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REGULATION OF THE MINISTER OF INFRASTRUCTURE AND DEVELOPMENT¹

of 20 October 2015

on granting *de minimis* aid and state aid under the European Territorial Cooperation programmes for 2014-2020

Pursuant to Article 27 paragraph 4 of the Act of 11 July 2014 on the principles of implementation of the cohesion policy programmes, financed under the 2014-2020 financial perspective (Journal of Laws of 2018, Items 1431 and 1544 and of 2019, Items 60 and 730) it is hereby ordered as follows:

§ 1. The Regulation shall define the detailed allocation, conditions and procedures for granting entrepreneurs *de minimis* aid and state aid, under the following European Territorial Cooperation programmes for 2014-2020:

- 1) the Cross-Border Cooperation Programme INTERREG V-A Poland - Slovakia (2014-2020),
- 2) the Cooperation Programme INTERREG Poland - Saxony 2014-2020,
- 3) the Cooperation Programme INTERREG V-A - Poland-Denmark-Germany-Lithuania-Sweden (South Baltic) 2014-2020 – and the entities granting the aid.

§ 2. *De minimis* aid shall be granted on the principles set out in the 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 (EU Official Journal L 352, of 24 December 2013, p. 1), hereinafter referred to as "Regulation No 1407/2013".

§ 3. The state aid shall be granted on the principles set out in the 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 (EU Official Journal L 187, of 26 June 2014, p. 1), hereinafter referred to as "Regulation No 651/2014".

§ 4. Whenever the Regulation refers to:

- 1) research infrastructure – it should be understood as research infrastructure within the meaning of Article 2 paragraph 91 of the Regulation No 651/2014;

¹ Currently the government department - regional development is managed by the Minister of Investment and Economic Development, based on § 1 paragraph 2 point 2 of Regulation of the Prime Minister of 10 January 2018 on the detailed scope of the powers of the Minister of Investment and Economic Development (Journal of Laws Items 94 and 175).

- 2) organisational innovation – it should be understood as organisational innovation within the meaning of Article 2 paragraph 96 of Regulation No 651/2014;
- 3) aid intensity – it should be understood as the aid intensity within the meaning of Article 2 paragraph 26 of Regulation No 651/2014;
- 4) single undertaking – it should be understood as a single undertaking within the meaning of Article 2 paragraph 2 of Regulation No 1407/2013;
- 5) innovation clusters – it should be understood as innovation clusters within the meaning of Article 2 paragraph 92 of Regulation No 651/2014;
- 6) SMEs – it should be understood as a micro, small or medium-sized enterprises fulfilling the criteria laid down in Annex I to Regulation No 651/2014;
- 7) entrepreneur- it should be understood as an enterprise within the meaning of Article 1 of Annex I to Regulation No 651/2014;
- 8) regional investment aid – it should be understood as regional investment aid within the meaning of Article 2 paragraph 41 of Regulation No 651/2014;
- 9) multifunctional recreational infrastructures – it should be understood as a multifunctional recreational infrastructure within the meaning of Article 55 paragraph 3 of Regulation No 651/2014.

§ 5. 1. The entity granting *de minimis* aid and state aid can be:

- 1) managing authority,
- 2) beneficiary

- referred to in Article 27 paragraph 2 of the Act of 11 July 2014 on the principles of implementation of the cohesion policy programmes, financed under the 2014-2020 financial perspective, hereinafter referred to as "the Act".

2. If the entity granting *de minimis* aid or state aid is beneficiary, *de minimis* aid and state aid may be granted if the possibility of its granting is provided in the subsidy contract referred to in Article 2 paragraph 26 point c of the Act.

§ 6. 1. *De minimis* aid can be granted to undertakings in all sectors, except for the cases referred to in Article 1 paragraph 1 of Regulation No 1407/2013, and the cases referred to in Article 3 paragraph 3 of the Regulation of the European Parliament and of the Council (EU) No 1301/2013 of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, , p. 289)

2. *De minimis* aid shall be granted in the form and manner specified in Article 4 paragraphs 1 and 2 of Regulation No 1407/2013.

3. The value of the permissible *de minimis* aid granted to a single undertaking shall be determined on the basis of Article 3 paragraphs 2-9 Regulation No 1407/2013.

4. *De minimis* aid granted under this regulation shall be cumulated with other aid on provisions defined in Article 5 of Regulation No 1407/2013.

5. *De minimis* aid can be granted to an entrepreneur to cover part or all of the eligible costs.

§ 7. 1. The provisions of the Regulation on state aid shall not apply to aid referred to in Article 1 paragraph 2 points c and d, paragraph 3 points a-d, par. 4 point c and paragraph 5 and Article 13 of Regulation No 651/2014.

2. State aid may not be granted nor paid out to an entrepreneur having the obligation to reimburse the state aid, resulting from the decision of the European Commission declaring the aid granted by the Republic of Poland incompatible with the law and the internal market;

3. This Regulation shall apply only to state aid which has an incentive effect within the meaning of Article 6 paragraph 2 with regard to Article 6 paragraph 5 point h of Regulation No 651/2014.

4. State aid shall be provided in the form specified in Article 5 paragraph 2 point a of Regulation No 651/2014.

5. State aid granted under this Regulation shall be cumulated with other aid according to rules defined in Article 8 of Regulation No 651/2014.

6. Article 7 paragraph 1 of Regulation No 651/2014 shall apply to calculate the aid intensity and the eligible costs.

7. The value of state aid granted must not exceed the thresholds set out in Article 4 paragraph 1 of Regulation No 651/2014.

§ 8. 1. Regional investment aid shall be granted under the conditions laid down in Article 14 of Regulation No 651/2014.

2. Regional investment aid shall be provided to cover eligible costs referred to in Article 14 paragraph 4 of Regulation No 651/2014, provided that conditions set out in Article 14 paragraphs 6-9 of Regulation No 651/2014 are fulfilled.

3. Regional investment aid for large enterprises within the meaning of Article 2 point 24 of Regulation No 651/2014 shall be granted exclusively for initial investment within the meaning of Article 2 paragraph 49 of Regulation No 651/2014 for new economic activity in the area in accordance with Article 14 paragraph 3 of Regulation No 651/2014.

4. Regional investment aid must not be granted for investments aimed solely at the reconstitution of production capacity.

5. Regional investment aid for research infrastructure may be granted under this Regulation, provided that conditions laid down in Article 14 paragraph 11 of Regulation No 651/2014 are fulfilled.

6. The maximum intensity of regional investment aid shall be determined in accordance with Article 14 paragraph 15 of Regulation No 651/2014, on the basis of the regional aid map approved by the European Commission.

7. The maximum intensity of regional investment aid, with the exception of aid granted for the implementation of a large investment project within the meaning of Article 2 paragraph 52 of Regulation No 651/2014, shall be increased by:

- 1) 10 percentage points - in the case of medium enterprises;
- 2) by 20 percentage points - in the case of a micro or small enterprises.

8. The maximum intensity of regional investment aid shall be determined taking into account the conditions laid down in Article 14 paragraphs 12-14 of Regulation No 651/2014.

9. Entrepreneur, concluding the contract undertakes to meet the requirements set forth in Article 14 paragraphs 5 and 16 of Regulation No 651/2014.

10. Regional investment aid in the fisheries and aquaculture sector may not be granted nor paid out to an entrepreneur in the case mentioned in Article 14(17) of Regulation No 651/2014.

§ 9. 1. Aid for consultancy services in favour of SMEs shall be granted:

- 1) subject to conditions laid down in Article 18 of Regulation No 651/2014;
- 2) to cover eligible costs referred to in Article 18 paragraph 3 of Regulation No 651/2014, provided that they fulfill the conditions laid down in Article 18 paragraph 4 of Regulation No 651/2014.

2. The maximum intensity of aid for consultancy services in favour of SMEs shall be established in accordance with Article 18 paragraph 2 of Regulation No 651/2014.

§ 10. 1. Aid to SMEs participation in fairs shall be granted:

- 1) subject to conditions laid down in Article 19 of Regulation No 651/2014;
- 2) to cover eligible costs referred to in Article 19 paragraph 2 of Regulation No 651/2014.

2. The maximum intensity of aid to SMEs participation in fairs shall be determined in accordance with Article 19 paragraph 3 of Regulation No 651/2014.

§ 11. 1. Aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects shall be provided:

- 1) subject to conditions laid down in Article 20 of Regulation No 651/2014;
- 2) to cover eligible costs referred to in Article 20 paragraph 2 of Regulation No 651/2014.

2. The maximum intensity of aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects shall be determined in accordance with Article 20 paragraph 4 of Regulation No 651/2014.

§ 12. 1. Aid for research and development projects shall be granted:

- 1) subject to conditions laid down in Article 25 of Regulation No 651/2014;
- 2) for categories referred to in Article 25 paragraph 2 of Regulation No 651/2014;
- 3) to cover the eligible costs, as referred to in Article 25 paragraphs 3 and 4 of Regulation No 651/2014.

2. The maximum intensity of aid for research and development projects shall be established in accordance with Article 25 paragraphs 5-7 of Regulation No 651/2014.

§ 13. 1. Aid for research and development in the fishery and aquaculture sector shall be granted:

- 1) subject to conditions laid down in Article 30 of Regulation No 651/2014;
- 2) to the entities referred to in Article 30 paragraph 5 of Regulation No 651/2014;
- 3) to cover eligible costs referred to in Article 25 paragraph 3 of Regulation No 651/2014.

2. The results of the assisted project on research and development in the fishery and aquaculture sector shall be made available under the terms of Article 30 paragraph 4 of Regulation No 651/2014.

3. The maximum intensity of aid for research and development in the fishery and aquaculture sector shall be established in accordance with Article 30 paragraph 7 of Regulation No 651/2014.

§ 14. 1. Investment aid for research infrastructures shall be provided:

- 1) subject to conditions laid down in Article 26 of Regulation No 651/2014;
- 2) to cover eligible costs referred to in Article 26 paragraph 5 of Regulation No 651/2014.

2. The research infrastructures can be used to pursue both economic and non-economic activities, subject to the conditions laid down in Article 26 paragraphs 2-4 Regulation No 651/2014.

3. The maximum intensity of investment aid for research infrastructures shall be established in accordance with Article 26 paragraphs 6 and 7 of Regulation No 651/2014.

§ 15. 1. Aid for innovation clusters shall be granted:

- 1) subject to conditions laid down in Article 27 of Regulation No 651/2014;
- 2) to the entity referred to in Article 27 paragraph 2 of Regulation No 651/2014.

2. Access to the premises, facilities and activities of the assisted innovation cluster shall be granted under the terms of Article 27 paragraphs 3 and 4 of Regulation No 651/2014.

3. Investment aid for the construction or upgrade of innovation clusters shall be granted for eligible costs, as referred to in Article 27 paragraph 5 of Regulation No 651/2014.

4. The maximum intensity of investment aid for innovation clusters shall be determined in accordance with Article 27 paragraph 6 Regulation No 651/2014.
5. Operating aid for innovation clusters shall be provided to cover eligible costs referred to in Article 27 paragraph 8 of Regulation No 651/2014.
6. Duration of operating aid for innovation clusters shall not exceed the period referred to in Article 27 paragraph 7 of Regulation No 651/2014.
7. The maximum intensity of operating aid for innovation clusters shall be determined in accordance with Article 27 paragraph 9 of Regulation No 651/2014.

§ 16. 1. Innovation aid for SMEs shall be granted:

- 1) subject to conditions laid down in Article 28 of Regulation No 651/2014;
 - 2) to cover eligible costs referred to in Article 28 paragraph 2 of Regulation No 651/2014.
2. The maximum intensity of innovation aid for SMEs shall be determined in accordance with Article 28 paragraphs 3 and 4 of Regulation No 651/2014.

§ 17. 1. Aid for process and organisational innovation shall be provided:

- 1) subject to conditions laid down in Article 29 of Regulation No 651/2014;
 - 2) to cover eligible costs referred to in Article 29 paragraph 3 of Regulation No 651/2014.
2. The maximum intensity of aid for process and organisational innovation shall be determined in accordance with Article 29 paragraph 4 of Regulation No 651/2014.

§ 18. 1. Training aid shall be granted:

- 1) subject to conditions laid down in Article 31 of Regulation No 651/2014;
 - 2) to cover eligible costs referred to in Article 31 paragraph 3 of Regulation No 651/2014.
2. Training aid shall not be granted for training referred to in Article 31 paragraph 2 of Regulation No 651/2014.
3. The maximum intensity of training aid shall be determined in accordance with Article 31 paragraphs 4 and 5 of Regulation No 651/2014.

§ 19. 1. Aid for culture and heritage conservation shall be granted:

- 1) subject to conditions laid down in Article 53 of Regulation No 651/2014;
- 2) for cultural purposes and activities as defined in Article 53 paragraph 2 of Regulation No 651/2014;
- 3) as specified in Article 53 paragraph 3 of Regulation No 651/2014;

4) to cover the eligible costs, as referred to in Article 53 paragraphs 4 and 5 and paragraph 9, third sentence of Regulation No 651/2014.

2. The permissible aid for culture and heritage conservation shall be determined in accordance with Article 53 paragraphs 6 and 7 and paragraph 9, first and second sentence of Regulation No 651/2014.

3. In the case of aid not exceeding the equivalent of EUR 2 million, the value of permissible aid for culture and heritage conservation may be determined in accordance with Article 53 paragraph 8 of Regulation No 651/2014

§ 20. 1. Aid for sport and multifunctional recreational infrastructures shall be provided:

1) subject to conditions laid down in Article 55 of Regulation No 651/2014;

2) in the form specified in Article 55 paragraph 7 of Regulation No 651/2014;

3) to cover eligible costs referred to in Article 55 paragraphs 8 and 9 of Regulation No 651/2014.

2. Providing access to assisted sport infrastructures shall be based on rules laid down in Article 55 paragraphs 2 and 4 of Regulation No 651/2014.

3. Providing access to assisted multifunctional recreational infrastructure shall be based on rules laid down in Article 55 paragraph 4 of Regulation No 651/2014.

4. Aid for sport infrastructure shall be provided if the conditions referred to in Article 55 paragraph 5 of Regulation 651/2014 are fulfilled.

5. Delegation of tasks to a third party, referred to in Article 55 paragraph 6 of Regulation No 651/2014, shall be possible after fulfillment of the conditions laid down in that provision.

6. The value of permissible aid for sport and multifunctional recreational infrastructures shall be established in accordance with Article 55 paragraphs 10 and 11 of Regulation No 651/2014.

7. In the case of aid not exceeding the equivalent of EUR 2 million, the value of permissible aid for sport and multifunctional recreational infrastructures may be determined in accordance with Article 55 paragraph 12 of Regulation No 651/2014

§ 21. 1. Investment aid for local infrastructures shall be provided in accordance with the conditions laid down in Article 56 of Regulation No 651/2014.

2. Sharing and entrusting of the operation of assisted local infrastructure shall be made according to the rules referred to in Article 56 paragraphs 3 and 4 of Regulation No 651/2014.

3. Investment aid for local infrastructures shall be provided to cover eligible costs referred to in Article 56 paragraph 5 of Regulation No 651/2014.

4. The amount of permissible investment aid for local infrastructures shall be established in accordance with Article 56 paragraph 6 of the Regulation No 651/2014.

§ 21a. Aid for regional airports within the meaning of Article 2(153) of Regulation No 651/2014 shall be granted:

- 1) on the terms and conditions stipulated in Article 56a of Regulation No 651/2014;
- 2) to cover eligible costs mentioned in Article 56a paragraph 12 of Regulation No 651/2014.

§ 21b. Aid for maritime ports within the meaning of Article 2 paragraph 155 of Regulation No 651/2014 shall be granted:

- 1) on the terms and conditions stipulated in Article 56b of Regulation No 651/2014;
- 2) to cover eligible costs mentioned in Article 56b paragraph 2 of Regulation No 651/2014, except the costs mentioned in Article 56b paragraph 3 of Regulation No 651/2014.

§ 21c. Aid for inland ports within the meaning of Article 2 paragraph 156 of Regulation No 651/2014 shall be granted:

- 1) on the terms and conditions stipulated in Article 56c of Regulation No 651/2014;
- 2) to cover eligible costs mentioned in Article 56c paragraph 2 of Regulation No 651/2014, except the costs mentioned in Article 56c paragraph 3 of Regulation No 651/2014.

§ 22. 1. The entrepreneur applying for *de minimis* aid or state aid shall submit to the entity granting *de minimis* aid or state aid, respectively, an application for aid, hereinafter referred to as the "application".

2. The application shall include:

- 1) the name of the entrepreneur and information about its size;
- 2) place the project implementation;
- 3) the purpose of the project implementation ;
- 4) a description of the project;
- 5) the planned date of commencement and completion of the project;
- 6) the value of the project;
- 7) the eligible costs;
- 8) the proposed amount of aid;
- 9) sources of financing of the project;
- 10) other information necessary to evaluate the proposal, as indicated by an issuer of aid in the documents relating to recruitment.

3. Entrepreneur applying for *de minimis* aid shall enclose to the application:

1) copies of certificates of *de minimis* aid or certificates of *de minimis* aid in agriculture or certificates of *de minimis* aid in the fisheries sector, or a declaration of non-receipt of *de minimis* aid, referred to in Article 37 paragraph 1 point 1 and paragraph 2 points 1 and 2 of the Act of 30 April 2004 on procedural issues concerning state aid (Journal of Laws of 2018, Item 362 and of 2019, Item 730);

2) information referred to in Article 37 paragraph 1 point 2 of the Act referred to in point 1.

4. The entrepreneur applying for state aid must enclose to the application additional documents prepared in accordance with regulations issued pursuant to Article 37 paragraph 6 of the Act referred to in paragraph 3 point 1.

§ 23. 1. The entity granting aid shall assess the application on the basis of the conditions of admissibility of aid.

2. If the managing authority grants the aid, it may, in accordance with Article 12 paragraph 3 of the Act, delegate some of the tasks referred to in paragraph 1 to a joint secretariat.

3. Following the assessment referred to in paragraph 1, *de minimis* aid or state aid may be granted the entrepreneur to cover part or all of the eligible costs under the contract.

4. The entrepreneur before signing the contract shall provide the entity granting the aid with:

1) copies of certificates of *de minimis* aid or certificates of *de minimis* aid in agriculture or certificates of *de minimis* aid in the fisheries sector, or a declaration of non-receipt of *de minimis* aid, referred to in Article 37 paragraph 1 point 1 and paragraph 2 points 1 and 2 of the Act of 30 April 2004 on the procedural issues concerning state aid,

2) information referred to in Article 37 paragraph 1 point 2 of the Act referred to in section 1

- relating to the period from the date of application to the date of signing the contract.

§ 24. *De minimis* aid shall be granted until the end of the period referred to in Article 7 paragraph 4 in relation to Article 8 of the Regulation No 1407/2013.

§ 25. State aid shall be granted until the end of the adjustment period referred to in Article 58 paragraph 4, the first sentence in connection with Article 59 of Regulation No 651/2014.

§ 26. Regulation shall enter into force on the day following the day of its publication².

² The regulation was published on 2 November 2015