;
- 3) beneficiary has not implemented the project activities within one reporting period;
- 4) it is not possible to terminate the project activities by 31 August 2023.

## **Chapter 7**

### **Submission of reports and conditions for payment of support**

#### **§ 24. Submission of reports related to the use of support**

(1) Beneficiary shall submit interim reports of the project through e-service in the eligibility period of the project. Minimum and maximum length of reporting period shall be 3 months and 6 months accordingly. Higher frequency of reporting can also be established by the grant decision. Beneficiary shall submit a final report of the project within 2 months as of the end of the eligibility period of the project. Terms for submission of interim and final reports shall be provided by the grant decision. Beneficiary shall submit reports after the implementation of the project at the request of the 2nd level intermediate body.

(2) The report must contain at least the following information:

- 1) project-related data provided by the grant decision, including name and number of the project, name of beneficiary;
- 2) reporting period of the project;
- 3) data regarding the objectives of the project and implementation of activity plan, including the activities carried out, results thereof, justifications about the differences between planned and actual activities and results;
- 4) beneficiary's assessment of the implementation of the project and performance thereof;
- 5) beneficiary's confirmation of the correctness of the submitted data, signature of the authorised representative and date of submission of the report.

(3) The 2nd level intermediate body shall establish the models for reports, coordinates these with the 1st level intermediate body in advance and publishes the models on its web page.

## **§ 25. Conditions for payment of support**

(1) Support shall be paid to the beneficiary or the issuer of invoice pursuant to the conditions laid down in chapter 3 of the joint regulation and the grant decision.

(2) On the basis of actual expenses, the support shall be paid on the basis of the interim or final report and payment application submitted by the beneficiary. The 2nd level intermediate body shall process the documents within up to 35 working days as of the submission thereof.

(3) On the basis of actual expenses, support shall be paid upon fulfilment of the following preconditions:

1) implementation of the project activities, occurrence of eligible costs and payment of respective expenses (including self-financing, value-added tax and non-eligible costs, if these are indicated in the submitted original documents) or payment of eligible costs to the extent of self-financing, taking into consideration the conditions established by subsection 5 of § 9;

2) submission of the documents attesting occurrence of the costs due to the project activities or the copies thereof and the documents attesting payment of the expenses mentioned in subsection 1 or the copies thereof to the 2nd level intermediate body;

3) submission of interim or final reports and payment application of the respective reporting period by the beneficiary to the 2nd level intermediate body and approval thereof by the 2nd level intermediate body;

4) absence of tax arrears of beneficiary and partner, except in the case when the amount of tax or payment arrears to the state along with interest shall not exceed 100 euros or has already been staggered.

(4) Documents attesting the occurrence of costs shall be the original accounting documents attesting performance of respective economic transaction, including invoices, property receipt records and contracts.

(5) Costs shall be divided into direct and indirect costs. Indirect costs are the general costs mentioned in subsection 5 of § 9 of the joint regulation and personnel costs mentioned in subsection 1 of § 3 of

the joint regulation, which are related to administration of the activities mentioned in subsection 6 of § 9 of the joint regulation.

(6) Indirect costs shall be reimbursed on the basis of 15% of eligible direct personnel costs. Direct costs shall be considered the costs listed in clauses 1–4 of subsection 1 of § 3 of the joint regulation, except the personnel which are related to administration of the activities mentioned in subsection 6 of § 9 of the joint regulation.

(7) In justified cases, advance payments of state aid can be made to the beneficiary before the attestation of the eligibility of the costs under the conditions established by § 19 and 20 of the joint regulation. Unattested amount of the advance payments of state aid can account for up to 20% of the amount of the support determined by the grant decision. Beneficiary shall submit to the 2nd level intermediate body a report about the use of advance payment along with the documents attesting the occurrence of eligible costs and payment thereof within 50 calendar days at the latest after the eligibility period of the project.

(8) A basis for making the advance payment of state aid is a payment application submitted by the beneficiary establishing the need for advance payment, expenditure forecast, a guarantee given by credit institution and other documents required by the 2nd level intermediate body.

(9) The 2nd level intermediate body can make a decision of partial or full refusal of payment of the support in the following cases:

- 1) the submitted payment application or expense documents do not meet the requirements;
- 2) the submitted expense documents do not comply with the period, activities or objectives of the project indicated in the project application;
- 3) the carried out activities do not correspond to the activities indicated in the project or implementation thereof has not been attested.

(10) The 2nd level intermediate body can partially or fully suspend the processing of a payment application in the case provided by subsection 1 of § 30 of the Structural Assistance Act.

## **Chapter 8**

### **Rights and obligations of beneficiary, partner and the 2nd level intermediate body**

#### **§ 26. Obligations of beneficiary and partner**

(1) Beneficiary shall warrant fulfilment of the obligations provided by § 24 and 26 of the Structural Assistance Act and successful implementation thereof pursuant to the terms and conditions established in the grant decision, and undertakes also to:

- 1) use the support pursuant to the provisions of the grant decision;

1^1) in the case of receiving support for an activity specified in clause 6 (1) 3), ensure growth of sales revenue, which equals at least the double sum of the support, and at least a 20% increase in export sales, during the second financial year succeeding the end of the eligibility period. The share of export, during the second financial year succeeding the end of the eligibility period, in sales revenue of a beneficiary who started export as a result of the project, should be at least 25% of their sales revenue;

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2) warrant the existence of permits and agreements provided by law which are needed for implementation of the project;

3) warrant registration of the assets acquired or created pursuant to the procedure provided by law and registration of transfer of the assets to the ownership of the beneficiary and payment of all encumbrances in public law related to the creation of ownership, fulfilment of the obligations arising from the requirements provided for in Article 71 of the common provisions regulation and other legislation;

4) upon conduction of the procurements related to the project, adhere to the requirements established in § 26 of the Structural Assistance Act;

5) keep a record of the aid to be granted to the beneficiaries of the project, notifies the beneficiaries of type, volume and conditions of the aid to be granted to them within the framework of the project and submits the respective information to the 2nd level intermediate body with the project reports;

6) within the prescribed time limit, submit to the 2nd level intermediate body the requested information and reports pursuant to the provisions of this Regulation;

7) in the case of activities specified in clauses 6 (1) 1), 2) and 4), shall charge service fees from beneficiaries in the sum of at least half of the own-financing specified in subsection 9 (4) and shall prove that the fees have been received with a bank account statement, which has been confirmed by the credit institution, at the latest when submitting the final payment application;

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8) notify the 2nd level intermediate body immediately in writing of the changes in ownership relations of the beneficiary;

9) submit along with payment application at least three comparable price offers from independent tenderers and descriptions of the terms of references of the offers for all costs in case of which the beneficiary will carry out transactions for the purchase of services of one type, tangible or intangible assets in the amount equal to or exceeding that of EUR 5,000 exclusive of value-added tax, in order to implement the project. If it is not possible to submit three independent price offers or if the cheapest offer is not selected, a statement of substantiation for this shall be attached to the application

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10) coordinate with the 2nd level intermediate body in writing encumbrance of the real estate created or acquired by the means of the support with a mortgage or other encumbrances;

11) insure the real estate created or acquired by the means of the support against such damages as fire, damage caused by natural disasters, burglary, theft and vandalism, water accidents, breakdown of pipelines and devices in the course of implementation of the project and within at least 5-year period as of the moment of making final payment to the beneficiary;

11<sup>1</sup>) ensures that property created or acquired by the means of the support, is not sold, gifted or disposed of in any other way within a 5-year period starting from the final payment made to the beneficiary;

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12) retain the documents attesting the eligibility of costs and other evidence pursuant to § 35 of the Structural Assistance Act;

13) fulfil other obligations provided by legislation.

(2) Partner undertakes to fulfil the obligations of beneficiary provided by § 25 of the Structural Assistance Act and this Regulation and adhere to the rules of public procurement proceedings established in the Public Procurement Act, if the beneficiary is a contracting authority for the purposes of the Public Procurement Act, except when the partner has been selected by the beneficiary and the cost of the activities to be performed by the partner is established by public procurement procedure.

### **§ 27. Rights of beneficiary and partner**

(1) Beneficiary and partner shall have a right to obtain from the 2nd level intermediate body information and advice in relation with the requirements and obligations of beneficiary provided by legislation.

(2) Pursuant to subsection 2 of § 23 of the Structural Assistance Act, the beneficiary shall be given an opportunity to submit the positions thereof before:

1) the issue of precept;

2) the revocation or amendment of the decision to satisfy the application, except in the case where the application of the beneficiary is satisfied in full;

3) the making of a decision on financial correction.

### **§ 28. Obligations and right of the 2nd level intermediate body**

(1) In addition to performance of the functions provided by subsection 2 of § 8 of the Structural Assistance Act, the 2nd level intermediate body undertakes to fulfil the following obligations:

1) to forward to the applicant or the beneficiary the decisions mentioned in subsections 1 and 7 of § 15, in subsection 3 of § 16, in subsection 1 of § 19, in subsection 5 of § 21, in subsection 6 of § 22, in subsection 1 of § 23 and in subsection 1 of § 29 within 10 working days as of the making of the decision;

2) to send the monitoring and other data of the support applications and projects to the register of structural support;

3) to perform surveillance over the implementation of the project;

4) to monitor a monetary balance of the measure and on request give an overview to the 1st level intermediate body;

5) to retain the data related to the granting of aid along with relevant information and necessary additional documents within ten years as of the date of granting the aid mentioned in subsections 3, 4 or 5 of § 1;

6) to prepare monitoring report and final report of the measure, ask the manager of the 2nd level intermediate body to approve the correctness of the data contained in the report and forward these to the 1st level intermediate body;

- 7) to examine and approve the project reports and forward the data to the register of structural support;
- 8) to submit to the 2nd level intermediate body the data needed for reporting of granting and using the support;
- 9) prepare and disclose the reviews of granting and using the supports;
- 10) notify the 2nd level intermediate body of the obstacles occurred upon using the support and ending the payment of support before making the respective decision;
- 11) to follow-up the projects within five years at the latest after the end of the term of eligibility of the project, in order to be convinced that the assets acquired as a result of the implementation of the project are being used according to their intended purpose;
- 12) to notify the beneficiary of the requirements laid down in clauses 14 and 17 of § 24 of the Structural Assistance Act and the start and end of the term for the retention of documents and evidence;
- 13) to make available on its web page application and reporting forms and relevant introductory materials;
- 14) to retain the documents attesting the eligibility of costs and other evidence pursuant to subsection 1 of Article 140 of the common provisions regulation;
- 15) to notify the beneficiary immediately of the changes made in the legislation regulating the use of support;
- 16) to perform other acts provided by the the Structural Assistance Act, the legislation issued on the basis thereof and this Regulation;  
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- 17) upon granting the aid mentioned in subsections 3, 4 or 5 of § 1, to warrant fulfilment of the obligations listed in Chapter 6 of the Competition Act.

(2) The 2nd level intermediate body has a right:

- 1) pursuant to § 42 of the Structural Assistance Act, to exercise supervision over documentary evidence of expenditure and implementation of the project at the territory of the beneficiary;
- 2) to examine the documents to be drafted in the course of preparation of the project and implementation of activities;
- 3) to demand the submission of additional data and documents regarding the duration, activities, objectives, results and expenses of the projects indicated in the application, which prove a proper implementation of the project and proper fulfilment of the obligations of the beneficiary and partners;
- 4) to end payment of the support and ask for partial or full return of the support, if the beneficiary infringes the conditions provided by Article 143 of the common provisions regulation, the Structural Assistance Act, the regulations issued on the basis thereof or this Regulation or otherwise deviates from the provisions of the application or the grant decision;
- 5) to reduce proportionally the amount of the support upon reduction in the project cost confirmed by the grant decision;

6) to refuse to pay the support, if economic situation of the beneficiary has deteriorated to such an extent that could jeopardise use of the support or implementation of the project;

7) to ask for the opinion of the 2nd level intermediate body about application of the aid mentioned in subsections 3, 4 or 5 of § 1 before making or amending the grant decision;

8) to inspect the use of the support and self-financing;

9) upon processing of application and payment application, to verify the capacity of the applicant, beneficiary and partner to pay non-eligible costs and to refuse satisfy an application by a decision or refuse to pay the support, if tax or payment arrears of the applicant, beneficiary or partner to the state exceeds 100 euros and has not been staggered;

10) relying on the right of discretion, to decide on making each advance payment of state aid even if the beneficiary has a required warranty given by credit institution;

11) relying on the right of discretion, to decide on the use of different forms of leasing mentioned in clause 2 of subsection 4 of § 7;

12) in the case of occurrence of the circumstances beyond the beneficiary's control, to extend the term for implementation of the project upon submission of respective application and eligibility period of the project arising therefrom, provided that the activities shall be terminated by 31 August 2023.

## **§ 29. Financial corrections**

(1) Decision of financial correction shall be made pursuant to § 45-47 of the Structural Assistance Act and § 21-23 of the joint regulation.

(2) Support shall be recovered pursuant to § 48 of the Structural Assistance Act and § 24 of the joint regulation. Repayment of the support can be staggered pursuant to § 24 of the joint regulation.

(3) If the support has not been repaid by the term for repayment, the beneficiary must pay a fine for delay pursuant to § 49 of the Structural Assistance Act.

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## **§ 30. Implementing provisions**

(1) The wording of the clause 2 (5) that came to force on January 9, 2015, shall be applied to starting entrepreneurs who joined the project before June 1, 2016.

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(2) The wording of subsection 10 (2<sup>1</sup>), subsection 10 (2<sup>2</sup>), clause 26 (1) 1<sup>1</sup>) and subsection 26 (1) 11<sup>1</sup>) of the Regulation shall be applied to applications that have been submitted after June 1, 2016.

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