

Regulation of the Minister of Development Funds and Regional Policy on the granting *de minimis* and State aid under the Interreg programmes for 2021-2027

1)

of 11 December 2022 (Journal of Laws of 2022, item 2755)

In accordance with Article 30(4) of the Act of 28 April 2022 on the principles for implementing the tasks funded from the European funds tasks in the financial perspective 2021-2027 (Journal of Laws, item 1079), it is hereby ordered:

§ 1 The Regulation shall determine the specific purpose, conditions and procedures for granting *de minimis* aid and State aid to undertakings under the following Interreg programmes for the years 2021-2027:

- 1)** the Poland-Slovakia Interreg Cooperation Programme for 2021-2027,
- 2)** the Poland-Saxony Interreg Cooperation Programme for 2021-2027,
- 3)** the Poland-Denmark-Germany-Lithuania-Sweden (South Baltic) Interreg Cooperation Program for 2021-2027,
- 4)** the Poland-Ukraine Interreg NEXT Cooperation Program for 2021-2027,

- and the providers of such aid.

§ 2 *De minimis* aid shall be granted under the principles laid down in Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ EU L 352, 24.12.2013, p. 1, as amended²⁾), hereinafter referred to as 'Regulation No 1407/2013'.

§ 3 State aid shall be granted in accordance with the principles laid down in Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ EU L 187, 26.06.2014, p. 1, as amended³⁾), hereinafter referred to as 'Regulation No 651/2014'.

§ 4 For the purposes of this Regulation:

- 1)** aid intensity - shall mean the aid intensity defined in Article 2 point 26 of Regulation No 651/2014;
- 2)** single undertaking - shall mean the single undertaking defined in Article 2(2) of Regulation No 1407/2013;
- 3)** enterprise - shall mean the enterprise defined in Article 1 of Annex I to Regulation No 651/2014;
- 4)** multifunctional recreational infrastructure - shall mean the multifunctional recreational infrastructure defined in Article 55(3) of Regulation No 651/2014.

§ 5

1. The provider of *de minimis* and State aid may be:

- 1)** a managing authority;
- 2)** a beneficiary.

2. Shall the provider of *de minimis* and State aid be a beneficiary, *de minimis* and State aid may be granted if the possibility to grant them is specified by a subsidy contract or agreement, as mentioned in Article 2 point 32 letter c) of the Act of 28 April 2022 on the principles for implementing the tasks financed from the EU-funds in the financial perspective 2021-2027.

§ 6

1. *De minimis* aid may be granted to undertakings operating in any sector, excluding those specified in Article 1(1) of Regulation No 1407/2013 and those specified in Article 7(1) of Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ EU L, 30.06.2021, p. 60, as amended⁴).

2. *De minimis* aid shall be granted in the forms and under the principles laid down in Article 4(1) and (2) of Regulation No 1407/2013.

3. The limit value of *de minimis* aid granted to one enterprise shall be determined in accordance with Article 3(2) to (9) of Regulation No 1407/2013.

4. The *de minimis* aid granted under this Regulation may be combined with other *de minimis* aid or public aid in accordance with Article 5 of Regulation No 1407/2013.

§ 7

1. The provisions of the Regulation on State aid shall not apply to the aid specified in Article 1(2)(c) and (d), (3)(a) to (d), (4)(c) and (5) of Regulation No 651/2014.

2. State aid must not be granted or paid to an undertaking being obliged to reimburse State aid under a decision of the European Commission declaring that such aid granted by the Republic of Poland is unlawful and incompatible with the internal market, excluding the aid schemes aimed at remedying the damages caused by certain natural disasters.

3. This Regulation shall apply to the State aid that has an incentive effect, as mentioned in Article 6(1) of Regulation No 651/2014, subject to Article 6(5)(h) and (i) of Regulation No 651/2014.

4. State aid shall be granted in the forms specified in Article 5(2)(a) of Regulation No 651/2014.

5. The State aid granted under this Regulation may be combined with other State aid or *de minimis* aid in accordance with Article 8 of Regulation No 651/2014.

6. The calculation of State aid intensity and eligible costs shall be governed by Article 7(1) of Regulation No 651/2014.

7. The value of State aid granted must not exceed the thresholds laid down in Article 4(1) of Regulation No 651/2014.

8. State aid shall be granted in accordance with the condition laid down in Article 5(2)(ea) of Regulation No 651/2014.

§ 8

1. State aid for covering the costs incurred by enterprises participating in projects under the Interreg programmes specified in § 1 shall be granted:

1) in accordance with the conditions laid down in Article 20(1) of Regulation No 651/2014;

2) to cover the eligible costs specified in Article 20(2) of Regulation No 651/2014.

2. The maximum aid intensity for covering the costs incurred by undertaking participating in projects under the Interreg programmes shall be determined in accordance with Article 20(3) of Regulation No 651/2014.

§ 9

1. State aid for undertakings in connection with their participation in projects under the Interreg programmes, as mentioned in § 1, shall be granted in accordance with the conditions laid down in Article 20a(1) of Regulation No 651/2014.

2. The total amount of State aid for undertakings in connection with their participation in projects under the Interreg programmes, as mentioned in § 1, shall be determined in accordance with Article 20a(2) of Regulation No 651/2014.

§ 10

1. State aid for culture and heritage conservation shall be granted:

1) in accordance with the conditions laid down in Article 53(1) of Regulation No 651/2014;

2) for the cultural purposes and activities specified in Article 53(2) of Regulation No 651/2014;

3) in the forms specified in Article 53(3) of Regulation No 651/2014;

4) to cover the eligible costs specified in Article 53(4) and (5) and (9), third sentence, of Regulation No 651/2014.

2. The limit value of State aid for culture and heritage conservation shall be determined in accordance with Article 53(6) and (7) and (9), first and second sentence, of Regulation No 651/2014.

3. As for State aid for culture and heritage conservation in an amount not exceeding the equivalent of EUR 2 million, the limit value of aid may be determined in accordance with Article 53(8) of Regulation No 651/2014.

§ 11

1. State aid for sport infrastructure and multifunctional recreational infrastructure shall be granted:

1) in accordance with the conditions laid down in Article 55(1) of Regulation No 651/2014;

2) in the forms specified to in Article 55(7) of Regulation No 651/2014;

3) to cover the eligible costs specified in Article 55(8) and (9) of Regulation No 651/2014.

2. The provision of sport infrastructure covered by State aid for sport infrastructure and multifunctional recreational infrastructure shall take place in accordance with the conditions laid down in Article 55(2) and (4) of Regulation No 651/2014.

3. The provision of multifunctional recreational infrastructure covered by State aid for sport infrastructure and multifunctional recreational infrastructure shall take place in accordance with the conditions laid down in Article 55(4) of Regulation No 651/2014.

4. State aid for sport infrastructure and multifunctional recreational infrastructure shall be granted if the conditions laid down in Article 55(5) of Regulation No 651/2014 are fulfilled.

5. Entrusting a third party with the tasks specified in Article 55(6) of Regulation No 651/2014 shall be subject to the conditions laid in therein.

6. The limit value of aid for sport infrastructure and multifunctional recreational infrastructure shall be determined in accordance with Article 55(10) and (11) of Regulation No 651/2014.

7. As for State aid for sport infrastructure and multifunctional recreational infrastructure in an amount not exceeding the equivalent of EUR 2 million, the limit value of aid may be determined in accordance with Article 55(12) of Regulation No 651/2014.

§ 12

1. State investment aid for local infrastructure shall be granted in accordance with the conditions laid down in Article 56(1) of Regulation No 651/2014.
2. The provision and entrusting the exploitation of local infrastructure covered by public investment aid for local infrastructure shall take place in accordance with the conditions laid down in Article 56(3) and (4) of Regulation No 651/2014.
3. Investment aid for local infrastructure shall be granted for covering the eligible costs specified in Article 56(5) of Regulation No 651/2014.
4. The limit value of State investment aid for local infrastructure shall be determined in accordance with Article 56(6) of Regulation No 651/2014.

§ 13

1. The enterprise applying for *de minimis* aid or State aid shall submit an application for granting aid to the provider of *de minimis* aid or State aid respectively, hereinafter referred to as the 'application'.
2. The application shall specify:
 - 1) the name of the enterprise and its size;
 - 2) the place the project is performed;
 - 3) the purpose of the project;
 - 4) a description of the project;
 - 5) the planned start and end dates of the project;
 - 6) the project value;
 - 7) eligible costs;
 - 8) the amount of aid applied for;
 - 9) the sources of financing the project;
 - 10) other information that may be necessary to assess the application, as indicated by the aid provider in the tender documents.
3. The enterprise applying for *de minimis* aid shall additionally attach to the application:
 - 1) copies of the certificates on *de minimis* aid and of the certificates on *de minimis* aid in agriculture, or of the certificates on *de minimis* aid in fisheries, or a certificate on the amount of the received *de minimis* aid, or a certificate on not receiving *de minimis* aid, as mentioned in Article 37(1)(1) and (2)(1) of the Act of 30 April 2004 on the procedure concerning public aid (Journal of Laws of 2021, item 743; and of 2022, item 807);
 - 2) the data specified in Article 37(1)(2) of the statute mentioned in point 1.
4. The enterprise shall attach to the application for public aid the data specified in Article 37(5) of the Act of 30

April 2004 on the procedure concerning public aid, in the Regulation of the Council of Ministers of 29 March 2010 on the scope of information presented by an entity applying for aid other than *de minimis* aid or for *de minimis* aid in agriculture and fisheries (Journal of Laws, items 312 and 1704; of 2016, item 238; and of 2020, item 1338).

§ 14

1. The provider of aid shall assess the application on the basis of aid eligibility criteria.

2. Before signing a subsidy contract, the enterprise shall submit to the provider of aid:

1) copies of the certificates on *de minimis* aid and of the certificates on *de minimis* aid for the agricultural sector, or of the certificates on *de minimis* aid for the fisheries sector, or a certificate on the amount of the received *de minimis* aid, or a certificate on not receiving *de minimis* aid, as mentioned in Article 37(1)(1) and (2)(1) of the statute mentioned in § 13(3)(1);

2) the data specified in Article 37(1)(2) of the statute mentioned in § 13(3)(1)

- concerning the period from the submission date of the application until the conclusion date of the project co-financing agreement.

§ 15 *De minimis* aid shall be granted until the end of the period specified in Article 7(4) in conjunction with Article 8 of Regulation No 1407/2013.

§ 16 Public aid shall be granted until the end of the period specified in Article 58(4), first sentence, in conjunction with Article 59 of Regulation No 651/2014.

§ 17 The Regulation shall enter into force on the day following the date of publication.

¹⁾ The Minister of Development Funds and Regional Policy manages a division of the government administration - regional development in accordance with § 1 point 2 of the Regulation of the President of the Council of Ministers of 27 October 2021 on the detailed scope of activities of the Minister of Development Funds and Regional Policy (Journal of Laws, item 1948).

²⁾ The amendment to this Regulation was announced in OJ EU L 215, 07.07.2020, p. 3.

³⁾ The amendments to this Regulation were announced in OJ EU L 329, 15.12.2015, p. 28; OJ EU L 149, 07.06.2016, p. 10; OJ EU L 156, 20.06.2017, p. 1; OJ EU L 236, 14.09.2017, p. 28; OJ EU L 26, 31.01.2018, p. 53; OJ EU L 215, 07.07.2020, p. 3; OJ EU L 89, 16.03.2021, p. 1; and OJ EU L 270, 29.07.2021, p. 39.

⁴⁾ The amendment to this Regulation was announced in OJ EU L 13, 20.01.2022, p. 74.