



Government
of Montenegro



RECOMMENDATIONS FOR IMPLEMENTATION OF INNOVATION PROGRAMMES



Podgorica, year 2021.

**RECOMMENDATIONS
FOR
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1. Beneficiaries of innovation programmes

Beneficiaries of funds of innovation programmes are legal entities from the private and public sector with registered offices in Montenegro established and registered in line with a special law. Physical entities can also apply to certain innovation programmes that will be implemented through public competitions, however, before they sign a contract on awarded support they have to be registered in the Register of innovative activities.

Beneficiaries of innovation programmes have to be registered in the Register of innovative activities and, according to separately defined requirements for certain innovation programmes, they may include the following categories:

a) Entities that do innovation activities – these may be legal entities from the private and public sector established in accordance with a special law, with a registered office in Montenegro. These can also be physical persons that create innovations, market new knowledge and technologies, apply research results and modern technological processes originally and systematically, to create and apply innovations. Among legal entities the most frequent are:

- **Research institutions** private or public institutions that do research activities. These can be higher education institutions, research institutes and other legal entities that do research. They include also organizational units of universities, independent higher education institutions and organizational units of legal entities (e.g. institute, company etc.) that do research. These institutions are considered to be organizations for the dissemination of knowledge with the primary goal to implement independently some fundamental research, applied research and developmental research, or to inform the broad public about the results of such activities through lectures, publications or transfer of knowledge.

- **Centre of Excellence** is an institution or a group of researchers with specialized skills and expertise that convenes and ensures networks of the best scholars in certain fields to do contemporary research aimed at achieving international competitiveness, developing better practice and providing expert support and training in a specific research field. If a centre of excellence includes a group of researchers, the holder is a legal entity or legal entities where researchers are employed;

- **Micro, small, medium-sized and large enterprises** are legal entities established in Montenegro to do an economic activity (mostly in private ownership). They have to be entered into the Register of Innovation Activities and can be classified as micro, small, medium-sized and large

enterprises, depending on the average number of employees, overall income on an annual level, and total assets. Micro enterprises are defined as enterprises with an average number of employees in a business year not higher than 10, and total annual income not higher than EUR 700,000 i.e. total assets not exceed EUR 350,000. Small enterprises have an average number of employees from 10 to 50 in a business year, total annual income from EUR 700,000 euro to 8,000,000 or total assets the balance sheet of EUR 350,000 to 4,000,000. Medium-sized enterprises are the enterprises with the average number of employees in a business year of 50 to 250, and with a total annual income of EUR 8,000,000 to 40,000,000 or total assets in the balance sheet of EUR 4,000,000 to 20,000,000. Large enterprises are defined as enterprises with an average number of employees exceeding 250 in a business year with the total annual income higher than EUR 40,000,000 or total assets in the balance sheet higher than EUR 20,000,000;

- **Start-up** is a newly-established company, not older than five years, creating, developing and putting to use innovations with high potential of growth in the international market.
- **The spin-off** is a newly-established company established as a result of research and transfer of technologies, through separation from an existing legal entity, to exploit, research results or an innovation - in a commercial manner
- **Innovators, free-lancers and other physical entities** may be holders of innovation activities if they do innovation activities that result in creating innovation.

b) Holders of innovation infrastructure may also be beneficiaries of funds from innovation programmes. Their key role is to provide support for the implementation of innovation activities. These include:

- **Science-technology park** - a holder of innovation structure that ensures using specialized business premises and equipment, expert and advisory services to innovative legal and physical entities. Science-technology park provides services and undertakes activities aimed at networking between academic community and economy, stimulating and managing the transfer of knowledge and high technologies, improving internationalization of business operations and commercialization of research results, creating new and developing existing innovative companies, creating and applying innovations based on top research results, promoting a culture of innovation and competitiveness of companies and knowledge-based institutions to help develop the economy and the country.





- **The innovation-entrepreneurship centre** is a holder of innovation infrastructure that ensures the use of specialized premises and equipment, expert and advisory services, as well as providing information-technical training to innovative legal and physical entities and entrepreneurs. Activities of the innovation-entrepreneurship centre are aimed at connecting potential partners for participation in national and international programmes, projects and funds from various fields of science to create new and developing the existing companies based on innovations and transfer of knowledge to ensure economic development on the local or regional level.
- **Business-technology incubator** is a holder of innovation infrastructure whose core activity is providing business premises, administrative, technical, expert and advisory services to enterprises, holders of innovative activities and other start-up companies working with innovations, development or application of the existing and new technological solutions to ensure support to economic development on the local level.

Centre for transfer of technologies is a holder of innovation infrastructure within a university or science-technology park, whose core activity is the transfer of new technologies to companies, support in the application of innovations, encouraging implementation and commercialization of technology transfer, advisory services and providing support in all stages of technology transfer (from the idea, identifying market potentials, the process of protection and use of intellectual property rights, etc.). Centres for the transfer of technologies are primarily places to connect science and the economy. These centres encourage innovation culture and entrepreneurship based on the commercialization of knowledge and results of research.

- **Cluster organization** – is a holder of innovation infrastructure. It supports the strengthening of cooperation, networking and learning in innovation clusters and provides support through securing or guiding specialized services to encourage innovative activities, particularly in micro, small and medium-sized enterprises. It works on the development of strategic partnerships between clusters in the national and international markets.
- **Innovation cluster** is a holder of innovation infrastructure which can have a form of structure or organized group of independent bodies (like start-up innovation companies (small, medium-sized and large companies), as well as organizations for research and teaching, non-profit organizations and other related economic entities) established to

encourage innovative activities by promoting sharing of premises and exchanging knowledge and expertise, as well as by efficient contribution to transfer of knowledge, networking, dissemination of information and cooperation among companies and other organizations in the cluster.

All applicants for support, before they sign contracts, have to be able to prove that they operate in line with current legislation in Montenegro. If the potential Beneficiary of the innovation programme is subject to any court process (bankruptcy procedure or liquidation procedure) or if it is in bankruptcy procedure or under the restriction of operation, or if it is under investigation due to any of the above, such a potential Beneficiary will be withdrawn from evaluation, i.e. financing. If potential beneficiaries violate any other contract with public administration, they will also be withdrawn from evaluation, i.e. financing.

An applicant will be excluded from the process of evaluation and/or financing if it is noted that he/she submitted inaccurate information required for participation in project selection, or did not provide all the required information promptly .

2. Application and procedure of selection of project proposals within innovation programmes

2.1. Application of project proposals



Applicant (entity submitting a project application) is an institution, i.e. a legal or physical entity that has to have a legal status and be entered in the Register of innovation activities before signing a contract with the institution in charge of the implementation of the innovation programme. An applicant is responsible for project implementation and meeting requirements in line with obligations defined in the contract and Montenegrin legislation.

The project manager is a physical entity responsible for the genuine implementation of the project. The project manager may be a person that is: (a) a Montenegrin citizen or (b) a foreign citizen with residence in Montenegro. The manager of an approved project has to have his/her relations regulated with the institution that applied with the project in form of an employment contract or some other type of contract (i.e. contract on services).

Funds used to finance innovation programmes are allocated through Calls for Competition and according to the requirements defined therein. This is done in line with programmes and strategies of Competent institutions¹ that encourage innovation activities.

¹ Institutions responsible for implementation of innovation programmes might include: state administration bodies, local self-government units or fund encouraging innovation activity (hereinafter referred to as: Competent Institutions).





Several Calls for a competition can be published within one programme at various intervals.

All institutions that are in charge of the implementation of innovation programmes publish a plan and timing for publishing calls for competition within innovation programmes. They do so early in the year, i.e. after the Law on Budget for the current year is officially adopted. This plan and timing are to be available to the public. It is mandatory to publish them on the websites of competent institutions, and, depending on the target beneficiaries, they can be published also in the daily press, Internet portals, social networks and other media.

Contents of calls for competition

- Calls for competition have to contain:

- Name of the programme within which the call for competition is published;
- Scope and aim of the call;
- Priority or thematic areas defined in the strategies and programmes regulating the field of innovation;
- Requirements for applications defining who is eligible to participate in the competition;
- The total amount of funds envisaged for the competition;
- Eligible costs;
- Financial requirements for application (if co-financing is envisaged);
- Deadline for implementation of projects (duration of the projects);
- Contents of the application (Application form and other documents required for applying the project);
- Deadline and manner of submitting the applications;
- Deadline and manner of rendering a decision on selection of projects to be financed;
- Administrative criteria that an application has to meet to be admitted to the evaluation process;
- Criteria for evaluation of applications and the manner of calculating the final grade (assessment) for the project; Advantages in the selection process (clearly defined requirements for advantages in the selection of projects in case of project applications having the same score in the evaluation);
- In some cases calls for competition can contain some additional requirements that are important for specific features of the programme to be implemented.

Contents of Project application - Project application should contain all components defined in the competition, including the following:

- Name, registered office and contact details of the project applicant and all

partner institutions that plan to participate in the project, including the names and duties of responsible persons;

- Name of project manager and his/her partners, i.e. other physical entities included in the project implementation;
- CVs of the project manager and partners in the project that will work on project implementation, including evidence and achievements in implementing earlier relevant projects.
- Legal agreements (where necessary);
- A detailed plan of work that includes: preconditions for successful project implementation, expected results and outcome of the project in line with the implementation plan, assessment of impact, expected impact of the project, structure of human, financial and other required resources, as well as assessment of project risks;
- The financial plan of the project should contain an overview of costs for project implementation, an overview of expenditures and revenues, as well as information about the funds for co-financing the project and their sources (if needed);
- Ownership structure, intellectual property rights and other obligations related to the project.

2.2. Rules in the evaluation procedure

(I) Funds that are allocated through calls for competition are allocated and determined based on evaluation of the received project proposals against defined requirements. Potential beneficiaries of the funds have to justify their interests and need for support. Evaluation of project proposals is conducted in line with a defined procedure that includes receiving project proposals, checking administrative requirements, evaluating and selection of project proposals.

(II) The following are clearly defined for every programme that will be implemented through the procedure of call for competition: clear goals, criteria and requirements for application, as well as a procedure for evaluation of project proposals. Procedure for evaluation of project proposals depends on the type of programme, goals, amount of allocated funds and the number of applied projects.

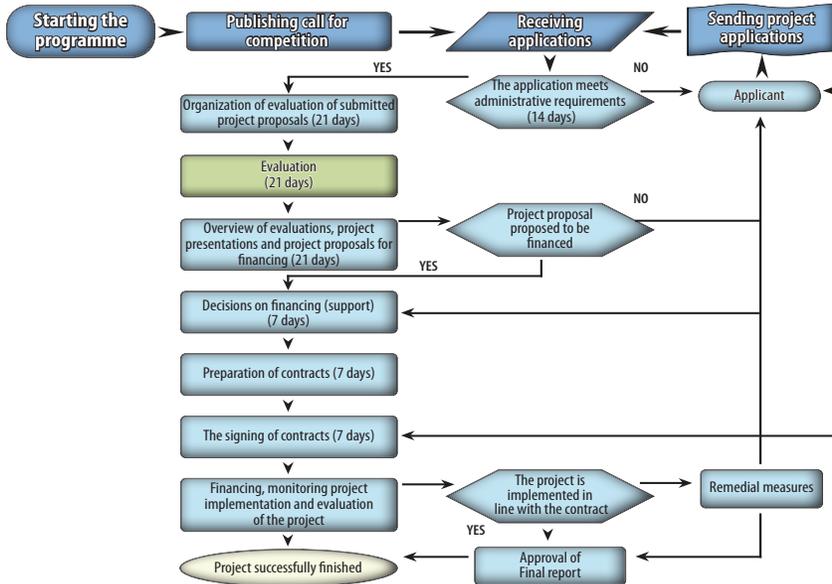
(III)) Individuals with a real or possible conflict of interests are excluded from the competition for allocation of funds. The same rule is applied also for individuals that participate in the evaluation procedure (evaluators or Expert Commission) or individuals that are trying in any way to influence the evaluation procedure (e.g. person who applied with the project, manager of the approved project, etc.).

The text that follows presents the basic procedure for the evaluation of project proposals with the envisaged deadlines that can be adapted as needed,



in line with certain programmes and available capacities.

Figure 1. General flowchart – from application to the finalized project



The basic procedure for evaluation of project proposals includes the following steps:

- 1) Receiving project proposals;
- 2) Checking eligibility criteria (Administrative check) – checking whether formal requirements of the competition are met;
- 3) Process for evaluation of project proposals – it is organized by the institution responsible for the implementation of the innovation programme, i.e. the competition. Depending on the value of the projects that are financed, Expert Commission can be established and/or evaluators can be selected for every individual project proposal).

In this respect, the following is recommended:

- I) For projects of individual value below EUR 20,000 evaluation is done by an expert commission;
- II) For projects of individual value above EUR 20,000, individual evaluation of project proposals is organized. It is conducted by independent experts – evaluators in the field;

III) If a large number of project proposals is submitted (50 and above), to ensuring the efficiency of evaluation, the evaluation procedure in (ii) is done in two steps: Individual evaluations are organized first. They are done by evaluators. After individual evaluations are completed, in the second step, a discussion among evaluators is organized. Evaluators, namely, discuss to achieve consensus. This discussion is organized by the institution responsible for the implementation of innovation programmes;

IV) There are also cases where evaluation is done in two stages if that is defined in the call for competition.

4) Overview of evaluations and recommended projects to be funded by the institution responsible for the implementation of the innovation programme. It is a frequent practice that additional negotiations are conducted about selected project proposals with the representatives of the institution responsible for the implementation of innovation programmes;

5) Decision on financing, i.e. announcement about final results of the evaluation;

6) Preparation and signing of the contract with project holder, i.e. institution that applied with the project and that is responsible for the implementation of that innovation project/programme;

7) Financing, monitoring project implementation and final evaluation of the project.

The period for project evaluation - from the day of closing the call for competition to final approval of projects to be financed – should not be longer than six months.

2.2.1. Checking eligibility (administrative) criteria

(I) Institution responsible for the implementation of innovation programme and public competition conducts an administrative (eligibility) check and establishes if project proposals meet administrative requirements given in the competition. These criteria are strictly applied and every project proposal that does not meet any of the criteria defined in the competition is excluded from the evaluation procedure. Checking eligibility (administrative) criteria are done before the evaluation procedure and it can be continued during the evaluation procedure as well.

(II) Decision on rejecting project application, i.e. excluding the project from evaluation procedure because administrative criteria of the competition are not met, is rendered by the institution responsible for the implementation





of innovation programme and competition. This decision may be rendered after the administrative check is completed, i.e. if it is established that administrative requirements are not met. It can be rendered also during or after the evaluation process. In certain cases, it is possible to request the project applicant to correct or complement documentation, but solely in technical aspects, if a formal document or a certificate is missing. The applicant is in such cases requested to remedy deficiencies and he/she is given a deadline to do so. If he/she remedies the deficiencies within the given deadline the application shall be considered fully submitted from the day on which it was submitted. If he/she does not remedy the deficiencies within the given deadline, the institution renders a decision to reject the project application and such project application is not sent to assessment/evaluation.

2.2.2. Evaluators

(I) Evaluators are independent experts who assist in the evaluation of project proposals that meet formal criteria. The institution responsible for the implementation of the innovation programme selects domestic or international experts/evaluators, depending on the type of public competition and projects to be financed. State authorities have to develop a base of evaluators. Contents of such a base, as well as the procedure for entering a person into the base of evaluators, are defined in a separate rulebook. Evaluators are most frequently certain internationally recognized authorities in the relevant fields defined in the programme of support. They can be from the field of economy, science or innovation and have appropriate knowledge and skills within their particular field. When choosing evaluators, the institution in charge of the implementation of the innovation programme has to comply with the rules on avoiding conflict of interests.

(II) Names of independent experts/evaluators that participate in the evaluation procedure are most frequently not public, although there were examples of programmes and competitions where names of the experts, members of evaluation commissions were known to the public.

(III) After receiving all project proposals and checking eligibility criteria, three independent evaluators are appointed for each project proposal. Persons with a potential conflict of interests may not participate in the evaluation process and this should be particularly ensured.

(IV) Institution sends to each appointed evaluator Instructions or Guidebook for evaluators containing a clear description of his/her duties. Evaluators are expected to inform the institution that they accept the duties and general rules for performing the duties listed in the Invitation letter and Rulebook for

evaluators.

(V) Person in direct conflict of interests (e.g. person employed in the same organization that applied for financing or person who cooperates with any person involved in the project proposal; or a person that was involved in developing a project proposal, or is closely connected to any person involved in the project proposal through financial interest, family or friendship relations, or through past, current or future business relations) must not participate in the evaluation procedure. Person in indirect conflict of interest (e.g. person employed in legal entity involved in the project proposal, that can have a direct benefit if the project is financed in terms of professional activities, and if he/she is in relations that can influence his/her impartiality) can participate in evaluation but must not evaluate the concrete project proposals that the conflict of interests is related to and cannot participate in the discussion about such project proposals.

(VI) Evaluators are paid fees for their services in line with the rules defined by the competent institution. In some cases, if evaluators come to interviews and evaluators' discussions, they are entitled to compensation of travel costs and per diems.

2.2.3. Ekspertska komisija za evaluaciju projekata

(I) Expert commission is an independent body appointed by the decision of the institution responsible for the implementation of innovation programme to conduct evaluation procedures in the process of project assessment. This type of evaluation is recommended for the evaluation of the projects called for in the competition, the individual value of which is below EUR 20,000.

(II) Commission members are eminent experts from all fields the area of which is defined in the competition requirements. The commission is not permanent but it is appointed as needed, solely to implement a concrete evaluation process. Project proposals with supporting documents are being delivered to each member of the Commission to read and assess.

(III) Member of the institution responsible for conducting the competition coordinates the work of the Commission and organizes meetings to discuss proposals that arrived and prepare individual evaluations. This is followed by joint alignment and rendering of the final decision and ranking list in line with pre-defined criteria. Members of the responsible institution cannot be involved in the process of rendering decisions on financing the projects. Their participation is solely technical.



(IV) Members of the Commission align their joint opinion through consensus or by taking average grade for every criterion. They prepare a general joint evaluation report that all members confirm and they form a final ranking list and proposal for financing. Members of the Commission have to explain their opinion to representatives of the institution responsible for the implementation of the innovation programme, while the representatives may ask questions related to the joint evaluation report.

2.2.4. Individual evaluation of independent evaluators

(I) If large projects are financed within an innovation programme, e.g. projects of individual value above EUR 20,000, projects proposals that have met administrative (eligibility) criteria are evaluated by independent experts in line with the criteria defined for evaluation within that particular competition. The responsible institution most frequently appoints up to three evaluators per project

(II)) The institution in charge informs independent experts before evaluation about general rules of evaluation and programme aims.

(III)) Each project proposal is evaluated against given criteria, independently by each selected expert who fills in an individual evaluation form with grades and comments. Individual evaluations are remotely conducted, i.e. independent experts do evaluation electronically.

(IV) Evaluators assess individual aspects that make each evaluation criterion, and they assess every aspect on a defined scale (e.g. the scale of five numbers – 1 to 5: 1 – poor; 2 – mediocre; 3 – good; 4 – very good; 5 – excellent).

(V) With every grade, experts are requested to provide descriptive comments that will provide to the person submitting the project proposal clear and detailed feedback about the advantages and disadvantages of their project proposals

(VI) Submitting a signed individual evaluation to the institution that hired him/her (by post or e-mail), independent expert finalizes his/her duty, if the institution confirms that he submitted the requested evaluation in line with technical requirements and instructions. After that, the evaluation cannot be changed

(VII) After evaluators have submitted their forms, the institution responsible for the implementation of the innovation programme verifies against all criteria whether all individual forms were filled in properly, i.e. if there is a grade

for each criterion and if the evaluators enclosed the associated comments.

(VIII) Where two independent evaluators are appointed in a project, the practice is to request an opinion of a third evaluator if one submitted opinion is positive and the other is negative. In such a way two evaluators have an aligned opinion that a project proposal is positively or negatively evaluated.

(IX) Final list of projects is developed by the competent institution solely based on the average final grades issued by evaluators.

2.2.5. Discussion among evaluators



(I) If there is a high number of project proposals submitted for large projects (e.g. above 50), competent institutions may decide to evaluate project proposals in two rounds. After separate individual evaluations in the first evaluation round, competent institutions may organize a discussion among evaluators, i.e. a discussion about consensus. That discussion is a joint meeting (or teleconference) where all evaluators together pass through individual evaluations in the presence of representatives of the competent institution who participate as moderators. Representatives of the competent institution are not allowed to influence the opinions of independent experts. In some cases, consensus can be achieved without a joint meeting.

(II) Experts will have the task to come to a joint evaluation based on every criterion and to harmonize one general evaluation report that all of them have to confirm. Evaluators have to explain their opinion to the representatives of the competent institution who may ask questions related to the joint evaluation report. If a joint evaluation may not be adopted by consensus, a model of evaluation is used where it is established as an average grade.

(III) Second evaluation round results in evaluation reports and a ranking list of project proposals based on the given grades.

2.2.6. Evaluation of projects by Expert Commission

(I) If project proposals are evaluated by Expert Commission (e.g. projects of individual value below EUR 20,000), Competent Institution appoints 10 members to the Expert Commission (in exceptional cases, if the number of projects is large, 20 members may be appointed).

(II) Competent Institution informs Expert Commission before evaluation about general evaluation rules and goals of the programme.





(III) Every project proposal is evaluated against defined criteria, independently, by two members of the Expert Commission who fill in the forms with grades and comments individually. Members of the Expert Commission may not discuss project proposals among themselves before the final meeting where the final list of projects is adopted and proposed for financing.

(IV) Members of the Expert Commission evaluate individual aspects that make every evaluation criterion, and they evaluate every aspect on a pre-defined scale. The scale can be numerical (e.g. from 1 to 5, where 1 is poor, 2 is average, 3 is good, 4 is very good, while 5 is excellent). The scale can use numbers i.e. percentages from 0 to 100 (e.g. 5 criteria that can get 0 to 20 points). Frequently a threshold is defined below which a project is considered to be of insufficient quality, i.e. it is negatively evaluated (e.g. threshold of 70/100 in the total score).

(V) Members of the Expert Commission are expected to add a comment next to each of the grades in the form that will ensure clear feedback to the project proposal applicants. Such comments serve as input data for consensus discussion

(VI) In the Final meeting members of the Expert Commission present the projects that they evaluated and try to reach a joint evaluation on every criterion that they all confirm in a general joint evaluation report. Members of the Expert Commission have to explain their opinion to the representatives of Competent Institution who may ask questions related to the joint evaluation report.

(VII)) Final list of the project is developed by the institution responsible for implementing the innovation programme solely based on the grades submitted by evaluators. The list is made in a form of a decision with a reference to the Law on Administrative Procedure and Public Call/Competition.

2.3. Recommendation for Financing

(I) Competent Institution makes an overview of a written report and ranking list of project proposals submitted by independent experts or Expert Commission to render a final decision on accepting to finance or conditionally accepting to finance those proposals that require negotiations before a final decision on accepting or refusing is rendered

(II) Evaluators or Expert Commission evaluate research and/or technological excellence and innovation potential of every project proposal and give grades and explanations for each criterion. The institution decides independen-

tly on what importance to attach to certain criteria evaluated by an evaluator. When competition is published it is important to list the importance of each criterion and how the final grade for the project will be evaluated, so that all evaluators and members of the Expert Commission can be informed. The final grade is formed by taking an average grade for each of the criteria. The grade for certain criteria is obtained by multiplying an average grade of the evaluators' grades or grades of the Expert Commission members (the grade is obtained by taking into account all the grades for one criterion and dividing it by the number of evaluators) with a relative importance of each criterion. Based on grades calculated in this way, a ranking list of the project proposal is obtained. It serves the institution, as a basis for rendering a decision on what projects should obtain financial support. In certain cases (conflict of interest of any of the evaluators, incomplete or inappropriate evaluation) institution can decide to request a new evaluation

(III) Result of the decision rendered by independent evaluators or Expert Commission comprises a list of project proposals recommended for financing, a list of project proposals requiring additional negotiations and a list of project proposals not recommended for financing.

2.4. Negotiations with project proposals applicants and final decisions

(I) Competent institution conducts negotiations with applicants whose project proposals were conditionally recommended for financing by independent evaluators or Expert Commission. The purpose of these negotiations is to clear all issues that remained unclear during the evaluation and come to all requested amendments in the project proposals. Results of negotiations are information that helps in rendering a decision on recommending these projects. In some cases, negotiations are conducted also with recommended and conditionally recommended projects, to clarify all doubts that the Competent Institution might have.

(II) Negotiations can refer to any aspect of the project proposal, depending on the comments of independent experts and the opinion of the competent institution. Possible changes may be requested concerning the adapting of the project plan, aligning special contractual obligations or requirements of the project, or amending the financial plan. This is solely about amendments that do not change the essence of the project but ensure or facilitate its feasibility

(III)) During negotiations, the Competent Institution takes care to support the projects that have more significant potential to include and withdraw funds on an international level, i.e. to apply for EU/international source of finan-





cing, like European research and innovation programme (Horizon Europe). In such a way sustainability and visibility or results are to be achieved and they will be achieved through cooperation within the projects to be financed, and increase in participation of Montenegrin institutions in EU programmes. Projects that show pre-commercial potential or have commercial potential will be supported to find partners in the field of economy or to protect intellectual property rights that arise from the project and/or commercialize research results.

(IV) After negotiations are finalized and project proposals are changed, the Competent Institution establishes a final list of accepted and rejected project proposals, as well as relevant reports on evaluation and negotiation results.

(V) After concluding their final ranking list, the Competent Institution prepares a decision on accepting or rejecting projects. That decision is sent together with the evaluation report to every applicant who participated in the evaluation. At the same time, the applicants whose projects were approved are invited to sign a contract.

(VI) Final list of accepted project proposals is published and promoted in the community.

2.5. Criteria for selection of projects

(I) All programmes have joint general criteria and all applied projects have to be in line with them to be accepted. These criteria are useful for the applicants as well when they are in the process of preparing their project proposals. They are useful for the evaluators for evaluating projects both in quantitative and qualitative (descriptive) ways.

(II) There are also special criteria that the Competent Institution defines for every programme individually. They also have to be published in the competition. Evaluators use a unique set of criteria within one competition process to provide a quantitative evaluation of the project. Competent Institution decides independently about which importance will be attached to each criterion, while it proposes project proposals for financing based on general grade (obtained on the basis of all criteria). The relative importance of each criterion is also published in each call for competition (call for project proposals).

3. General Rules for Financing

(I) Before financing of the project starts, the project manager and all other responsible persons sign a Financing Contract with the Competent Institution.

on. This contract binds the legal entity that is the Project Holder and Project Manager to implement the project in line with the approved project plan and in line with the time framework for the planned activities. The Contract obliges the Competent Institution to ensure funds in line with the Contract, i.e. approved plan. The Contract defines the rights and obligations of parties, including the rights to intellectual property and other rights arising from project results.

(II) During project implementation some activities can be changed or complemented, but the consent of the Competent Institution has to be requested and ensured before any change in the project. This is defined in the contract.

(III)) Payments to beneficiaries are done in predefined time intervals that are set in the Contract on Allocation of Funds.

(IV) According to the rules on state aid, Competent Institution covers a part of the total project costs, while the remaining part of the costs has to be covered from own financing sources.



(V) Financing is based on the approved business and financial plan for a certain project. The financial plan is specific for every project and it is defined in the Contract. commonly, the first payment is done immediately after the contract is signed, while other payments are done in line with defined requirements (e.g. after a certain period has expired and positive assessment is given, or after the funds are spent and the amounts are justified).

4. Laws and rules applicable in drafting and implementing innovation programmes

4.1. State Aid

In drafting the programme, institutions responsible for the implementation of innovative programmes will apply the Law and other legal documents related to state aid. Also, when implementing innovation programmes, institutions and beneficiaries of innovation programmes will have to follow and respect such rules. This chapter deals with some of the basic notions related to state aid, national legislation and European legislation applicable to state aid according to the current Rulebook on the List of State Aid Rules published in the Official Gazette.

4.1.1. Introduction

State aid refers to conveniences that authorities give to a certain company





thanks to which such a company may have a competitive advantage in the market. State aid can be granted in various ways, e.g. through subsidies, privileged interests or tax facilities or the purchase of goods and services on a preferential basis.

The donor of state aid is a state administration authority, i.e. local government unit and every legal entity that grants state aid

The beneficiary of state aid is every legal or physical entity, regardless of its legal status, a motif for the establishment and how it is financed, that does an economic activity and participates in an offer of products and services in the market receiving state aid.

In its legislation (**Law on State Aid Control – Official Gazette of Montenegro 012/18 of 23 February 2018**) Montenegro regulated some parts of the system of state aid on the national level. This Law stipulates conditions and procedures for granting state aid and control its purposeful use, to protect competition and meet the obligations undertaken in ratified international treaties. A segment of state aid is regulated in the legislation adopted by the European Commission, European Council, European Parliament, and in the case-law of the European Court related to state aid. This segment comprises horizontal state aid, state aid for individual sectors, state aid in form of special aid instruments, as well as other rules for state aid, in particular aid of small value. The applicable legislation is listed in the Rulebook on the List of Rules for State Aid.

The first paragraph of Article 107 of the Treaty on the Functioning of European Union² defines elements of state aid: any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between the Member States, be incompatible with the internal market".

Article 2 of the Law on Control of State Aid defines the notion of state aid, i.e. the requirements that have to be cumulatively met for a measure to constitute state aid:

- 1) **The measure has to include state funds** i.e. financial support allocated directly or indirectly from the state budget, through a decision of the Government of Montenegro, municipal budget, the decision of the relevant municipal body, including the European Union and other public funds;

² Treaty on the Functioning of EU – a part of EU acquis that candidate countries have to adopt on their accession path

*Note: Funds that are under the direct control of EU institutions and are allocated from central EU funds (HORIZON, COSME, MEDIA, LIFE, TEN-T, etc.) or European or international financial institutions (EIB, European Investment Fund, IMF, EBRD, etc.) without any discretionary rights of EU Member States, particularly when it comes to the selection of beneficiaries, **DO NOT constitute state funds.***

2) **An advantage in the market has to be achieved**, i.e. beneficiary of the measure must receive funds that he/she could not make in his/her regular business operation. In addition to obvious state aid like subsidies, tax reliefs, state guarantees, etc. There are other forms of state aid that are less obvious, and also ensure economic advantage. Those are, for example purchase/lease of state-owned land to an entrepreneur at a price that is more favourable than the market price, sale of land from an entrepreneur to the state at a price that is higher than the market price, ensuring access to public infrastructure without having to pay contribution to it, etc. Relevant is solely the effect of such a measure and not the goal or reason why the state interferes – **the advantage exists always when the financial situation of a certain company/group of companies/sectors is improved due to the state intervention in the conditions that differ from market conditions;**

3) **The selectivity criterion has to be met** i.e. it is necessary to establish if a certain company, sector or region obtained certain funds that are directly or indirectly allocated from the state budget, which led him to a more favourable market position, i.e. if the financial support to companies is provided under the same conditions or selectively to certain companies based on their size, place of business activity or registration, or it is intended for one particular company. **Selectivity always means diverting from general measures that treat all entrepreneurs in the market equally**

4) **Influencing trade between Montenegro and other states** i.e. financial support jeopardizes competition and influences trade between Montenegro and other states contrary to ratified international treaties. It is considered that financial aid does not influence trade if it does not lead to an increase in demand or interests for investment in a certain region and if the products or services that a company produces/provides are of explicitly local importance or have a geographically limited range.

Exemptions from Article 107 (1) of the Treaty on the Functioning of the European Union are listed in the second and third paragraph of Article 107 that envisages automatically allowed aid and conditionally allowed aid. In Monte-





negro, the aid that is considered to be in line with the law is defined in Article 7 of the Law on Control of State Aid. It includes aid intended for:

- 1) Improvement of economic development of Montenegro, i.e. of a certain region where the standard of living or employment level is lower than average in Montenegro;
- 2) Implementation of the projects jointly financed by the European Union and Montenegro or for the elimination of serious distortions in Montenegrin economy;
- 3) Encouraging the development of certain economic activities and areas, if the aid does not influence the position of other market participants;
- 4) Promoting and preserving cultural heritage if the aid does not influence the position of other market participants.

Aid that is considered to be in line with the law includes also:

- 1) Aid with a social character, provided to individual consumer categories if it is granted without any discrimination regarding the origin of goods and services, and
- 2) Aid intended for remedying damage created due to natural disasters or emergencies.

4.1.2. Rules of State Aid Applicable to Innovation Programmes

As for the segment of state aid that will be granted **through innovation programmes, according to the Rulebook on the List of State Aid Rules, the following legislation also applies:**

- a) Commission Regulation (EU) 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 (32014R0651) OJ L 187, 26 June 2014, pp. 1-78)
- b) Framework for state aid for research, development and innovation (52014XC0627(01), OJ C 198, 27 June 2014, pp. 1-29)
- c) Regulation of the Commission (EU), 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 (32013R1407, SL L 352, 24 December 2013, pp. 1-8);

• **Regulation of the Commission (EU) 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108**

Regulation of the Commission (EU) 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108, known also as the Regulation on Group Exemptions, defines which form of

state aid is compatible with the internal market and subject to the regime of general exemption from the duty of notification, i.e. can be granted before prior notification to and approval of the European Commission.

However, where the amount for individual state aid by an entrepreneur or by project exceeds thresholds for mandatory notification defined in this Regulation before the aid is granted it has to be notified to the European Commission that has to make a detailed assessment thereof and grant approval.

Some other general conditions that have to be met for this Regulation to be applicable include the following:

- a) State aid has to meet the criterion of transparency, i.e. it should be possible in advance, before state aid is granted, to calculate precisely the gross equivalent of state aid³, without any need to do a risk assessment;
- b) State aid has to have an effect of an incentive – it cannot be granted after the works on a project or activity have already started;
- c) State aid is subject to the surveillance mechanism and regular evaluation so that it does not have any negative effect on trade conditions to the extent that it is contrary to joint interest.

This Regulation also provides an overview of the sectors and measures it is not applied to, e.g. support for the activities related to export, support conditioned by giving advantage to the use of domestic goods over the imported goods, support to entrepreneurs in difficulties, etc.

Some of the categories to which the Regulation on group exemption is applied, that will at the same time be applicable in the process of granting funds from innovation programmes include the following:

- a) Support to SMEs in form of state aid for investment, operational state aid and state aid for access to funds for SMEs; and
- b) Support for research, development and innovation.

Article 4 of the Regulation of the Commission (EU) 651/2014 defines thresholds that must not be exceeded if the allowed state aid is to be granted without prior notification to the Commission, Table 1 presents the most frequent categories of state aid that will be granted in the implementation of innovation programmes and their respective thresholds. Annexe 1 to this document provides all categories of state aid and their thresholds based on Article 4 of the Commission Regulation (EU) 651/2014. Annexe 1 also offers definitions for the implementation of innovation programmes.

³ The amount of state aid, if it is allocated in the form of grant before taxes or other fees are deducted.





Table 1: Most frequent categories of state aid in the implementation of innovation programmes and thresholds that may not be exceeded if the state aid is granted without prior notification to the Commission

	<p>The threshold to which state aid is allowed without prior notification to the Commission</p>
<p>For state aid for research and development:</p>	<ul style="list-style-type: none"> i. if the project is predominantly fundamental research: EUR 40 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of fundamental research; ii. if the project is predominantly industrial research: EUR 20 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities that fall within the category of industrial research or the categories of industrial research and fundamental research taken together; iii. if the project is predominantly experimental development: EUR 15 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of experimental development; iv. if the project is a Eureka project or is implemented by a Joint Undertaking established based on Article 185 or of Article 187 of the Treaty, the amounts referred to in points (i) to (iii) are doubled; v. if the aid for research and development projects is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, is expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined based on a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the time of grant, the amounts referred to in points (i) to (iv) are increased by 50 %; vi. aid for feasibility studies in preparation for research activities: EUR 7,5 million per study;

For state aid to SMEs for participation in fairs:	EUR 2 million per undertaking, per year
For state aid for process and organisational innovation:	EUR 7,5 million per undertaking, per project;
For state innovation aid for SMEs:	EUR 5 million per undertaking, per project;
For state aid for start-ups:	Amounts per undertaking are defined in Article 22 paragraphs 3, 4 and 5 of the Regulation of the Commission (EU) 651/2014
For state aid for consultancy in favour of SMEs:	EUR 2 million per undertaking, per project;

In addition to the categories of state aid and thresholds that have to be complied with so that the granted state aid is not subject to the duty of prior notification to and approval of the Commission, Regulation 651/2014 in its Chapters 1-13, offers definitions that are applied to certain categories of state aid, forms of granting state aid, eligible costs and maximum intensities of state aid.

• Framework for State Aid for Research and Development and Innovation (52014XC0627(01), OJ C 198, 27 June 2014, p. 1-29)

Framework for state aid for research and development and innovation is applied to state aid for research and development and innovation in all sectors that the Treaty applies to. Therefore it is applied also to the sectors of the economy where special rules of the EU on state aid are applied unless the rules stipulate otherwise.





Some of the state aid measures that are important for the implementation of innovation programmes and are included in these frameworks are the following:

- (a) aid for R&D projects where the aided part of the research project falls within the categories of fundamental research and applied research, of which the latter can be divided into industrial research and experimental development. Such aid is mainly targeted at the market failure related to positive externalities (knowledge spill-overs), but may also address a market failure caused by imperfect and asymmetric information⁴ or (mainly in collaboration projects) a coordination failure⁵ ;
- (b) aid for feasibility studies related to R&D projects, which aims at overcoming a market failure primarily related to imperfect and asymmetric information;
- (c) aid for the construction and upgrade of research infrastructures, which mainly addresses the market failure stemming from coordination difficulties. High-quality research infrastructures are increasingly necessary for ground-breaking research, as they attract global talent and are essential for example for information and communication technologies and key enabling technologies;
- (d) aid for innovation activities, which is mainly targeted at market failures related to positive externalities (knowledge spill-overs), coordination difficulties and, to a lesser extent, asymmetric information. To small and medium-sized enterprises ('SMEs'), such innovation aid may be awarded for obtaining, validating and defending patents and other intangible assets, for the secondment of highly qualified personnel, and for acquiring innovation advisory and support services. Moreover, to encourage large enterprises to collaborate with SMEs in process and organisational innovation activities, the costs incurred by both SMEs and large enterprises for such activities may also be supported;
- (e) aid for innovation clusters, which aims at tackling market failures linked with coordination problems hampering the development of clusters, or limiting the interactions and knowledge flows within and between clusters. State aid could contribute to resolving this problem, first by supporting the inves

⁴ R&D activities are characterized by a high level of uncertainty. In certain circumstances, due to incomplete and/or asymmetric information, private investors hesitate to finance valuable projects, while highly qualified expert staff is not informed with the possibilities of employment with entrepreneurs dealing with innovation. That can lead to inappropriate allocation of human and financial resources and impossibility to implement projects that can be valuable for society or economy. In certain circumstances, incomplete and asymmetric information may hamper access to financing.

⁵ Capacity of entrepreneurs for mutual coordination or communication with a view to implementing R&D can be jeopardized due to various reasons, including difficulties in coordination of a large number of involved partners if any of them have different interests, problems in developing contracts or difficulties in coordinating cooperation due to the need to share sensitive information, for example.

tment in open and shared infrastructures for innovation clusters, and second by supporting, for no longer than 10 years, the operation of clusters for the enhancement of collaboration, networking and learning.

Item 17 of the Framework defines that research and knowledge dissemination organisations ('research organisations') and research infrastructures are recipients of State aid if their public funding fulfils all conditions of Article 107(1) of the Treaty.

As explained in the "Notice on the notion of State Aid", and following the case-law of the Court of Justice, the beneficiary must qualify as an undertaking, but that qualification does not depend upon its legal status, that is to say, whether it is organised under public or private law, or its economic nature, that is to say, whether it seeks to make profits or not. Rather, what is decisive for that qualification as an undertaking is whether it carries out an economic activity consisting of offering products or services on a given market.

Item 18 explains that where the same entity carries out activities of both economic and non-economic nature, the **public funding of the non-economic activities** will not fall under Article 107(1) of the Treaty if the two kinds of activities and their costs, funding and revenues can be separated so that cross-subsidisation of the economic activity is effectively avoided. Evidence of due allocation of costs, funding and revenues can consist of annual financial statements of the relevant entity.

Item 19 defines which are the activities that the Commission considers to be generally - of non-economic character:

- education for more and better skilled human resources;
- independent R&D for more knowledge and better understanding, including collaborative R&D where the research organisation or research infrastructure engages in effective collaboration⁶ ;
- wide dissemination of research results on a non-exclusive and non-discriminatory basis, for example through teaching, open-access databases, open publications or open software; and
- knowledge transfer activities, where they are conducted either by the research organisation or research infrastructure (including their departments or subsidiaries) or jointly with, or on behalf of other such entities, and where all profits from those activities are reinvested in the primary activities of the research organisation or research infrastructure. The non-economic nature of those activities is not prejudiced by contracting the provision of corresponding services to third parties by way of open tenders

⁶ Providing R&D services and R&D that is done on behalf of entrepreneurs are not considered independent R&D.





Item 20 explains that where a research organisation or research infrastructure is used for both economic and non-economic activities, public funding falls under State aid rules only insofar as it covers costs linked to the economic activities. Where the research organisation or research infrastructure is used almost exclusively for a non-economic activity, its funding may fall outside State aid rules in its entirety, provided that the economic use remains purely ancillary, that is to say, corresponds to an activity which is directly related to and necessary for the operation of the research organisation or research infrastructure or intrinsically linked to its main non-economic use, and which is limited in scope. For this framework, the Commission will consider this to be the case where the economic activities consume the same inputs (such as material, equipment, labour and fixed capital) as the non-economic activities and the capacity allocated each year to such economic activities does not exceed 20 % of the relevant entity's overall annual capacity.

Item 21 reads that where research organisations or research infrastructures are used to perform economic activities, such as renting out equipment or laboratories to undertakings, supplying services to undertakings or performing contract research, public funding of those economic activities will generally be considered State aid.

Item 22 of the Framework clarifies that the Commission will not consider the research organisation or research infrastructure to be a beneficiary of State aid if it acts as a mere intermediary for passing on to the final recipients the totality of the public funding and any advantage acquired through such funding.

This is generally the case where:

- a) both the public funding and any advantage acquired through such funding are quantifiable and demonstrable, and there is an appropriate mechanism which ensures that they are fully passed on to the final recipients, for example through reduced prices, and;
- b) no further advantage is awarded to the intermediary because it is either selected through an open tender procedure or the public funding is available to all entities which satisfy the necessary objective conditions so that customers as final recipients are entitled to acquire equivalent services from any relevant intermediary.

Items 24 and 25 clarify cases where contract research or research services are provided to undertakings by a research organisation or research infrastructure, where state aid is not passed to undertaking i.e. where it is not considered that indirect state aid is granted to undertakings through publicly financed organizations for research and knowledge dissemination organiza-

tions and research infrastructures.

Items 27 and 28 explain the notions of efficient cooperation between undertakings and research organizations or research infrastructure as well as conditions that have to be met so that such cooperation is not considered indirect state aid granted to undertakings.

Among other things, the Framework provides a more detailed analysis of eligible costs as well as the maximum intensity of aid than defined in Regulation 651/2014. This particularly refers to the costs for research and development projects. Annexe 1 to these Recommendations contains “Eligible costs” and “Maximum intensity of aid” as given in the Framework.

- **Regulation of the Commission (EU), 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 (32013R1407, OJ L 352, 24.12.2013, p. 1-8);**

State aid that meets the requirements defined in Regulation 1407/2013 shall not be treated as state aid in terms of EU legislation, i.e. it shall be exempted from notification to and control of the Commission. Given the amounts of state aid that are granted, it is considered that they have no effect on market competition or trade in the internal market of the EU. State aid granted within this Regulation may be granted to undertakings with difficulties. This Regulation also applies to aid granted to undertakings in all sectors, except for aid granted to undertakings active in the fishery and aquaculture sector; aid granted to undertakings active in the primary production of agricultural products; aid granted to undertakings active in the sector of processing and marketing of agricultural products in cases listed in Article 1 of the Regulation, items (i) and (ii). The total amount of de *minimis* aid that is granted to one undertaking by a Member State may not exceed EUR 200,000 during any period within three fiscal years. State aid of small value shall be considered granted when the undertaking, in line with a relevant national legal order, obtains a legal right to receive state aid, regardless of the date of payment of such de *minimis* aid (grant, guarantee, etc.) and regardless of the goal intended to be achieved and whether such aid is financed partly or entirely from the funds whose origin is in the European Union. The period of three years is determined based on the fiscal year that the undertaking uses in the member state.

When applying with project proposals, beneficiaries of innovation programmes will have the duty to fill in the form of declaration for de minimis aid.





Grantors of state aid are obliged to keep records of allocated de minimis aid.

Important note – when state aid is granted within innovation programmes there is a possibility to do that in several categories. For example, state aid within innovation programmes can be at the same time granted for research and development projects, for development of research infrastructure and for innovation clusters. Combination of de *minimis* state aid and state aid regulated in the Framework Regulation 2014/651 is possible within the same programme.

4.2. Public procurement

4.2.1. Introduction

Contracts for works, delivery of goods and provision of services are subject to public procurement rules. The goal of public procurement rules is to ensure that purchase of goods, services and works is done in transparent procedures that secure market competition of all economic entities. Beneficiaries of innovation programmes are obliged to comply with the given rules when they procure goods, services and works within their projects, i.e. contracts.

Rules differ depending on the type of goods, services and works that are procured, as well as on the value of the procurement and on whether the contracting authority (beneficiary of innovation programme) is obliged by the Public Procurement Law or not. The legal basis for public procurements comprises:

- Public Procurement Law (Official Gazette of Montenegro 74/2019);
- Rulebook on implementing simple procurement (“Official Gazette of Montenegro”, 061/20 of 24 June 2020, 065/20 of 3 July 2020, 071/20 of 16 July 2020, 074/20 of 23 July 2020, 102/20 of 17 October 2020);
- Programme rules on public procurement within innovation programme;
- Internal rules of beneficiaries of innovation programmes (if any).

This document aims at setting the minimum rules to ensure that beneficiaries of innovation programmes respect the rules on procurement on all levels.



Innovations, green and social public procurement

Research and innovations, including eco-innovation and social innovation, are among key drivers of future growth and are therefore in the core of the Europe 2020 Strategy for smart, sustainable and inclusive growth. Beneficiaries of innovative products, works and services should have the key role in improving efficiency and quality of public services addressing at the same time the most serious social challenges. This will contribute to achieving the best value for public money, as well as to a broader economic and social benefits and better care for the environment in terms of generating new ideas and their transfer into innovative products and services, creating thus a sustainable economic growth.

Economically most favourable offer, i.e. the one with the best price and quality ratio from the perspective of beneficiary, will be determined on the basis of the life cycle costs and it can include the best ratio of price and the quality that will be assessed on the basis of criteria, including qualitative and/or social ones, as well as aspects of the environment. Contracting authority should be encouraged to choose the criteria for selection of bid that will ensure that it gets high-quality works, goods and services that are optimally adapted to their needs. Beneficiaries of innovation programmes may also set special requirements that refer to the manner of implementing the contract, provided that they are connected with the scope of the procurement (contract) and listed in the Call for Bids or in Procurement documentation. Such requirements can contain economic, innovation and social issues, and issues related to environment protection and employment. Public procurement rules ensure that in procurement of products, services or works, horizontal aspects are taken into account, like environment protection, social issues (e.g. improvement of position of women, better integration of migrants) or strengthening of innovation

Some of examples of how these factors may be included in the public procurement process include:

- Taking into account social factors in planning procurement (technical specifications), for example, by taking into account various needs of persons with disability, various needs of women/men/ the young and others
- structure of (un)employed, needs of employers in various sectors/regions etc.
- Taking into account innovative/energy efficient/ low costs of life cycle in developing requirements for capabilities and selection criteria (accessibility, design for all beneficiaries, social and innovative characteristics, process of delivery, costs of GHG emissions and emission of other pollutants, etc. For example, advantage is given to the equipment with lower maintenance costs, equipment made of recyclable materials, lower electricity consumption, lower levels of noise that can influence fauna etc.)
- Including special provision in the contract with provider of services, supplier of goods or contractor providing works (e.g. envisaging that certain tasks are done by including persons with disabilities and defining a penalty in case such provisions are not complied with). One should have in mind that in all cases criteria for selection (requirements for capabilities) and criteria for selection of bids (criteria of the most cost-effective bid) should be connected and proportionate to the item of procurement and ensure maximum level of competitiveness. They must not be discriminatory or cause inequality in proceedings.

4.2.2. Scope of application – what rules to follow?

Beneficiaries of innovation programmes that are obliged to comply with the Public Procurement Law should follow the rules applicable to public procurement.

Beneficiaries of innovation programmes that are not obliged to comply with the Public Procurement Law (private partners) – are not obliged to apply the Public Procurement Law. Regardless of this, private partners are obliged to grant a contract to the bidder who provides the best value for money, or, as needed, to the bidder who offers the lowest price, avoiding at the same time any conflict of interests. To ensure that they act in line with this obligation, private partners have to comply with the programme rules for innovation programmes.

In the procedure of public procurement, beneficiaries are obliged to take



into account the total value of goods/works/services. Innovation programme users may not split the value of goods/works/services to avoid stricter rules, i.e. stricter obligations related to publishing or other rules apply based on the estimated value of the procurement. Choice of methods used to calculate the estimated value of the procurement may not be used to avoid the given rules, i.e. obligations. Beneficiaries of innovation programmes have to have in mind that they are obliged to secure transparency and prohibition of discrimination and allow conditions for market competition. To determine if the procurement procedure should be split or not, a procurement shall be considered whole, based on functional and time elements. For example, if works within one contract are divided into stages, that does not make the division of procurement procedure impossible in itself, since both stages belong to the same project (a whole). In many situations, beneficiaries of innovation programmes consider conducting one procurement procedure divided into lots. Lots ensure potential bidders submit their bid for one lot, several lots, or for all lots. Such a procedure will therefore ensure the strongest transparency (since the estimated value of the procurement will be a sum of all individual lots) and conditions for market competition, providing sufficient flexibility to project partners.

Beneficiaries of innovation programmes, regardless of the estimated value of the procurement, should ensure and present the ratio between price and quality, i.e. justification for the costs (For example A project envisages procurement of laptop computers. A beneficiary of innovation programme, without the ratio of price and quality he can prove, and justification of costs shall procure a computer in the value of EUR 4,000. In this case, the ratio of price and the quality and justification of costs cannot be proven.)

It is necessary to note that, for every procurement, regardless of its value, the same fundamental principles for public procurement apply. Those are the ones defined in the Treaty on the Functioning of the European Union (transparency, market competition, prohibition of discrimination and equal treatment).

4.2.3. Rules for Entities Obligated by Public Procurement Law

Public Procurement Law (PPL) defines conditions, manner and procedure for procurement of goods, services and for awarding contracts for works, protection of rights in public procurement procedures and other matters of importance for public procurement. The Law applies both to public and to sectorial contracting authorities that meet the requirements defined in Article 2 of the Law.

When it comes to making procurement contracts, Public Procurement Law applies to physical entities, legal entities, and the bodies that are neither public nor sectorial contracting authorities defined in paragraphs 1 and 2 of Article 2 of the Public Procurement Law:

- 1) works that are direct subsidies or co-financed by public contracting authority with more than 50% and whose estimated value is equal or higher than defined in Article 26 paragraph 1 item 6 of PPL,
- 2) services related to contract on works referred to in item 1 paragraph 10 Article 2 of PPL, that are directly subsidised or co-financed by a public contracting authority with more than 50% and the whose estimated value is equal or higher than defined in Article 26 paragraph 1 item 6 of PPL,

All thresholds for conducting public procurement procedures are applied as stipulated in the Public Procurement Law.

For beneficiaries of innovation programmes who are obliged to apply Public Procurement Law for all contracts that are below national financial thresholds, the procedure has to be conducted in line with the Rulebook on the manner of conducting simple procurement.

4.2.4. Rules for private partners who are not obliged to apply Public Procurement Law

In addition to the beneficiaries who are obliged to apply Public Procurement Law, also those beneficiaries of innovation programmes who are not obliged by PPL can participate in the implementation of a contract.

All projects within innovation programmes are co-financed by public funds that should be used in line with the principles of efficiency and cost-effectiveness. Therefore, all beneficiaries of innovation programmes are obliged to follow certain procedures to award a contract to the bidder who offers the best value for money or, as the need might be, to the bidder who offers the lowest price, ensuring that there is no conflict of interests. To comply with these obligations, beneficiaries of innovation programmes who are not obliged to apply Public Procurement Law, so-called private partners should respect provisions given in this chapter.

Beneficiaries of innovation programmes – private partners are not obliged to apply public procurement rules only in the following contracts:

- Contracts on the acquisition, lease of the existing buildings, other immovable property, land or rights that affect them;
- Contracts for acquisition, development, production or co-production of





programme material intended for audio-visual or radio-media services;

- Contracts for slots for radio-TV or programme broadcasting;
- Services of arbitration and conciliation;
- Services of legal counselling and legal representation by a lawyer;
- Services of public notaries in certifying and ratifying documents;
- Financial services connected with securities or other financial instruments;
- Loans and credits;
- Labour contracts;
- Services of public railway passenger transport;
- Costs of fair space;
- Paying invoices/fees or other costs defined in national legislation.

Note: Procurement rules do not apply to labour contracts but they apply to other types of contracts on services, like “contract on services” “author’s contract”, etc.

Table 2. Procurement rules for beneficiaries of innovation programmes - private partners, depending on the value of the procurement (amounts are VAT inclusive)

	SERVICES / GOODS	WORKS	OBLIGATIONS
DIRECT CONTRACT	Value below EUR 5,000.00	Value below EUR 5,000.00	Proof of ratio between price and quality
PRINCIPLE OF „THREE REFERENTIAL PRICES “	A value equal to or higher than EUR 5,000.00 and lower than EUR 20,000.00	A value equal to or higher than EUR 5,000.00 and lower than EUR 40,000.00	Principle of “three referential prices “
OPEN PROCEDURE	A value equal to or higher than EUR 20,000.00	A value equal to or higher than EUR 40,000.00	Documentation on procurement is published on web sites of the partners
NEGOTIATION PROCEDURE	Cases described in item iv of this chapter (threshold is not important)		

If there are differently regulated internal rules for beneficiaries of innovation programmes, they should be respected. Practice for some programmes is that prior consent is requested for procurement procedure by the institution that implements the programme.

I. Direct Contracts

For contracts of the estimated value for procurement of goods and services of up to EUR 5,000, beneficiaries of innovation programmes conclude direct

contracts (or use order form), ensuring that they can prove the ratio between price and quality, i.e. that they can justify the costs

II. Principle of “three referential prices”

For contracts of the estimated value of procurement for services from 5,000 to EUR 20,000, beneficiaries of innovation programmes – economic entities in private ownership, should act in line with the given principle of “three referential prices” to secure acting in line with the principle of good governance, i.e. efficient use of public funds.

The principle of “three referential prices” is used also for contracts of the estimated value of procurement for works from EUR 5,000 to 40,000.

The principle of “three referential prices” means that, for all contracts that range within the given thresholds (Table 1), beneficiaries of innovation programmes should secure at least three references that are one of or combination of the following:

- a) Bids within procurement procedure;
- b) Preliminary invoice for the bid (non-binding);
- c) Referential prices from Internet price lists or using centralised e-procurement services;
- d) Other, if applicable.

Beneficiaries of innovation programmes should ensure comparability of all listed references, and include the following parameters:

- a) Description of technical parameters;
- b) Amount;
- c) Price;
- d) Other descriptions of the procurement item where applicable. That can, for example, be delivery/implementation or implementation/time or deadline for implementation, duration and type of guarantee, payment options, other conditions to implement the contract, etc.

Note: The principle of “three referential prices” allows beneficiaries of innovative programmes to secure relevant references in any of described manners. For example, they can request 3 preliminary bids from relevant economic entities (e.g. companies) that provide certain advisory services. In other cases, in which project partners purchase, for example, some standard computer equipment, it can be sufficient for them to secure prices from an Internet price list (taken into account and ensuring that specifications of the computers are the same, i.e. comparable). In the third case, the project partner may wish to obtain three bids within the procurement procedure (although he is





not obliged to do so because the estimated value is lower than published thresholds).

In the implementation of the above procedure, objective knowledge will be provided as well as sufficient data about the relevant market, while the transparent comparison of bids should be ensured regarding the price and/or quality and an in-depth estimate of whether the price is justified.

III. Open procedure

The open procedure may be conducted for any estimated value of procurement.

a) Procurement Documentation

Implementing an open procedure, private partners prepare at least the following documents:

- Call for competition,
- Procurement Documentation (which contains technical requirements).

b) Announcement

Call for competition should be published at least on the website of the beneficiary of the innovative programme that is a private partner. If the partner does not have any website, a call for competition may be published on some other website (indicated in the call). Call for competition and documentation on procurement are published simultaneously.

c) Contents

Call for competition should contain:

- a) Name, address and contact details of a private partner, reference number of procedure;
- b) Item to be procured;
- c) Deadline for submitting bids – it should be at least 20 days from publishing the Call for Competition;
- d) Internet address where Documentation on the procurement is available (if not given within the Call for Competition);
- e) Call for Competition (or Procurement Documentation) may contain the estimated value of the procurement or any other data;
- f) The division into lots;
- g) Evaluation Committee.

Procurement Documentation should contain:

1. Technical requirements – a part of the documentation on procurement

that describes the item of procurement. Technical requirements should be transparent and ensure obtaining of bids that offer the best value for money and are comparable.

2. Other data that beneficiary of innovation programme – private partner - considers necessary, like a place of implementation, amount, deadlines, requests related to organization and methodology, etc.

3. Grounds for exclusion.

Note: Beneficiary of innovation programme – private partner - is obliged to exclude a bidder from procurement procedure in the following cases:

1) if an economic entity was convicted in a final judgment and/or the director of which was convicted in a final judgment for a criminal offence with the characteristics of:

- a) Criminal association;
- b) Creating a criminal organization;
- c) Active bribery;
- d) Passive bribery;
- e) Active bribery in the economy;
- f) Passive bribery in the economy;
- g) Tax and contributions evasion;
- h) Frauds;
- i) Terrorism;
- j) Financing terrorism;
- k) Terrorism association;
- l) Participating in foreign armed formations;
- m) Money laundering;
- n) Trafficking in human beings;
- o) Trafficking in underaged persons for adoption;
- p) Establishing slavery relations and transport of persons in slavery;

2) if an economic entity did not settle all liabilities due for taxes and contributions for pension and health insurance.

c) Selection criterion

The selection criterion is either:

- The lowest price, or
- Most cost-effective bid / Best value for money.





Best value for money has to contain criteria:

- a) Related to an item to be procured, and
- b) They can be quantified and should include relative importance that private partner attaches to every criterion.

Best value for money may include criteria like quality, including technical value, aesthetic and functional features, availability, solution for all beneficiaries, environment protection, social and innovative characteristics and trade and conditions for trade, organization, qualifications and experience of the staff hired to implement the certain contract, if the quality of hired staff may significantly influence the level of success in the implementation of the contract, after-sale services and technical assistance, delivery requirements like date of delivery, delivery process, the delivery deadline and implementation deadline.

Note: It is considered that the criteria are related to the item of the contract if they refer to works, goods or services provided within that contract in any aspect and any stage of their life cycle, including the factors involved in the certain procedure for production, procurement or trade-in such works, goods or services, or in the certain procedure for the second stage of their life cycle. Costs of life cycle include costs of use, like consumption of energy and other resources, maintenance costs; end of life cycle costs like costs of collection and recycling, costs attributed to influences on the environment, related to the product, service or works during their life cycle if their monetary value can be determined and checked (like costs of GHG emissions and emissions of other pollutants and other costs for alleviating climate change).

d) Evaluation Committee

In an internal decision, a private partner appoints an Evaluation Committee for a certain procedure. Evaluation Committee comprises only three members.

e) Conflict of interests

Representatives of private partners in the procurement procedure, as defined in this chapter, must not be in any conflict of interests with the bidders, i.e. contractors. The private partner is obliged to undertake appropriate measures to prevent, recognize and remove efficiently any conflict of interests related to procurement procedure, as to avoid distortion of market competition and ensure equal treatment of all economic entities. Based on this, they

sign a statement.

For this document, conflict of interests exists in the following situations:

I. The following relations of beneficiaries - innovation private partners and economic entities shall be considered a conflict of interests:

- a. If a representative of a private partner at the same time does management jobs in the economic entity
- b. If a representative of a private partner is the owner of a business share, stocks or other rights based on which he participates in management, i.e. capital of that economic entity with more than 0.5%.

II. Representative of private partner is:

- a. President or member of management or supervisory body of the contractor,
- b. Member of the Evaluation Committee in the individual procurement procedure,
- c. Other person included in the implementation or that can influence decision-making in the procurement procedure, and
- d. Persons referred to in items a, b, and c of this item within a service provider that act on behalf of the contracting authority.

III. Private partners must not make procurement contracts with economic entities with which they are in conflict of interest as bidders, members of an association of economic entities and subcontractors.

IV. Item III is applied also where a related person of a representative of a private partner is in relations with the economic entity (referred to in item I). Related persons are blood relations in direct line or a collateral line up to a fourth-degree, in-laws up to second degree, marital or extra-marital spouse, regardless of whether the marriage was terminated, and adoptive parents and adopted children of the representative of the private partner.

V. Item IV is not applied if business shares, stocks or other rights on the basis of which he/she participates in management i.e. in the capital of legal entity with more than 0.5% of a related person of representative of private partner had been acquired at least two years before the appointment or taking the duty of a representative of private partner he/she is related to.

VI. Item III is applied also if a representative of a private partner or related person of representative of private partner had transferred his/her shares in





ownership to another person or a special body (trustee) in line with special regulations on prevention of conflict of interests.

f) Procurement procedure description

After Call for Competition and Procurement Documentation are published and before the deadline for submitting the bids expires, private partner may amend Call for Competition and/or Procurement Documentation (the deadline for submitting bids may also be extended).

After the expiry of the deadline for submitting bids, Evaluation Committee conducts an overview and evaluation of bids.

Evaluation Committee:

- 1) Confirms that bids are in line with Procurement Documentation;
- 2) Ranks the bids against selection criteria.

All bids have to be complemented if that is requested by the Evaluation Committee (clarification of the bid).

Note: Best practices in public procurement allow for the bids to be complemented with certain documents requested in the Procurement Documentation, e.g. related to grounds for exclusion and selection criteria (capability requirement). However, the best practices do not allow for the bids to be complemented or changed in such a way that could lead to negotiations related to criteria for selection of bid or offered item of procurement. If information or documentation that the bidder should have submitted is incomplete or wrong, or seem to be so, or if certain documents are missing, private partner may, respecting the principles of equal treatment and transparency, require the bidder to complement, clarify, complement or submit necessary information or documentation within the appropriate deadline. The best practices in public procurement also show that bids can be accepted in cases where they contain formal mistakes, but if those mistakes are of such nature that they do not jeopardize the integrity and contents of the bid. For example, it is possible that a private partner requests a guarantee to make sure that the bid is serious and that he requests it in an original and a copy. The bidder submits the original guarantee, but the copy is illegible. The private partner should approve of such a bid since the true purpose of the request (obtaining a guarantee to make sure the bid is serious) was achieved and the formal mistake does not affect the bid in any way. Similar cases are also possible, for example:

- If the bid is not signed (a signature can be requested at a later stage);
- If a submitted guarantee does not cover all requested cases or its validity

is not in line with the requested deadline (it is possible to request a new guarantee to be submitted);

- If a smaller number of copies of the bid than requested was submitted, etc.

Evaluation Committee rejects the bids based on provisions of Procurement Documentation.

Provisions for rejecting the bid include:

The contracting authority can reject a bid if, for example, based on the results of overview and evaluation of bids and verification of requirements, the contracting authority has established that the bid is unacceptable – does not meet the criteria for qualitative selection of economic entity, is not in line with Procurement Documentation, was not received within the deadline for submitting bids, in case of corruption or secret agreements evidence if it is not a result of market competition if the contracting authority has established that the bid is very low and the bidder does not accept to correct a computing mistake if the bid cannot meet needs and requests of contracting authority (additionally, e.g. if it is not in line with applicable duties in the field of environmental law, social and labour laws, including collective agreements).

Note: If the bid contains an extremely low price, a private partner can reject such a bid based on the fact that such price raises a justified doubt in the capability to deliver the goods, do the works or provide services from the scope of the contract. Regardless of this, before such an offer is rejected, a private partner should request from the bidder to provide a written explanation with data about constituent elements of the bid that he/she considers relevant for the implementation of the contract. Such data may, in particular, refer to 1) cost-effectiveness in the manner of construction, production process or provision of services, 2) selected technical solutions and/or exceptionally favourable conditions available to the bidder when implementing the works, delivering the goods or providing services, 3) original nature of the works, goods or services that the bidder is offering; 4) adhering to provisions related to environment protection, protection of jobs and conditions of work that are in force in the place where works will be implemented, services provided or goods delivered, and particularly concerning the duty to pay salary according to the contract, 5) possibility for the bidder to receive state aid. If a private partner establishes that the bid is exceptionally low because the bidder had received state aid, he/she requests an explanation from the bidder and may reject that bid only if the bidder cannot prove that the aid was lawfully granted.





Evaluation Committee prepares the Minutes on overview and evaluation of the bids (evaluation report). The minutes contain at least the following information:

- 1) Name and registered office of a private partner, reference number of procurement;
- 2) Final deadline for submitting bids;
- 3) Number of received bids, names and addresses of bidders, offered prices;
- 4) Information about whether the bid is complete and acceptable;
- 5) Information about clarifications and supplements to the bid;
- 6) Reasons for excluding bids;
- 7) Detailed information about ranking the bids (data about how the points were allocated, if applicable);
- 8) Name of the selected bidder;
- 9) Date of beginning and end of the procedure of overview and evaluation;
- 10) Names of members of the Evaluation Committee, their signatures and Declaration confirming that there is no conflict of interests;
- 11) Annex: Call for Competition, Procurement Documentation, proof of publication of the received bid, entire communication with the bidders, all changes in the Call for Competition and Procurement Documentation.

Evaluation Committee prepares a Decision on a selection that should contain:

- 1) Name and address of selected bidder;
- 2) Price;
- 3) Date and signature of the person authorized to represent a private partner.

Evaluation Committee informs selected bidder about selection decision. And he/she also informs the unsuccessful bidders about their selection decision, and reasons due to which their bids were not selected. This can be done by e-mail, and proofs of that communication should be saved.

Private partner concludes a contract with selected bidder. There is no mandatory form or contents, but the content of such a contract must not be contrary to the provisions of Procurement Documentation.

Evaluation Committee may quash the procedure if, for example, no bid is received, or if all bids are unacceptable, or if all bids were above the estimated value of procurement, etc. In such a case Decision on quashing procurement procedure is rendered.

In case of a complaint during the evaluation procedure, private partners should provide satisfactory answers and explanations. He/she should either accept or reject the complaint. If he/she accepts the complaint, the procedure of procurement and/or evaluation can be returned to an earlier condition/ stage. Anyway, a complaint does not automatically mean the end of the procurement procedure. This does not prevent a private partner from concluding a contract with the selected bidder.

g) Contract implementation

The contract is implemented in line with the conditions set in the Procurement Documentation and selected bid. Amendments to the contract are allowed. However, the amendments are not allowed if they are of such a character that, if they had existed before and if they had been entered into the Procurement Documentation, they would have changed conditions of the selection at the time when the decision was made and contract signed.

In any case, contractual parties may request a change or even termination of the contract if, after the contract is signed, some extraordinary circumstances happen that had not been possible to predict and the time of contracting and are such that would significantly hamper implementation for one party or in such circumstances one party would suffer significant losses as a result of implementation.

IV. Negotiation procedure

A negotiation procedure may be implemented for any value of the procurement in the following cases:

- a) Where no bid is submitted or no appropriate bid was submitted in a conducted open procurement procedure, under the condition that initial contract requirements are not changed;
- b) Where due to technical or artistic reasons, or reasons connected with the protection of exclusive rights, the contract can be implemented only by a certain economic entity;
- c) Where it is necessary, e.g. where due to exceptional urgency caused by events that private partner could not have envisaged, deadlines in open procedure cannot be applied. Circumstances invoked to justify exceptional urgency may in no case be caused by the behaviour of the project partner;
- d) For additional works/services, the total value of which may not exceed 30% of the value of the basic contract not included in the initial project or basic contract, but that became necessary due to some unforeseeable circumstances, under the condition that the contract is made with the eco-





- conomic entity implementing the basic contract;
- e) Where such additional works/services cannot be technically or economically separated from the basic contract without significant difficulties for the project partner, or
 - f) Where such works/services, although separable from the implementation of the basic contract, are necessary to finalize the basic contract;
 - g) For additional deliveries from the supplier based on the basic contract and intended either as partial replacement of the regular goods or installations or as an extension to the existing goods or installations, if the change of the supplier would oblige the project partner to procure goods with different technical characteristics, which would then result in a mismatch or disproportional technical difficulties in operation and maintenance;
 - h) For purchase of goods under particularly favourable conditions from the supplier that permanently suspended its business activities, or from an administrator in bankruptcy or a liquidator, or within a settlement with creditors or any other similar procedure according to the national legislation of the country where the registered office of an economic entity is.

In the implementation of the negotiation procedure, private partners may conclude contracts based on one bid only, under the condition that the following parameters are defined before the contract is concluded:

- a) Description of technical specifications,
- b) Quantities,
- c) Selection criteria,
- d) Other descriptions of the item of procurement, as needed. This can, for example, be time of delivery/implementation/type and duration of the guarantee, payment options, and other requirements for contract implementation etc.

Note: Beneficiaries of innovative programmes – private partners, may use negotiation procedure, but should prove the basis for using it. Therefore, the beneficiaries of innovative programmes – private partners are advised to provide arguments in line with the above rules.

4.3. Intellectual Property

4.3.1. Introduction

Creative or artistic implementation of an idea that is a result of the human mind is a non-material asset and it is considered that it belongs to its creator and is, under certain circumstances his/her intellectual property. Although intangible in physical terms, intellectual property has all the features of

property and therefore it can be bought, sold, licenced, replaced, given as a gift or inherited, just like any other type of property.

4.3.2. Law and protection of intellectual property

When it comes to the protection of intellectual property, one of the fundamental preconditions is that it is difficult to come to new knowledge, that acquiring new knowledge costs money and it is extremely frequently easily copied and therefore care should be taken to protect anything worth copying.

In the contemporary entrepreneurial environment, intellectual property protection has an important role in the successful development of innovation and development of business in general, and in such a way it is an encouragement to entrepreneurial activities. To respond in the best possible way to contemporary challenges of the business environment and increase competitiveness in the market, entrepreneurs can protect non-material property through the protection of intellectual property. That is one of the possibilities for better commercialization and achieving a larger added value of their products and services.

Protection of intellectual property is a very important step also in the world of science, particularly when it comes to the transfer of technologies. To ensure that the results of the research can be commercialized, such results should be protected, and thus intellectual creation becomes intellectual property.

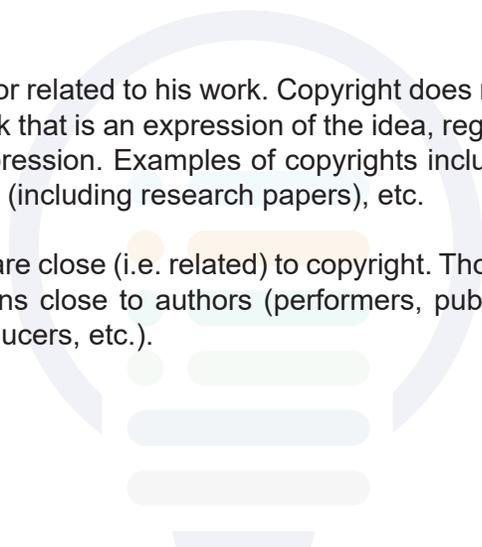
Forms of intellectual property protection can be divided into formal and informal.

1. 1. Formal ones include:

a) *Copyrights and related rights*

Copyrights are the rights of an author related to his work. Copyright does not protect the idea but an author's work that is an expression of the idea, regardless of the type and quality of expression. Examples of copyrights include books, music, photographs, articles (including research papers), etc.

Related rights are those rights that are close (i.e. related) to copyright. Those are the rights that belong to persons close to authors (performers, publishers, film producers, database producers, etc.).





b) *Industrial property*

Industrial property includes patents, trademarks, industrial design, geographic origin designations, and designations of the source of products and services, as well as semi-conductors topography.

A patent protects the technical characteristics of an invention, ensuring the owner of the patent to have the right to prevent others from production, use or sale of the invention without permission within a certain territory or period. After the patent expires the invention becomes a public good and anyone can use it freely. To become recognized as a patent, an invention:

- has to be new, i.e. it may have not been presented to the public in any way, anywhere in the world before application for protection is submitted;
- must contain an intensive breakthrough, i.e. it may not in an obvious way for a person expert in the given field⁷, stem from the current condition in the field ; and
- has to be industrially applicable, i.e. be practically applicable (not only in theory) and appropriate for production or use in an industrial range.

c) *Trademarks* are used for designating products or services of certain producers and they are among the most frequent forms of intellectual property. Trademark can be any sign that can be presented graphically and is acquired by registration. The owner of a trademark may prohibit others from: using the trademark on products or packages, placing products on the market or providing services under that trademark, import or export of products designated by that trademark, use of the trademark on business documents and in advertising.

d) *An industrial design* protects the external appearance of products or any of their parts (non-technical function). Requirements for recognizing the industrial design are its novelty and individual character. Designs can be protected by copyrights too

2. The informal ones include those forms of intellectual property that include protection from unfair market competition, business secrets, knowledge and experience (know-how), protection of confidential data, protection of plant breeds, etc. For informal forms of intellectual property, no particular

⁷ This current condition in the field assumes everything made available to the public in the world in written or verbal form, use or in any other way before the patent application was submitted. Source: State Institute for Intellectual property of the Republic of Croatia

procedures for acquisition are defined. Unlike formal forms of intellectual property protection that are acquired based on special laws, where the subject of protection is usually available in public, the range and effectiveness of protection of informal forms of intellectual property depend on how the contents are stored and on the contracts between the parties who have access to such contents.

Detailed information about intellectual property protection in Montenegro can be found in the Manual “How to Protect Innovation in Montenegro and from Montenegro” available at the following link

<https://www.gov.me/dokumenta/e9273a18-ff7a-4e49-b276-bb1f12920489> .

4.3.3. Commercialization of intellectual property

The use of the intellectual property is exercised by placing the property on the market, while the procedure is called commercialization of intellectual property.

The most frequent manners to offer the intellectual property to the market include:

- a) Awarding intellectual property;
- b) Transfer of knowledge⁸ in form of licencing, establishment of spin-offs, etc.; and
- c) Internal product development.

The financial success of commercialization will depend on the choice of how intellectual property will be placed on the market, which is based on financial resources of the company or research institution, a form of intellectual property and business goals.

Awarding intellectual property includes a permanent transfer of intellectual property rights (e.g. patents, trademarks or copyright) from one person (assignor) to another person (assignee). According to this, the assignee becomes the new owner of intellectual property rights. Rights are assigned through a Contract on Assignment. Through assignment (transfer) of intellectual property rights, companies and research institutions have a direct monetary return and most frequently it is a one-time payment of the entire amount. After the ownership is assigned, the company or research institution that assigned the ownership has no further responsibility to manage intellectual property, including payment of fees or monitoring violations of the property rights.

⁸ With the assumption that transfer of knowledge includes and covers more than transfer of technology.





Licencing intellectual property includes the procedure of granting licences, i.e. the owner of intellectual property right (licensor) grants a licence for use of his/her intellectual property to another person (licensee). Intellectual property rights owner must decide on whether the licencing of technology is the best strategy for its use. Advantages of licencing in comparison to other arrangements include the fact that intellectual property rights owner retains his/her capacity to use the non-material assets in certain territories or field of use while licencing of technology for other territories or fields is not of interest for his/her operation. Thus, licencing ensures entering other markets and obtaining additional economic benefits through licencing fees. Intellectual property rights that are most frequently licenced include copyright, patents, trademarks and industrial design.

Spin-offs are established to bring to the market new technology developed by a central organization, very often a research institution. This is considered a valuable alternative to assignment or licencing. Interests for establishing spin-offs may vary and have different levels of achievements. The basic reason is the commercial use of non-material assets and the generation of new economic value. Spin-offs are considered fundamental intermediaries between the research community and industry because they constitute a strong mechanism for the transfer of technologies between these two sectors. This is mostly achieved by joining spin-offs to larger companies.

4.3.4. Intellectual property within innovation programmes

Innovation programmes encourage exploring, protecting and commercialization of intellectual property, and those are significant steps in bringing innovation to the market. Encouragements are most frequently designed in one of the existing manners:

- Developing specific programmes intended for exploring, protecting and commercialization of intellectual property;
- Financing special part of costs intended for exploring, protecting and commercialization of intellectual property within various programmes and projects; and
- Providing expert support in exploring, protecting and commercialization of intellectual property.

Contract on financing, that beneficiaries sign with relevant institution implementing innovation programme, regulates issues of protection and distribution of intellectual property between beneficiaries and their partners. The issues of intellectual property to be input in the project are also regulated

here⁹, as well as intellectual property that will arise from that project approved for financing¹⁰.

5. Project monitoring

The competent institution follows the implementation of the project through its monitoring mechanism. Project monitoring refers to general relations between the institution that implements the programme and the approved project after the financing starts. Most frequently the supervision will be done on the activities that were implemented, on the finances, public procurement procedures, as well as on dissemination and promotion of project financing.

The success of the project, as well as the programme that the competent institution is implementing, depends on the evaluation process during which projects to be financed are selected, but equally on the monitoring, control and final evaluation of the projects.

Competent institutions that implement innovation programmes comply with the following rules to establish efficient monitoring and control systems for projects:

- Instructions for monitoring and control have to be available to all beneficiaries of innovation programmes and published on the websites of institutions responsible for the implementation of innovation programmes;
- Documentation for submitting periodic and final reports for monitoring and control has to be available to all beneficiaries of innovation programme and published on the websites of institutions responsible for the implementation of innovation programmes;
- Rules for monitoring and control should be designed in such a way as to ensure that competent institutions can have a good insight into the implementation of individual projects, but in such a way that they do not make an administrative burden for the beneficiaries;
- Institutions responsible for the implementation of innovation programmes organize workshops for beneficiaries and provide expert support in project implementation.

⁹ Includes intellectual property that is considered important for implementation of projects to be financed within innovation programme, and that is already in the ownership of beneficiary or partner at the moment of signing the Contract on financing.

¹⁰ Refers to intellectual property stemming from the activities within the projects financed within the innovation programme after the date on which the Contract on financing was signed.





Competent institutions may use the following monitoring mechanisms:

- Semi-annual reports on project implementation; the reports contain a detailed description of progress in the project as well as quantitative implementation indicators;
- The occasional visit of the representatives of Competent Institutions;
- Evaluation of progress in the project by Competent Institution that includes most frequently evaluation by independent evaluators and is done after the period envisaged for project implementation expires;
- Independent financial audit organized by beneficiaries of innovation programme;
- Final project evaluation implemented by Competent Institution;
- Mandatory participation in public presentations of the programme of the Competent Institution and in other activities (seminars, workshops, Internet platforms, participation in questionnaires for collecting key data, etc.).

6. Programme evaluation

Proper functioning of the system requires a process of evaluation of the results and effects of implemented programmes. Evaluation of the programme is a periodical evaluation of efficiency, effectiveness, achieved impacts, sustainability and relevance of the programme in the context of the set goals. Evaluation of the programme tries to measure its long-term effect (impact).

Evaluation is different from monitoring in terms of the time interval it is implemented in. In addition to this, evaluation is a comprehensive and detailed activity and, if we compare it to monitoring, we can say it is focused on a wider range of questions about programme management and programme impact. Evaluation is conducted as an independent analysis of the environment, goals, results, activities and the invested funds, to render conclusions that could be used as a foundation for future decisions. Given the stages of the evaluation cycle, we differ the following evaluation types:

- ex-ante evaluation – done before project implementation;
- on-going evaluation or interim evaluation or mid-term evaluation – done during the programme implementation; and
- ex-post evaluation – done after the programme/project is completed..

Programme evaluation aims at getting answers on 3 basic levels:

- *strategic level* (Are we doing the right thing?; Have they invested resources (money, time, people) appropriate for the economic/non-economic

effects? Has the link between output and final results been established sufficiently? etc.);

- *operational level* (Are we doing this in the right way?; Is the programme adequately funded so that it can meet the set goals?; Are the mechanisms of supervision and monitoring efficient?; etc.);

- *level of lessons learned* (Are there better ways to do this?; What are the alternative directions for developing and implementing programmes?; etc.).

To assess the effects of the programme, the Competent Institution will develop:

- *set of measurable indicators to follow effects of individual programmes;*
- *methodology for qualitative and quantitative analysis; and*
- *methodology for collecting data (various questionnaires for individual programmes aimed at collecting and complementing information about financed projects, as well as about projects that were not selected for financing, interviews with the beneficiaries, online surveys, etc.).*

7. Resources and Annexes



- State Intellectual Property Office of the Republic of Croatia <https://www.dziv.hr/hr/intelektualno-vlasnistvo/o-intelektualnom-vlasnistvu/>
- Unity Through Knowledge Fund – Guidelines and Operational Procedures – Second Technological Development Project (STP II) 2018, http://www.ukf.hr/UserDocsImages/2A%202018%20natjecaj/HR_UKF_Smjernice%20FINAL%202018.pdf
- Framework for State Aid for Research and Development and Innovation (52014XC0627(01), OJ C 198, 27.6.2014., p. 1-29)
- 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 (32014R0651) OJ L 187, 26.6.2014, p. 1–78
- Guidelines on Public Procurement – Programmes of European Territorial Cooperation 2014-2020;
- 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 (32013R1407, OJ L 352, 24.12.2013, p. 1-8);
- Public Procurement Law <https://www.paragraf.me/propisi-crnegore/zakon-o-javnim-nabavkama.html>
- Law on State Aid <http://www.azsk.me/dp/doc/Pravni%20okvir/Zakon%20>



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▪ Handbook „How to Protect Innovation in Montenegro and from Montenegro“
<https://wapi.gov.me/download/e9273a18-ff7a-4e49-b276-bb1f12920489?version=1.0>.

8. Annexe 1 – Definition of important terms in the field of state aid, table of eligible costs and table of maximum intensity of aid and thresholds for notification

1) Definition of important terms related to state aid rules, applied when innovation programme funds are allocated:

“**gross grant equivalent**” means the amount of the aid if it had been awarded in the form of a grant, before any deduction of tax or another charge;

“**date of award of the aid**” means the date on which the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;

„**state aid**” any measure meeting the criteria of Article 107(1) of the Treaty ; “exclusive development” means the public procurement of research and development services of which all benefits accrue exclusively to the contracting authority or contracting entity, and which it may use in the conduct of its affairs on condition that it fully remunerates them;

“**experimental development**” means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills to develop new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services. Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real-life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes. Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements;

“fundamental research” means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct commercial application or use in view;

“industrial research” means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation;

“organisational innovation” means the implementation of a new organisational method in an undertaking’s business practices, workplace organisation or external relations, excluding changes that are based on organisational methods already in use in the undertaking, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;

“process innovation” means the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment or software), excluding minor changes or improvements, increases in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;

“innovation clusters” means structures or organised groups of independent parties (such as innovative start-ups, small, medium and large enterprises, as well as research and knowledge dissemination organisations, on not-for-profit organisations and other related economic actors) designed to stimulate innovative activity by promoting sharing of facilities and exchange of knowledge and expertise and by contributing effectively to knowledge transfer, networking, information dissemination and collaboration among the undertakings and other organisations in the cluster;





„innovation enterprise” means the enterprise:

a. That can prove, based on evaluation conducted by an independent expert that in foreseeable future it will develop products, services or processes that are new or significantly improved in comparison to the current condition in the respective branch of industry, that carry a certain risk of technological or industrial failure; or

b. Whose costs for R&D make at least 10% of its overall costs of operation in at least one of three years preceding state aid or, in case of a start-up that has no business year behind, in the audit of its current business period verified by the external auditor;

“aid intensity” means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or another charge. Where aid is awarded in a form other than a grant, the aid amount is the grant equivalent of the aid. Aid payable in several instalments is discounted to its value at the date of the award. The interest rate to be used for this purpose is the discount rate applicable at the date of the award. The aid intensity is calculated per beneficiary;

“research infrastructure” means facilities, resources and related services that are used by the scientific community to research in their respective fields and covers scientific equipment or set of instruments, knowledge-based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be ‘single-sited’ or ‘distributed’ (an organised network of resources)

“ad hoc aid” means aid not awarded based on an aid scheme;

“small and medium-sized enterprises” or ‘SMEs’, ‘small enterprises’ and ‘medium-sized enterprises’ means undertakings fulfilling the criteria laid down in the Commission Recommendation on the definition of micro, small and medium-sized enterprises

“tangible assets” means assets consisting of land, buildings and plants, machinery and equipment.

“intangible assets” means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;

“net extra costs” means the difference between the expected net present values of the aided project or activity and a viable counterfactual investment that the beneficiary would have carried out in the absence of aid;

“unlisted SME” means an SME which is not listed on the official list of a stock exchange, except for alternative trading platforms.

“start-up SMEs” are entrepreneurs i.e. unlisted SMEs up to five years after registration that have not yet distributed profits and that were not established by merger. For eligible entrepreneurs that are not subject to registration five-year period starts from the moment at which the enterprise starts its economic activity or is obliged to pay tax for its economic activity;

“research and knowledge dissemination organisation” or ‘research organisation’ means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such an entity also pursues economic activities, the financing, the costs and the revenues of those economic activities must be accounted for separately. Undertakings that can exert a decisive influence upon such an entity, for example in the quality of shareholders or members, may not enjoy preferential access to the results generated by it

“arm’s length” means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent enterprises and contain no element of collusion. Any transaction that results from an open, transparent and non-discriminatory procedure is considered as meeting the arm’s length principle;

“start of works” or ‘start of the project’ means either the start of R&D&I activities or the first agreement between the beneficiary and the contractors to conduct the project, whichever comes first. Preparatory works such as obtaining permits and conducting feasibility studies are not considered as the start of works;

“individual aid” means aid awarded to a specific undertaking and includes ad hoc aid and aid awarded based on an aid scheme;

“full allocation” means that the research organisation, research infrastructure or public purchaser enjoys the full economic benefit of intellectual property





rights by retaining the right to make unrestricted use of them, particularly the right of ownership and the right to license. This may also be the case where the research organisation or research infrastructure (respectively, public purchaser) decides to conclude further contracts concerning those rights, including licensing them to a collaboration partner (respectively, undertakings).

“repayable advance” means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;

“pre-commercial procurement” means the public procurement of research and development services where the contracting authority or contracting entity does not reserve all the results and benefits of the contract exclusively for itself for use in the conduct of its affairs but shares them with the providers under market conditions. The contract, the object of which falls within one or several categories of research and development defined in this framework, must be of limited duration and may include the development of prototypes or limited volumes of first products or services in the form of a test series. The purchase of commercial volumes of products or services must not be an object of the same contract;

“knowledge transfer” means any process which has the aim of acquiring, collecting and sharing explicit and tacit knowledge, including skills and competence in both economic and non-economic activities such as research collaborations, consultancy, licensing, spin-off creation, publication and mobility of researchers and other personnel involved in those activities. Besides scientific and technological knowledge, it includes other kinds of knowledge such as knowledge on the use of standards and regulations embedding them and on conditions of real-life operating environments and methods for organisational innovation, as well as management of knowledge related to identifying, acquiring, protecting, defending and exploiting intangible assets;

“applied research” means industrial research, experimental development, or any combination of both;

“aid scheme” means any act based on which, without further implementing measures being required, individual aid may be awarded to undertakings defined therein in a general and abstract manner and any action based on which aid which is not linked to a specific project may be awarded to one or several undertakings;

“R&D project” means an operation that includes activities spanning over one or several categories of research and development defined in this fra-

mework, and that is intended to accomplish an indivisible task of a precise economic, scientific or technical nature with clearly pre-defined goals. An R&D project may consist of several work packages, activities or services, and includes clear objectives, activities to be carried out to achieve those objectives (including their expected costs), and concrete deliverables to identify the outcomes of those activities and compare them with the relevant objectives. When two or more R&D projects are not separable from each other and in particular when they do not have independent probabilities of technological success, they are considered as a single project;

“innovation advisory services” means consultancy, assistance and training in the fields of knowledge transfer, acquisition, protection and exploitation of intangible assets, use of standards and regulations embedding them;

“feasibility study” means the evaluation and analysis of the potential of a project, which aims at supporting the process of decision making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats (SWOT), as well as identifying the resources required to carry it through and ultimately its prospects for success;

“personnel costs” means the cost of researchers, technicians and other supporting staff to the extent employed on the relevant project or activity;

“secondment” means temporary employment of staff by a beneficiary with the right for the staff to return to the previous employer;

“innovation support services” means the provision of office space, data banks, libraries, market research, laboratories, quality labelling, testing and certification to develop more effective products, processes or services;

“large enterprises” means undertakings that do not fall within the definition of small and medium-sized enterprises;

“highly qualified personnel” means staff having a tertiary education degree and at least five years of relevant professional experience which may also include doctoral training;





2) Table 1 – Eligible costs - Community Framework for State Aid for Research and Development and Innovation

<p>Aid for R&D projects</p>	<p>(a) Personnel costs: researchers, technicians and other supporting staff to the extent employed on the project.</p> <p>(b) Costs of instruments and equipment to the extent and for the period used for the project. If such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated based on good accounting practice, are considered as eligible.</p> <p>(c) Costs of buildings and land, to the extent and for the period used for the project. Concerning buildings, only the depreciation costs corresponding to the life of the project, as calculated based on good accounting practice are considered as eligible. For land, costs of commercial transfer or incurred capital costs are eligible.</p> <p>(d) Cost of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project.</p> <p>(e) Additional overheads incurred directly as a result of the project.</p> <p>(f) Other operating expenses, including costs of materials, supplies and similar products incurred directly as a result of the project.</p>
<p>Aid for feasibility studies</p>	<p>Costs of study.</p>
<p>Aid for the construction and upgrade of research infrastructures</p>	<p>Investment costs in intangible and tangible assets.</p>

<p>Innovation aid for SMEs</p>	<p>(a) Costs for obtaining, validating and defending patents and other intangible assets.</p> <p>(b) Costs for secondment of highly qualified personnel from a research and knowledge dissemination organisation or a large enterprise, working on R&D&I activities in a newly created function within the beneficiary and not replacing other personnel.</p> <p>(c) Costs for innovation advisory and support services.</p>
<p>Aid for process and organisational innovation</p>	<p>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.</p>
<p>Aid for innovation clusters</p>	
<p>Investment aid</p>	<p>Investment costs in tangible and intangible assets.</p>
<p>Operating aid</p>	<p>Personnel and administrative costs (including overhead costs) relating to:</p> <p>(a) animation of the cluster to facilitate collaboration, information sharing and the provision of channeling of specialised and customised business support services;</p> <p>(b) marketing of the cluster to increase participation of new undertakings or organisations and to increase visibility;</p> <p>(c) management of the cluster's facilities; and</p> <p>(d) organisation of training programmes, workshops and conferences to support knowledge sharing and networking and transnational cooperation.</p>





3) Table 2 – Maximum aid intensities - Community Framework for State Aid for Research and Development and Innovation

	Small enterprise	Medium sized enterprises	Large enterprise
Aid for R&D projects			
Fundamental research	100%	100%	100%
Industrial research	70%	60%	50%
-subject to effective collaboration between undertakings (for large enterprises, cross-border or with at least one SME) or between an undertaking and a research organisation, or subject to a wide dissemination of results	80%	75%	65%
Experimental development	45%	35%	25%
- subject to effective collaboration between undertakings (for large enterprises, cross-border or with at least one SME) or between an undertaking and a research organisation, or - subject to a wide dissemination of results	60%	50%	40%
Aid for feasibility studies	70%	60%	50%
Aid for the construction and upgrade of research infrastructures	50%	50%	50%
Innovation aid for SMEs	50%	50%	
Aid for process and organisational innovation	50%	50%	15%
Aid for innovation clusters			
Investment aid	50%	50%	50%
- in assisted regions fulfilling the conditions of Article 107(3)(c) of the Treaty,	55%	55%	55%
- in assisted regions fulfilling the conditions of Article 107(3)(a) of the Treaty	65%	65%	65%
Operating aid	50%	50%	50%

4) Notification thresholds – Commission Regulation (EU) 651/2014

1. Commission Regulation 651/2014 shall not apply to aid that exceeds the following thresholds:

- for aid to SMEs for participation in fairs: EUR 2 million per undertaking, per year;
- for aid for process and organisational innovation: EUR 7,5 million per undertaking, per project;
- for aid for process and organisational innovation: EUR 7,5 million per undertaking, per project;
- innovation aid for SMEs: EUR 5 million per undertaking, per project;
- for aid for innovation clusters: EUR 7,5 million per cluster;
- for aid for research and development:
 - (i) if the project is predominantly fundamental research: EUR 40 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of fundamental research;
 - (ii) if the project is predominantly industrial research: EUR 20 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of industrial research or within the categories of industrial research and fundamental research taken together;
 - (iii) if the project is predominantly experimental development: EUR 15 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of experimental development;
 - (iv) if the project is a Eureka project or is implemented by a Joint Undertaking established based on Article 185 or of Article 187 of the Treaty, the amounts referred to in points (i) to (iii) are doubled.
 - (v) if the aid for research and development projects is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, is expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined based on a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the time of grant, the amounts referred to in points (i) to (iv) are increased by 50 %;
 - (vi) aid for feasibility studies in preparation for research activities: EUR 7,5 million per study;
 - for aid for the employment of workers with disabilities in the form of wage subsidies: EUR 10 million per undertaking, per year;
 - for aid for compensating the costs of assistance provided to disadvantaged workers: EUR 5 million per undertaking, per year;





- for aid for start-ups: the amounts laid down per undertaking in Article 22(3), (4) and (5);
- for risk finance aid: EUR 15 million per eligible undertaking as laid down in Article 21(9)
- for aid for consultancy in favour of SMEs: EUR 2 million per undertaking, per project;
- for aid for broadband infrastructures: EUR 70 million total costs per project;
- for aid to SMEs for cooperation costs incurred by participating in European Territorial Cooperation projects: EUR 2 million per undertaking, per project;
- for investment aid for the district heating or cooling distribution network: EUR 20 million per undertaking per investment project;
- for investment aid for energy infrastructure: EUR 50 million per undertaking, per investment project;
- for investment aid for research infrastructures: EUR 20 million per infrastructure;
- for investment aid for culture and heritage conservation: EUR 100 million per project; operating aid for culture and heritage conservation: EUR 50 million per undertaking per year;
- or investment aid for local infrastructures: EUR 10 million or the total costs exceeding EUR 20 million for the same infrastructure;
- for investment aid for energy efficiency projects: EUR 10 million as laid down in Article 39(5);
- for investment aid for sports and multifunctional infrastructures: EUR 15 million or the total costs exceeding EUR 50 million per project; operating aid for sports infrastructure: EUR 2 million per infrastructure per year; and
- for investment aid for environmental protection, excluding investment aid for the remediation of contaminated sites and aid for the distribution network part of the energy-efficient district heating and cooling installation: EUR 15 million per undertaking per investment project;
- for investment aid for remediation of contaminated sites: EUR 20 million per undertaking per investment project;
- for investment aid to SMEs: EUR 7,5 million per undertaking per investment project;
- for training aid: EUR 2 million per training project;
- for aid for the employment of workers with disabilities in the form of wage subsidies: EUR 10 million per undertaking, per year;
- for aid for the recruitment of disadvantaged workers: EUR 5 million per undertaking, per year;
- for operating aid for the production of electricity from renewable sources and operating aid for the promotion of energy from renewable sources in small scale installations: EUR 15 million per undertaking per project. When the aid is granted based on a competitive bidding process under Article 42: EUR 150 million per year taking into account the combined budget of all sc-

hemes falling under Article 42;

- for aid schemes for audio-visual works: EUR 50 million per scheme per year;
- for regional investment aid: the 'adjusted aid amount' of aid, as calculated per the mechanism defined in Article 2, point 20 for investments with eligible costs of EUR 100 million;
- for regional urban development aid, EUR 20 million as laid down in Article 16(3);





