



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
REGIONAL AND URBAN POLICY
Territorial Co-operation, Macro-regions and Programmes Implementation I
Estonia, Finland and Latvia
Head of Unit

Brussels,
D5/LF/ib D(2016)7594312

Subject: Clarification of the non-functioning projects

Ref: Your e-mail of 1 December 2016 (Ref. Ares(2016)6865066, 08/12/2016)

Dear Ms Rancāne

In your e-mail of 1 December you have asked the Commission to confirm that the Closure guidelines do not require completion of the construction work by the 31 March 2017 if the project is planned to be included in the list of "non-functioning" projects. In addition, you have asked to confirm that there are no other limitations as regards the project activities that must be completed by 31 March 2017 and which can be finalised after that date, till 31 March 2019, in order to ensure functioning of a project.

As it has been set-out in the Closure Guidelines at the time of the submission of the closure documents, Member State (MS) have to ensure that all projects included in the programme closure are functioning, meaning completed and in use, to be considered as eligible.

The chapter 3.2 of the Closure Guidelines established some clarification on the terms "functioning" and "completed". Thus an approved major project should be considered as eligible and functioning provided the two following conditions are met:

- the project has been completed: activities foreseen have been actually carried out as foreseen in the Commission decision on the major project;
- the project is in use.

Thus it can be deduced that if some of project activities have not been finalised (further activities are required to complete the operation) by the date of submission of the closure documents the project cannot be considered completed or functioning.

In the Closure Guidelines it is foreseen that in exceptional cases, provided that adequate justification exists, and based on a case-by-case assessment and a decision taken by the

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MS, the expenditure paid for non-functioning projects could be included in the final statement of expenditure.

The financial impact of these projects, justifying this special treatment, should ensure that the following conditions are met:

- the total cost of each project amounts to at least EUR 5 million; and
- the Funds' contribution to these non-functioning projects cannot be more than 10% of the total allocation for the programme.

And indeed there is no notion of conditions to be met as regards, the level of the project completion.

Thus in response to your question the Commission confirms that the Closure Guidelines do not foresee any limitations and do not establish any required levels of the project progress for the purpose of using the exception for "non-functioning projects" provided by the Closure Guidelines, except of the financial limits mentioned earlier. Thence there is no basis to allow completion of one activity (for example, purchase of equipment) and to forbid finalization of other activity (for example, construction works).

As a final remark let me remind you that requirements of the eligibility of expenditures should be respected also for the "non-functioning projects". Thus in accordance with Article 56(1) of the General Regulation the final date for eligibility of expenditure paid by the beneficiaries is 31 December 2015 and in line with Article 78(1) of the General Regulation, for the eligible expenditure to be included in the final payment claim in case of state aid, the public contribution needs to be paid by the date of submission of the final payment claim to the Commission.

Yours sincerely

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