

**REPUBLIC OF BULGARIA**  
**COUNCIL OF MINISTERS**

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**DECREE No. 62**  
**dated March 21<sup>st</sup>, 2007**

**RE:** The adoption of national rules on eligibility of expenditure under the operational programmes co-financed by the Structural Funds and the Cohesion Fund of the European Union, in relation to the 2007-2013 Financial Framework

**THE COUNCIL OF MINISTERS HAS DECREED:**

**Art. 1** Adopts rules on eligibility of expenditure under the operational programmes co-financed by the Structural Funds and the Cohesion Fund of the European Union, hereinafter referred to as “the Rules”.

**Art. 2** The Rules shall apply to all expenditure incurred under operational programmes, as follows:

1. Development of the Competitiveness of the Bulgarian Economy Operational Programme
2. Human Resources Development Operational Programme
3. Administrative Capacity Operational Programme
4. Technical Assistance Operational Programme
5. Regional Development Operational Programme
6. Transport Operational Programme
7. Environment Operational Programme
8. Operational programmes under the European Territorial Cooperation objective

**Art. 3 (1)** Operational programme expenditure actually incurred between January 1, 2007 to 31 December, 2015 shall be deemed eligible. In the event of a modification or addition to the operational programme expenditure shall be considered eligible as of the date of submission of the request for that modification or addition to the European Commission.

**(2)** Between the date of submission of the operational programme to the European Commission and the date of its approval, the managing authorities and the intermediate bodies if such function is delegated to them may enter into contract with the beneficiaries to the amount of 50 per cent of the total annual financial allocation committed for 2007 to the relevant operational programme.

**(3)** expenditure under the operational programmes shall be considered eligible if incurred for activities, decided on by the managing authorities of the operational programme concerned or under its responsibility in accordance with criteria fixed by the monitoring committee, and in accordance with the decreed Rules and the detailed expenditure eligibility rules, as approved under the relevant operational programme.

**(4)** Salary costs and additional remuneration for employees incurred in connection with the preparation, management, monitoring, evaluation, notification and control of operational programmes shall be considered eligible for funding under technical assistance.

**Art. 4 (1)** Expenditure incurred by beneficiaries under operational programmes to implement operational programmes activities, in accordance with Art. 56 of Council Regulation (EC) No 1083/2006 hereinafter referred to as “the General Regulation” shall be in monetary form, granting exception to items cited in Art. 5.

**(2)** In case of state aid schemes pursuant of Art. 87 of the Treaty Establishing the European Union “expenditure incurred by beneficiaries” shall mean aid provided to individual recipients by the administrator of aid pursuant of the State Aid Act.

**(3)** Where state aid is granted under § 2 all aid administrators and aid beneficiaries shall be obliged to examine, comply with and implement state aid rules as adopted by the European Union, whereby beneficiary payments shall be in line with the objectives, eligible expenditure and conditions per every type of state aid.

**(4)** Where cases differ from those cited in § 2 “expenditure incurred by beneficiaries” shall mean payments made by legal entities designated within the relevant operational programme as directly responsible for awarding a given activity.

**(5)** Depreciation, in-kind contributions and administrative and management costs may be considered as expenditure incurred by beneficiaries provided that the expended amounts is justified, by accounting documents’ having a probative value equivalent to invoices in accordance with the conditions contained in paras 6-8.

**(6)** Depreciation costs of depreciable assets directly linked with activities’ objectives shall constitute eligible expenditure under condition that:

1. the assets have not been purchased albeit partially with public grant;
2. depreciation costs have been calculated in accordance with rules contained in the Corporate Income Tax Act.
3. expenditure pertain exclusively to the co-financing period of said activity.

**(7)** Contributions in-kind shall constitute eligible expenditure on condition that:

1. co-financing under the Structural Funds and the Cohesion Fund does not exceed total eligible expenditure less the amount of the contribution.
2. the contribution in-kind consists of granted land or real estate, material supplies, research or professional activities, or free of charge voluntary labour.
3. the contribution in-kind does not apply to financial engineering measures.
4. the value of the contribution in-kind may be determined by an independent assessor or independent auditor.
5. where a land or real estate is contributed the value shall be certified by an independent qualified valuer or an authorized *ex officio* body, respectively.
6. where free of charge voluntary labour is provided the value of the latter shall be assessed on the basis of duration and common hourly or daily wage for equivalent jobs.
7. provisions governing purchase of land and real estate shall be observed when applicable.

**(8)** Administrative and management costs shall be considered eligible if based on actual costs that may be matched to the performance of particular activities or the average actual costs that be matched to activities of the same type. In any case, administrative and management costs shall not exceed 10 per cent of total eligible costs except indirect costs under Art. 8, § 3, item 2 and expenditure under Art. 10, § 5 for administrative and management costs within the European Territorial Cooperation objective.

**(9)** Paras 6-8 shall apply to individual recipients under § 2 in the event of aid schemes pursuant of Art. 87 of the Treaty Establishing the European Union and aid granted by bodies designated in the Republic of Bulgaria.

**(10)** Payments in relation to financial engineering instruments; venture capital funds, guaranty funds and loans, as well as financial products provided thereby to enterprises in the form of credit, guaranties, equity, pursuant of Art. 44 of the General Regulation shall be considered “actually incurred expenditure” in accordance with Art. 78, § 6 of the General Regulation provided they comply with the conditions in the detailed eligibility provisions per individual operational programme.

**(11)** Intermediate and final payments shall be made by the beneficiary against invoices. When that is impossible payments shall be made on the grounds of accounting documents' having a probative equivalent value pursuant of Bulgarian legislation.

**(12)** The following expenditure shall also be considered eligible:

1. legal fees for advice and notary fees.
2. costs of technical or financial expertise if the latter are directly linked to the co-financed activities and are necessary for its preparation or implementation.
3. accountancy or audit costs, costs of insurance of tangible fixed assets acquired through activities, if associated with the conditions imposed by the relevant managing authority.

**(13)** The following shall be considered ineligible expenditure:

1. fines, financial penalties and expenses of litigation.
2. the cost of guaranties provided by banks or other financial institutions, excepting costs under Art. 4, § 10 and Art. 10, § 1. item 3.

**Art. 5 (1)** Expenditure related to the following subcontracts shall not be eligible for funding under operational programmes:

1. subcontracting which adds to the cost of execution of the operation, without adding proportionate value to it;
2. subcontracts with intermediaries and consultants in which the payment is defined as a percentage of the total costs of the operation unless such payment is justified by the beneficiary by reference to the actual value of the work or services provided.

**(2)** For all subcontracts, subcontractors shall undertake to provide the audit and control bodies with all necessary information relating to the subcontracted activities.

**Art. 6 (1)** Revenue-generating projects shall be governed by special rules that define “expenditure” and these shall be stipulated comprehensively in the detailed expenditure eligibility provisions per individual operational programme.

**(2)** The detailed provisions under § 1 shall be aligned with Art. 55 of the General Regulation.

**Art. 7** The following expenditure shall not be considered eligible for co-financing under the Cohesion Fund:

1. interest on debt;
2. recoverable value added tax;
3. housing;
4. the purchase of land for an amount exceeding 10 % of the total eligible expenditure for the operation concerned;
5. .decommissioning of nuclear power stations.

**Art. 8 (1)** The European Social Fund (ESF) shall provide support for eligible expenditure which, without prejudice to Art. 53, § 1, indent b of the General Regulation, may include all financial resources provided jointly by employers and workers. The assistance shall take form of grants, loan interest rebates, micro-credits, guarantee funds and the purchase of goods and services in compliance with public procurement rules.

**(2)** The following expenditure shall not be considered eligible for co-financing under the European Social Fund:

1. recoverable value added tax;
2. interest on debt;
3. purchase of furniture, equipment, vehicles, infrastructure, real estate and land, with the exception of costs under Art. 11.

**(3)** the following costs shall be expenditure eligible for a contribution from the ESF provided that they are incurred in accordance with national rules, including accountancy rules, and under the specific conditions provided below:

1. the allowances or salaries disbursed by a third party for the benefit of the participants in an operation and certified to the beneficiary.
2. in case of grants – indirect costs, declared on a flat-rate basis, up to 20% of the direct costs of an operation.

**Art. 9 (1)** The following expenditure shall not be considered eligible for co-financing under the European Regional Development Fund (ERDF):

1. interest on debt.
2. the purchase of land for an amount exceeding 10% of the total eligible expenditure for the operation concerned. In exceptional and duly justified cases, a higher percentage may be permitted by the managing authority for operations concerning environmental conservation.
3. decommissioning of nuclear power stations.
4. recoverable value added tax.

**(2)** The expenditure considered eligible for co-financing under the European Regional Development Fund shall only be for housing under the conditions laid down in the operational programmes and in accordance with Council Regulation (EC) 1080/2006, concerning:

1. multi-family housing.
2. buildings owned by public authorities or non-profit operators for use as housing designated for law-income households or people with special needs.

**Art. 10 (1)** The following expenditure shall be considered eligible under the European Territorial Cooperation objective, financed by the European Regional Development Fund:

1. transnational financial transaction fees.
2. bank charges for opening and servicing of a separate account or accounts where the implementation of a given activity requires the opening of such an account.
3. costs related to guaranties provided by a bank or another financial institution if such guaranties are stipulated by national legislation or community *acquis*.

**(2)** In addition to technical assistance under operational programmes pursuant of Art. 46 of the General Regulations the following expenditure shall also be eligible when incurred by public bodies in the course of preparation or implementation of a given activity:

1. costs of professional services rendered by public bodies other than the beneficiary in the course of preparation or implementation of a given activity.

2. costs of service provision in relation to the preparation or implementation of a given activity, rendered by a public body that is itself beneficiary which is executing an operation on its own account without recourse to outside service providers.

**(3)** Public bodies shall issue the beneficiary an invoice for the expenditure incurred pursuant of § 2, item 1 or shall certify expenditure by a document with an equivalent probative value that enables identification of the actual costs incurred by the cited body under this activity.

**(4)** Expenditure under § 2 shall be eligible if constituting additional expenditure related to either the actual direct costs for co-financing the activity or in-kind contributions. These shall be validated by documents which enable identification of the actual cost incurred or of the in-kind contribution made by the respective public bodies under the activity.

**(5)** Administrative and management costs shall be considered eligible if based on actual cost that may be matched to the performance of particular activities or the average actual cost that may be matched to activities of the same type. Fixed rates based on average costs cannot exceed 25 per cent of these direct costs per activity that may affect the expenditure amounts for administration and management. Fixed rate calculations shall be duly documented and regularly examined.

**Art. 11** Without prejudice to the exceptions envisaged in the special regulations governing the funds, the European Regional Development Fund and the European Social Fund can additionally finance activities within the scope of the other fund under condition that these activities are essential for the good performance of the operation and directly related to it and provided the 10 per cent ceiling on Community financing for priority operational programme axis is observed.

## **SUPPLEMENTAL PROVISION**

§ Pursuant of the Decree:

1. "Recoverable value added tax" shall be the amount of paid tax over added value that the entity registered under the Value Added Tax Act is entitled to withhold from their dues under the Value Added Tax Act including cases where, having had that right, they had failed to exercise it pursuant of the Act.
2. "Public bodies" shall be budget spenders pursuant of § 1, item 1 of the Additional Provision of the Accountancy Act.

## **TRANSITIONAL AND FINAL PROVISIONS**

§ 2. The Decree shall be adopted pursuant of the Treaty of Accession of the Republic of Bulgaria to the European Union and Art. 56, § 4 of Council Regulation (EC) No 1083/2006.

§ 3. Enforcement of the Decree shall be assigned to the Minister of Finance, the Minister of Economy and Energy, the Minister of Labour and Social Policy, the Minister of State Administration and Administrative Reform, the Minister of Regional Development and Public Works, the Minister of Transport and the Minister of Environment and Waters.

§ 4. Within three months of the adoption of the Decree, the ministers under § 3 within whose competencies rest the structures designated as managing authorities of operational programmes shall submit separate decrees for approval by the Council of

