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## 2014-2020 Structural Assistance Act

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RT I, 21.06.2014, 1  
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Amended by the following acts

Passed	Published	Entry into force
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the official titles of ministers have been replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
11.06.2015	RT I, 30.06.2015, 4	01.09.2015, partially 01.07.2015

### Chapter 1 GENERAL PROVISIONS

#### § 1. Scope of application of Act

(1) This Act regulates the provision of structural support upon implementation of the following operational and cooperation programmes:

1) operational programme for the investment for growth and jobs goal of the cohesion policy funds (hereinafter operational programme) for the purposes of Article 96 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, pp.320-469);

2) cooperation programme (hereinafter ETC programme) specified in Article 8 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, pp.259-280);

3) operational programme (hereinafter operational programme for the Fund for Aid) for the purposes of Article 7 of Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (OJ L 72, 12.03.2014, pp.1-41);

4) cross-border cooperation programme (hereinafter ENI programme) specified in Title III of Regulation (EU) No 232/2014 of the European Parliament and of the Council establishing a European Neighbourhood Instrument (OJ L 77, 15.03.2014, pp.27-43).

(2) This Act and legislation issued on the basis thereof shall apply to the proceedings prescribed in this Act, in the case of the ETC and ENI programmes for which the managing authority is located in Estonia, also as indicated in the decisions made by the monitoring committee, as well as the European Union legislation and the Administrative Procedure Act in the matters not regulated therein.

(3) The provisions of Chapters 1 and 2 of this Act shall apply upon the implementation of the ETC programme, taking account of the specifications arising from Chapter 4.

(4) Upon implementation of the operational programme of the Fund for Aid the provisions of Chapters 1 and 3 of this Act shall apply, taking account of specifications arising from Chapter 5 of this Act and from Regulation (EU) No 223/2014 of the European Parliament and of the Council.

(5) Upon preparation for the ENI programme the provisions of Chapters 1 and 2 of this Act shall apply, taking account of the specifications arising from Chapter 6 of this Act.

## § 2. Definitions

For the purposes of this Act the following definitions apply:

- 1) 'structural support' (hereinafter support) means the provision of financial support for the recovery of eligible costs of a beneficiary or partner from the resources of the European Regional Development Fund, the European Social Fund and the Cohesion Fund (hereinafter together Fund) and from the resources allocated by the Estonian state for a specific purpose of the co-financing of such resources (hereinafter national co-financing) where it is provided for in the budget for a measure or activity under a measure;
- 2) 'the objective of the priority axis' means a specific objective of investment priority specified in point (b) (i) of Article 96 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 3) 'a measure' means a set of activities applied to achieve the objectives and expected results of the priority axis (hereinafter the priority axis) of the operational programme for the purposes of Article 96 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 4) 'a project' means an activity or a set of related activities with the identified result, budget and limited timeframe, for the reimbursement of the accompanying costs incurred thereby the support is requested or used;
- 5) 'eligible cost' means the expenditure which is in compliance with the national and European Union legislation pursuant to Article 65 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and, in the case of the expenditure provided for in Chapter 4 of this Act, also with the decision of the ETC programme monitoring committee;
- 6) 'the eligibility period' means a period which is set out in the grant decision, investment plan, legislation on the conditions for the provision of support specified in subsection 13 (1) of this Act, the contract specified in subsection 18 (2) of this Act or the time period, which is set out in the directive specified in subsection 18 (4) of this Act, falling into the period from 1 January 2014 to 31 December 2023.
- 7) 'self-financing' means part of the eligible expenditure incurred by the beneficiary or partner, which is not reimbursed from the support;
- 8) 'applicant' means a legal person, state agency or local government authority that has submitted an application for receiving support (hereinafter application);
- 9) 'beneficiary' means an applicant whose application has been approved, or a person or authority specified in clause 16 (1) 1) of this Act, a body implementing the financial instruments for the purposes of Article 38 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council (hereinafter body implementing the financial instrument) and a person specified in Article 13 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council;
- 10) 'partner' means a natural person, legal person, state and local government body or an international organisation specified in an application for support or in the directive on the conditions for the provision of support specified in subsection 13 (1) of this Act, who participates in the implementation of the project activities supported and incurs expenditures in the course thereof;
- 11) 'final recipient' is a person or agency to whom the beneficiary shall provide support pursuant to the legislation on the conditions for the provision of support specified in subsection 13 (1) of this Act or the grant decision or who receives support from the financial instruments for the purposes of point (11) of Article 2 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council (hereinafter financial instrument).

## Chapter 2 PARTNERSHIP AGREEMENT

### § 3. Drawing up and approval of Partnership Agreement

(1) The Ministry of Finance shall draw up a Partnership Agreement specified in Article 14 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council (hereinafter Partnership Agreement) in cooperation with the 1st level intermediate bodies assigned on the basis of 12 (3) of this Act and the Ministry of Rural Affairs and shall conduct negotiations with the European Commission.  
[RT I, 30.06.2015, 4 – entry into force 01.09.2015]

(2) The Partnership Agreement shall be approved by the Government of the Republic on the proposal of the Ministry of Finance. The Ministry of Finance shall submit the Partnership Agreement which is approved by the Government of the Republic to the European Commission.

### § 4. Preparation of progress report on partnership agreement

The Ministry of Finance shall draw up a progress report specified in Article 52 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council on the implementation of the Partnership Agreement in cooperation with the 1st level intermediate bodies and the Ministry of Rural Affairs. The Ministry of Finance shall submit the progress report to the Government of the Republic and the European Commission.  
[RT I, 30.06.2015, 4 – entry into force 01.09.2015]

## Chapter 3

# IMPLEMENTATION OF OPERATIONAL PROGRAMME

## Division 1 Operational programme

### § 5. Drawing up and approval of operational programme

(1) The managing authority shall draw up the operational programme in cooperation with the 1st level intermediate bodies and conducts negotiations with the European Commission.

(2) The Government of the Republic shall approve the operational programme on the proposal of the managing authority. The managing authority shall submit the operational programme approved by the Government of the Republic to the European Commission.

## Division 2 Managers and auditor of implementation of operational programme and their functions

### § 6. Managing authority

(1) The Ministry of Finance is a managing authority for the purposes of Article 123 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(2) The managing authority shall perform the functions of the member state and the managing authority provided for in Regulation (EU) No 1303/2013 of the European Parliament and of the Council, unless the performance of the function has been imposed on the 1st level intermediate body or the 2nd level intermediate body by this Act, and the functions specified in this Act or legislation issued on the basis thereof.

(3) If the expected value of the procurement contract is equal to or is in excess of the public procurement threshold specified in the Public Procurement Act, the minister responsible for the field may designate by a directive with regard to which measure, activity under the measure, goods or service the compliance with the Public Procurement Act shall be verified by the managing authority.

### § 7. 1st level intermediate body

(1) Pursuant to subsection 12 (3) of this Act a ministry appointed by the Government of the Republic or the Government Office shall be the 1st level intermediate body.

(2) The 1st level intermediate body shall perform the following functions of the managing authority (hereinafter functions of the 1st level intermediate body):

- 1) development and establishment of the conditions for the provision of support and monitoring of the performance thereof;
- 2) guidance of the 2nd level intermediate body upon the implementation of the legislation concerning the conditions for the provision of the support;
- 3) submission of proposals to the Ministry of Finance for amendment of the Partnership Agreement and operational programme;
- 4) performance of other functions of the managing authority that have been imposed on the 1st level intermediate body by this Act and the legislation issued on the basis thereof.

(3) The 1st level intermediate body shall submit the information which is necessary for the performance of the functions to the managing authority and the certifying authority by the time and in the manner required. In duly justified cases and, where possible, due to the objective of getting the information, the time limit for submission of the information may be extended with the consent of the managing authority and certifying authority.

### § 8. 2nd level intermediate body

(1) Pursuant to subsection 12 (3) of this Act the 2nd level intermediate body shall be an authority of executive power or a legal person governed by public or private law designated by the Government of the Republic.

(2) The 2nd level intermediate body shall perform the following functions of the managing authority (hereinafter functions of the 2nd level intermediate body):

- 1) provide information to the public and potential applicants on the possibility to receive support and on the procedure for the application thereof;

- 2) process the application and decide on whether or not to satisfy the application, except to the extent pursuant to Article 7 (4) and (5) of Regulation (EU) No 1301/2013 of the European Parliament and of the Council on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, pp.289-302);
- 3) provide explanations to applicants and beneficiaries in issues relating to the provision and use of support;
- 4) process payment applications, inter alia, it may suspend the processing of payment applications, and pay out the support or withhold payment;
- 5) decide on full or partial revocation of the grant decision, except to the extent provided for in Article 7 (4) and (5) of Regulation (EU) No 1301/2013 of the European Parliament and of the Council;
- 6) make a financial correction decision and demand recovery of sums of unduly paid support, except for in the case specified in subsection 45 (3) of this Act;
- 7) collect data about the participants in the activities funded from the European Social Fund in accordance with point (e) of Article 125 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 8) perform other functions of the managing authority which have been imposed on the 2nd level intermediate body by this Act and the legislation issued on the basis thereof.

(3) Where a legal person is authorised to perform the functions of the 2nd level intermediate body on the basis of subsection 12 (3) of this Act, the 1st level intermediate body shall enter into an administrative contract in the procedure provided for in the Administrative Cooperation Act, which includes agreements on the specification of the amounts and conditions for the using of the resources provided for covering the expenditures accompanying the performance of the functions of the 2nd level intermediate body not reimbursed from the support, the amount covered from self-financing for the expenditures accompanying the performance of the functions of the 2nd level intermediate body and the procedure for the performance of functions of the 1st level intermediate body and of the 2nd level intermediate body in the part not regulated in the legislation. The budget of the measure or activity under the measure implemented by the 2nd level intermediate body may be set out in the administrative contract.

(4) The 1st level intermediate body shall conduct administrative supervision over the compliance with the contract specified in subsection (3) of this section.

(5) The 2nd level intermediate body shall submit the information necessary for the performance of their duties to the managing authority, 1st level intermediate body and certifying authority by the time and in the manner required by them. Where justified and if it is possible resulting from the objective of receiving information, the time limit for submission of information may be extended with the agreement of the managing authority, 1st level intermediate body and certifying authority.

## **§ 9. Certifying authority**

(1) The certifying authority for the purposes of Article 123 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council is the Ministry of Finance. In accordance with paragraph (3) of the same article the minister responsible for the field may decide that the managing authority shall perform the functions of the certifying authority.

(2) A certifying authority shall perform the functions of a certifying authority provided for in Regulation (EU) No 1303/2013 of the European Parliament and of the Council and this Act and the legislation issued on the basis thereof.

## **§ 10. Authorisation for and termination of performance of functions**

(1) If the auditing authority has declared the management and control systems of the managing authority and certifying authority to be in compliance with the requirements pursuant to Article 124 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, the Government of the Republic shall authorise the managing authority and the certifying authority to perform their functions. The proposal for authorisation shall be made by the minister responsible for the field.

(2) If the managing authority has declared that the work procedures prescribed for the performance of functions of the 1st level intermediate body and 2nd level intermediate body are in compliance with the requirements provided for in Regulation (EU) No 1303/2013 of the European Parliament and of the Council, this Act and the legislation issued on the basis thereof, the head of the managing authority shall, by a directive, authorise the 1st level intermediate body and 2nd level intermediate body to perform the functions. If the Ministry of Finance performs the functions of the 1st level intermediate body or 2nd level intermediate body, the authorisation for the performance of functions shall be granted pursuant to subsection (1) of this section and the performance of functions shall be suspended or terminated pursuant to subsection (3).

(3) If, as a result of audit, an assessment is given that the performance of functions of the managing authority or certifying authority is not in compliance with the requirements provided for in Article 124 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, the Government of the Republic may decide to suspend or terminate the performance of the functions of the managing authority or certifying authority.

(4) Where, as a result of an audit or control, an assessment is given that the performance of functions of the 1st level intermediate body or 2nd level intermediate body is not in compliance with the requirements provided for in Regulation (EU) No 1303/2013 of the European Parliament and of the Council, this Act and the legislation

issued on the basis thereof, the head of the managing authority may decide by a directive to suspend or terminate the performance of functions of the 1st level intermediate body or 2nd level intermediate body. The head of the managing authority shall make a proposal to the Government of the Republic for further arrangement of the performance of functions of the 1st level intermediate body or 2nd level intermediate body.

(5) The performance of functions of a managing authority, certifying authority, 1st level intermediate body and 2nd level intermediate body shall terminate upon the completion of the obligations arising from Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

#### **§ 11. Auditing authority**

(1) The auditing authority for the purposes of Article 123 (4) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council is the Ministry of Finance.

(2) The auditing authority shall perform the functions of an auditing authority provided for in Regulation (EU) No 1303/2013 of the European Parliament and of the Council, this Act and the legislation issued on the basis thereof. An auditing authority may authorise a legal person or an authority of executive power to carry out an audit.

(3) For the performance of functions of an auditing authority the auditing authority and a person or authority authorised thereby shall have the right to audit a managing authority, certifying authority, 1st level intermediate body, 2nd level intermediate body and beneficiary and obtain access to information relating to the performance of functions and obligations of the auditee and the partner and to the use of support, including accounting, make copies of the evidence for taking along, ask questions from the auditee and the partner and stay in the premises and territory of the auditee and the partner.

(4) For the verification of the legality of the provision of support a person and authority authorised by the auditing authority and a person or authority authorised thereby shall have the right for access to information related to the support of the final recipient from the financial instrument in the cases specified in Article 40 (3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, including accounting, make copies of the evidence for taking along, ask questions from the final recipient and stay in the premises and territory thereof.

(5) The auditee, partner and, in the cases specified in Article 40 (3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council the final recipient, are required to provide all possible help for the performance of the functions thereof.

(6) The procedure for audits pursuant to Article 124 (2) and Article 127 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, for the auditing strategy specified in Article 127 (4) of the same regulation and for drawing up the opinion of the auditing authority and annual auditing report specified in subsection (5) of the same Article shall be established by the regulation of the Government of the Republic.

### **Division 3**

## **Establishment of list of measures and conditions for provision of support**

#### **§ 12. Drawing up list of measures and approval thereof**

(1) The Ministry of Finance shall draw up a list of measures in cooperation with the ministries and the Government Office (hereinafter list of measures) including:

- 1) the priority axis;
- 2) the objective of priority axis;
- 3) the name of measure;
- 4) the objective of the measure;
- 5) the activity under the measure;
- 6) the output indicator of a measure with the base line and target values;
- 7) the budget of the measure;
- 8) the name of fund;
- 9) the amount of fund resources and national co-financing;
- 10) percentage of fund resources to budget;
- 11) the name of the 1st level intermediate body and 2nd level intermediate body;
- 12) where necessary, obligation to submit information about a measure or activity under the measure in the draft explanatory memorandum on the conditions for the provision of support after the termination of the measure or activity under the measure;

13) information about whether the measure or activity under the measure has an impact on the objectives of the climate and environmental protection, equal opportunities, information society, regional development or state governance (hereinafter horizontal themes).

(2) If several 1st level intermediate bodies are responsible for achievement of the result of the measure, the facts specified in subsection (1) of this section shall be specified on the list of measures for each measure or activity under the measure.

(3) The list of measures shall be approved by the Government of the Republic on the proposal of the Ministry of Finance.

### **§ 13. Drawing up and establishment of conditions for provision of support**

(1) The conditions for the provision of support shall be established by a regulation of the minister pursuant to §§ 14, 15 and 20 of this Act and by a directive of the minister pursuant to § 16 and subsection 18 (4) of this Act and they are included in the financial instruments implementing agreement specified in subsection 18 (2) and the joint action plan specified in § 17 of this Act. If the Government Office is the 1st level intermediate body, the conditions for the provision of support shall be established by a regulation of the Government of the Republic and a directive of the Secretary of State.

(2) The conditions for the provision of support for the implementation of a measure or activity under the measure on the list of measures shall be drawn up in accordance with the national and European Union legislation.

(3) The draft legislation containing the conditions for the provision of support, the financial instruments implementing agreement and the joint action plan, specified in subsection (1) of this section, shall be coordinated with the managing authority, 1st level intermediate body included in the thematic committee, and other 1st level intermediate bodies that are responsible for implementing the same priority axis measure, activity under the measure or a set of activities under the measures. The 1st level intermediate body that is responsible for implementing the horizontal themes shall coordinate the draft legislation of another 1st level intermediate body if, pursuant to the list of measures, the measure has an impact on the objectives of the horizontal themes in the area of responsibility thereof.

(4) The coordinator shall grant its accord to the draft legislation containing the conditions for the provision of support, the financial instrument implementing agreement and the draft joint action plan, specified in subsection (1) of this section, or submit the reasons for refusal to coordinate within ten working days as of the receipt of the draft resolution. In substantiated cases the time limit may be extended at the request of the applicant for the grant of accord or the coordinator. If the coordinator has failed to submit information on the coordination within the term, the draft resolution is deemed to have been approved by the coordinator.

(5) The conditions and procedure for the expenditures to be considered eligible for the provision of support shall be established by a regulation of the Government of the Republic.

(6) The directive specified in subsection 16 (1) of this Act and the financial instruments implementing agreement specified in subsection 18 (2) of this Act and the directive on the implementation of the financial instrument specified in subsection 18 (4) shall be submitted to the managing authority within ten working days as of the signing.

### **§ 14. Provision of support upon open application**

Upon open application for the provision of support the head of the 1st level intermediate body shall establish a regulation on the conditions for the provision of support, laying down:

- 1) the priority axis measure, activity under the measure or a set of activities under the measure for which support is provided to achieve the results thereof;
- 2) the activities supported and the objective of the provision of support and, subject to the objective of a measure, activity under the measure or a set of activities under the measure, where necessary, the objectives specified in the development plan of the area, or in the absence thereof, in the development plan of the area of government of a ministry or the Government Office or a development plan of the local government or regional development plan, for achievement of which the support is required to contribute to;
- 3) pursuant to the list of measures the output indicator of the activity under the measure into which the project is required to contribute;
- 4) a reference to the European Union legislation regulating the provision of state aid or de minimis aid or § 34<sup>1</sup> of the Competition Act if the state aid is provided on the basis of the decision of the European Commission;
- 5) activities which may be conducted outside of Estonia pursuant to Article 70 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 6) the period of eligibility of a measure or activity under the measure, which shall include the period of eligibility of the project;
- 7) the types of eligible or illegible expenditures and the conditions for considering other expenditures as eligible, including the limits on the provision of support related to the generating of net revenue specified in Article 61 and Article 65 (8) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 8) the minimum or maximum percentage of the support from eligible expenditures and, where necessary, maximum or minimum amount of the support;

- 9) requirements for an applicant and an application and, where appropriate, for the partner, including, where necessary, the possibility to restrict the provision of support to a concrete activity, area or target group;
- 10) the procedure for submission of application and considering the application and the applicant to be in compliance with the requirements;
- 11) criteria and methods for the selection of projects, which have taken account of the requirements and principles specified in point (a) of Article 125 (3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 12) the terms and procedure for the notification of the grant decision and refusal to satisfy an application;
- 13) the conditions, terms and procedure for amendment of the grant decision;
- 14) the rights and obligations of the beneficiary and partner, including, where necessary, the procedure for the performance of the obligation specified in subsection 26 (6) of this Act;
- 15) the procedure for submission of information, documents and reports related to the use of support;
- 16) the procedure for submission of procurement documents and for ex ante and ex post verification, where appropriate;
- 17) where necessary, the obligation to use a competence centre, if that is designated, for the purposes of subsection 27 (1) of this Act;
- 18) the conditions and procedure for payment of support, including the term for proceeding the application for payment and the amount of the final payment;
- 19) a body conducting the proceeding of challenges;
- 20) the procedure for the transfer of the documents and other evidence to the 2nd level intermediate body if the transfer is allowed.

### **§ 15. Provision of support on basis of investment plan**

- (1) The 1st level intermediate body may prepare an investment plan for the provision of support to investment projects of national or regional importance, which is drawn up pursuant to the regulation on the conditions for the provision of support, established on the basis of subsection (2) of this section;
- (2) For the provision of support based on the investment plan the head of the 1st level intermediate body shall establish a regulation on the conditions for the provision of support, which, in addition to the provisions of § 14 of this Act, shall provide for:
  - 1) conditions and procedure for preparation of the investment plan;
  - 2) procedure for notification of a failure to include the project in the investment plan;
  - 3) an activity or circumstance under which the implementation of the project is deemed to have started;
  - 4) conditions and procedure for amendment of the investment plan, including the increasing of the support.
- (3) Upon establishment of the conditions and procedure for preparation of the investment plan specified in clause (2) 1) of this section the provisions of the legislation issued on the basis of §§ 21 and 22, subsection 23 (1) and subsection 21 (6) of this Act may be implemented.
- (4) On the proposal of the 1st level intermediate body the Government of the Republic shall approve the investment plan which includes the following data for projects:
  - 1) applicant for the project;
  - 2) name of the project;
  - 3) objective of the project;
  - 4) results of the project;
  - 5) estimated time limit for implementation of the project;
  - 6) estimated cost of the project;
  - 7) maximum amount of support to be allocated for the project;
  - 8) maximum percentage of support from eligible expenditures;
  - 9) amount of additional fixed costs of further use of the investment object specified in the project and the sources of covering thereof by years starting from the beginning of the period of the eligibility for support of the project until the compliance with the obligation specified in clause 24 14) of this Act.
  - 10) additional data specified in the regulation on the conditions for the provision of support.
- (5) For the purposes of clauses 60 4)-6) of the State Budget Act the obligations that exceed the maximum limit of financial commitments for the forthcoming financial year in the area of government of a ministry or the Government Office pursuant to subsection 60 (4) of the State Budget Act shall be considered additional fixed costs specified in clause (4) 9) of this section.
- (6) The 1st level intermediate body shall have the rights specified in subsection 42 (1) and clause 42 (2) 1) of this Act upon verification of the data submitted for the preparation of the investment plan.
- (7) If the project is not included in the draft legislation of the investment plan or the project is excluded from the investment plan, the 1st level intermediate body shall make the decision of the non-inclusion into the plan. If a project of a state authority is not included in the plan, the 1st level intermediate body shall notify the state authority thereof, giving a reason for non-inclusion into the investment plan in the notice.

(8) Pursuant to subsection (4) of this section the investment plan may be approved by a directive of the head of the 1st level intermediate body if:

- 1) investment projects of national or regional importance have been approved by the decision of the Government of the Republic in the implementation plan of the development plan in the field or
- 2) the plan is prepared for the investment projects of the authority of executive power.

#### **§ 16. Provision of support for activities of 1st level intermediate body**

(1) If the implementer of the supported activities is a ministry or the Government Office being the 1st level intermediate body, the head of the 1st level intermediate body shall establish a directive on the conditions for the provision of support, which, in addition to the provisions of clauses 14 1)-8) and 14)-18) of this Act, provides for:

- 1) the implementer of the supported activities;
- 2) the descriptions of the supported activities, including the description of the activities of the partner, and the time schedule;
- 3) the budget of the supported activities, which includes the budget of eligible expenditures of each activity supported, making the distinction between the resources of the fund specified in clause 2 1) of this Act and the state co-financing, the percentage of the support from eligible expenditures, eligible expenditures of the partner, including the distribution of the support and self-financing, and the estimated cost of the activities not supported;
- 4) appropriate conditions for the provision of support to the final recipient specified in § 14 of this Act if the supported activity involves the provision of support to the final recipient by the implementer of the supported activities and the conditions for the provision of support are not established by a regulation under subsection (3) of this section.

(2) If the directive on the conditions for the provision of support involves several projects, the conditions specified in subsection (1) of this section shall be determined for each project.

(3) If the implementer of the supported activities is a ministry or the Government Office, which provides support to the final recipients, the conditions for the provision of support under § 14 of this Act shall be established for the final recipient by the implementer of the supported activities if they are not included in the directive on the conditions for the provision of support.

(4) A legal person or an authority of executive power may be authorised to implement the supported activities under subsection (1) of this section. If the implementer of the supported activities is a legal person, the 1st level intermediate body may, where necessary, enter into an administrative contract with the implementer of the supported activities pursuant to the procedure provided for in the Administrative Cooperation Act.

(5) The 1st level intermediate body shall carry out administrative supervision over the compliance with the contract specified in subsection (4) of this section.

(6) The draft of the directive on the conditions for the provision of support and of the amendment thereof shall be submitted for accord under subsection 13 (3) of this Act together with the explanatory memorandum, which is in compliance with the requirements established for explanatory memorandum of the regulation.

#### **§ 17. Provision of support based on joint action plan**

(1) An application for a joint action plan shall be prepared by the 1st level intermediate body in accordance with the provisions of Articles 104-106 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council. The application for a joint action plan shall be submitted for approval to the European Commission by a managing authority.

(2) A managing authority or the 1st level intermediate body with the consent of the managing authority shall set up a steering committee for the joint action plan (hereinafter steering committee) pursuant to Article 108 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council which shall perform the functions specified in subsection (2) of the same article, designate the chairman of the steering committee and establish the rules of procedure for the steering committee. At least one member of the steering committee shall be a representative of the managing authority.

#### **§ 18. Provision of support for financial instrument**

(1) Upon the provision of support for the financial instrument the 1st level intermediate body or managing authority shall carry out or arrange an ex ante assessment required in Articles 37 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and, based on the results of the ex ante assessment, shall develop the conditions for the provision of support.

(2) For the purposes of points (a) and (b) of Article 38 (4) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council the 1st level intermediate body shall conclude a funding agreement (hereinafter the financial instruments implementing agreement) with the implementer of the financial instrument pursuant to subsection (7) of the same article, which shall include the conditions specified in point (1) of Annex IV to the same regulation.

(3) The 1st level intermediate body shall carry out administrative supervision over the compliance with the financial instruments implementing agreement.

(4) If the implementer of the financial instrument is the 1st level intermediate body or the 2nd level intermediate body, the head of the 1st level intermediate body shall establish a directive on the conditions for the provision of support (hereinafter directive on the implementation of financial instrument) which includes the conditions specified in point (2) of Annex IV of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, having priorly coordinated the draft directive with the monitoring committee of the operational programme pursuant to Article 38 (8) of the same regulation.

(5) The 1st level intermediate body may allow the implementer of the financial instrument to establish specifying conditions for the implementation of the funding instrument under the funding agreement or the directive on the implementation of the financial instrument.

(6) Upon submission of the draft agreement or the draft directive on the financial instruments implementation for accord pursuant to subsection 13 (3) of this Act, a document reflecting the results of the ex ante assessment specified in subsection (1) of this section shall be appended to the draft.

#### **§ 19. Use of funds returned to financial instrument**

(1) The 1st level intermediate body shall ensure that the support provided for the financial instrument or the funds returned for the purposes of Article 44 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and the revenue, yields or other earnings generated thereby (hereinafter funds returned) shall be used in the same financial instrument or other financial instrument in accordance with Article 43 (2) and Article 44 (1) of the same regulation until 31 December 2013.

(2) On the proposal of the Ministry of Finance the Government of the Republic shall approve the area, objectives and results of the use of funds returned from 1 January 2014 until 31 December 2031 and the authority responsible for the use of the resources in accordance with Article 45 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(3) An authority responsible for the use of the instruments specified in subsection (2) of this section shall inform the managing authority, at the request thereof, about the use of these funds, who in its turn shall notify the European Commission.

#### **§ 20. Provision of support as technical assistance**

(1) Support is granted as technical assistance pursuant to Article 59 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(2) The head of the 1st level intermediate body shall establish a regulation on the conditions for the provision of support as technical assistance where the appropriate conditions specified in § 14 of this Act are provided.

(3) The 1st level intermediate body under whose measure or activity under the measure the 2nd level intermediate body performs functions shall ensure the financial instruments for self-financing of the performance of functions of the 2nd level intermediate body and the covering of the ineligible expenditures.

## **Division 4**

### **Processing of application and revocation of grant decision**

#### **§ 21. Application for support and processing of application**

(1) An application shall be submitted pursuant to the requirements and conditions provided for in the regulation on the conditions for the provision of support. An applicant shall have the right to get explanations from the 2nd level intermediate body about the conditions and requirements provided for in the regulation on the conditions for the provision of support.

(2) An applicant is required to:

- 1) to certify that the information provided in the application is in compliance with the requirements and conditions provided for in the regulation on the provision of support;
- 2) at the request of the 2nd level intermediate body submit additional data within the term determined by the 2nd level intermediate body;
- 3) certify its capacity to carry out activities that are not supported in the project if so required in the regulation on the conditions for provision of support;
- 4) enable and provide every assistance for the on-the-spot verification of the data submitted in the application at the applicant, partner or on the site of the activities planned;

5) notify immediately of the changes in the data submitted in the application or of a circumstance revealed, which may have an impact on the making of the decision on the application.

(3) In the case of a failure to submit the application within the time limit, the term for the submission of the application shall not be restored and the application shall not be accepted by a decision for verification of the compliance with the requirements and conditions provided for in the regulation on the conditions for the provision of support.

(4) The verifier of the prerequisites for acceptance of the application, the verifier of the compliance with the requirements of the application, the appraiser of the application and the person making the decision to satisfy or refuse to satisfy the application shall be competent and fair with regard to the applicant and, if there are additional requirements provided for in the regulation on the conditions for the provision of support, shall also comply with these requirements. The processor of the application may not be a person who has been convicted of an offence related to office on the basis of the court judgment or on the basis of §§ 209, 210, 211, 212, 217<sup>2</sup> or 280 of the Penal Code and whose penalty data have not been deleted from the punishment register and entered into the archive.

(5) If the project is appraised and selected pursuant to the public selection criteria and procedure and the decision on the refusal to satisfy the application is based on the total grade or overall assessment, the reason for the total grade of the project or the appraisals and considerations of the appraisers shall not be further explained upon motivating the decision to satisfy or refuse to satisfy the application.

(6) The requirements and conditions for an applicant, a partner, an application, the processing of application, including appraisal of the capability to contribute to the self-financing and the selection of projects, shall be established by a regulation of the Government of the Republic.

(7) The 2nd level intermediate body shall have the rights specified in subsection 42 (1) and clause 42 (2) 1) of this Act for the on-the spot verification of the data submitted in the application at an applicant and a partner and on the site of the implementation of the planned activities.

## **§ 22. Grant decision and decision to amend thereof and revocation of grant decision**

(1) If the application and the application for amendment of the grant decision are in compliance with the regulation on the conditions for provision of support, the grant decision or the decision to amend the grant decision shall be made accordingly.

(2) If the application and the application for amendment of the grant decision are in non-compliance with the regulation on the conditions for provision of support, the decision to deny grant decision or the decision to refuse amendment of the grant decision shall be made accordingly.

(3) The grant decision shall be revoked partially or fully in the following cases:

- 1) circumstances become evident in which case the application would not have been satisfied or the application would have been satisfied in part;
- 2) false or incomplete information has been submitted upon the application or implementation of the project or information has been omitted deliberately;
- 3) upon the grant decision with secondary conditions the secondary conditions do not arrive or secondary conditions cannot be complied with;
- 4) the application of the beneficiary for amendment of the grant decision is not satisfied and it is impossible for the beneficiary to continue using the support under the conditions prescribed;
- 5) the beneficiary submits an application for waiver of the use of the support.

(4) The requirements and conditions in the regulation on the conditions for the provision of support applied to the making of or refusal to make the grant decision and to amendment of the grant decision shall be established by a regulation of the Government of the Republic.

(5) If the grant decision is void for the purposes of the Administrative Procedure Act or is revoked on the basis of subsection (2) of this section, the beneficiary shall pay back the support received under the conditions and in the procedure provided for in §§ 48 an 49 of this Act.

## **§ 23. Hearing of applicant and beneficiary**

(1) An applicant is given an opportunity to present the positions thereof before:

- 1) partial satisfaction of the application;
- 2) refusal to satisfy the application, except in the cases the decision is based on the data submitted in the application and the data and explanations submitted for elimination of faults.

(2) The beneficiary shall be given an opportunity to submit the positions thereof before:

- 1) the issue of precept;
- 2) the revocation or amendment of the decision to satisfy the application, except in the case where the application of the beneficiary is satisfied in full;
- 3) the making of a decision on financial correction.

## **Division 5**

### **Obligations of beneficiary and partner**

#### **§ 24. Obligations of beneficiary**

The beneficiary is required to:

- 1) ensure the implementation of the project under the prescribed conditions and achievement of the result planned;
- 2) ensure that self-financing is provided to the prescribed extent and in the required procedure;
- 3) certify the capability of implementation of activities related to the project that are not supported,;
- 4) ensure that there are persons with the necessary qualification and legal ability for implementation of the activities;
- 5) submit the correct and complete data, a proper document and the report on the implementation of the project by the deadline and in the required manner;
- 6) certify the eligibility of the expenditures and achievement of the planned result;
- 7) collect data specified in point (e) of Article 125 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council for a participant in the operation supported from the funds of the European Social Fund and submit the data to the 2nd level intermediate body;
- 8) inform the 2nd level intermediate body immediately in writing or in a format which can be reproduced in writing of the change of data submitted in the application or related to the project, a circumstance hindering implementation of the project, including bankruptcy proceedings, liquidation proceedings, appreciation or depreciation of the project and the transfer of assets related to the project to another person or authority;
- 9) apply for the amendment of the grant decision if the conditions can be changed and the 2nd level intermediate body is required to approve the amendment thereof by a decision;
- 10) enable and ensure that the partner and the final recipient allow the auditor and the verifier to stay in their premises and territory relating to the project, provide oral and written explanations and data about the implementation of the project, including the using of the support, inter alia, extracts from the accounting programme and bank account, and allow them to make copies and extracts from the documents;
- 11) distinguish between the eligible and ineligible expenditures relating to the project, using separate accounting system or accounting codes therefor, except in the cases specified in points (b) to (d) of Article 67 (1) and Article 68 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and Article 14 of Regulation (EU) No 1304/2013 of the European Parliament and of the Council on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 (OJ L 347, 20.12.2013, pp. 470-486);
- 12) deduct net revenue from the budget of eligible expenditures pursuant to Article 61 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 13) comply with the obligations and requirements under legislation regulating the provision of state aid and de minimis aid, where appropriate;
- 14) ensure the requirement of durability in the case and within the term specified in Article 71 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 15) repay the support to be refunded by the deadline;
- 16) comply with the obligations relating to notification pursuant to legislation issued on the basis of subsection 39 (10) of this Act;
- 17) retain the supporting documents proving the eligibility of expenditures and other evidence pursuant to subsections 35 (2) and (4) of this Act and ensure that the final recipient shall retain the documents relating to the receiving of the support as long as required;
- 18) comply with other obligations under this Act, legislation issued on the basis thereof and the contract specified in this Act.

#### **§ 25. Obligations of partner**

- (1) A partner is required to comply with the obligations of the beneficiary specified in clauses 24 4), 7), 10), 11), 13), 14) and 16)-18) and § 26 of this Act.
- (2) A partner that is not a contracting authority for the purposes of the Public Procurement Act is required to comply with the Public Procurement Act if the beneficiary is a contracting authority for the purposes of the Public Procurement Act, except in the case the partner has been selected and the cost of the activities carried out by the partner has been generated as a result of the public procurement carried out by the beneficiary.

#### **§ 26. Obligations relating to procurement**

- (1) A beneficiary is required to comply with the Public Procurement Act if it is a contracting authority for the purposes of the Public Procurement Act.
- (2) A beneficiary that is a contracting authority for the purposes of subsection 10 (3) of the Public Procurement Act and the estimated value without VAT of the public procurement is equal or exceeds the public procurement threshold specified in the Public Procurement Act is required to apply the procurement procedure provided for

in Chapter 5 of the Public Procurement Act upon performance of procurement in the sectors specified in §§ 83-89 of the same Act.

(3) A beneficiary that is a contracting authority for the purposes of subsection 10 (3) of the Public Procurement Act is required to apply the procedure provided for in Chapter 4 of the same Act upon performance of the calls for ideas in the sectors specified in §§ 83-89 of the Public Procurement Act if the estimated value of the call for ideas without VAT is equal to or exceeds the public procurement threshold specified in the Public Procurement Act.

(4) A beneficiary that is a contracting authority for the purposes of subsection 10 (3) of the Public Procurement Act or is required to comply with the Public Procurement Act on the basis of subsection 25 (2) of this Act is required to transfer the organisation of public procurement to a competence centre designated for that purpose on the basis of subsection 27 (2) of this Act if so provided for in the legislation on the conditions for the provision of support and the procurement contract is entered into in a sector placed into the competence of the competence centre and the estimated value without VAT of the procurement contract is equal to or exceeds the public procurement threshold specified in the Public Procurement Act.

(5) If a beneficiary is required to transfer the organisation of a public procurement to a competence centre pursuant to the legislation on the conditions for the provision of support, it shall enter into contract with the competence centre on the organisation of the procurement, guided by the framework contract or agreement specified in subsection 27 (2) of this Act.

(6) A beneficiary or a partner that is not required to comply with the Public Procurement Act and the estimated value of a service, goods or building works is equal to or in excess of 5,000 euros without VAT is required to comply with the principles provided for in § 3 of the Public Procurement Act.

## **Division 6 Competence centre**

### **§ 27. Competence centre**

(1) For the purposes of this Act a competence centre is a person or authority that organises a public procurement on behalf of a beneficiary and a partner and ensures that the procurement contract and the amendment thereof comply with the Public Procurement Act.

(2) The Government of the Republic may, on the proposal of the minister responsible for the field, designate a government authority, a state agency administered by the government authority, a state-owned company or a state foundation to be a competence centre and authorise the Ministry of Finance to enter into a framework contract or agreement with the competence centre.

(3) The framework contract and agreement specified in subsection (2) of this section shall provide for, inter alia, the obligations, rights and bases for the calculation of remuneration for the performance of functions and the liability of the competence centre.

## **Division 7 Payment of support**

### **§ 28. Submission and verification of application for payment**

(1) The support shall be paid out on the basis of the application for payment submitted by the beneficiary either before the certification of the eligibility of the expenditures (hereinafter advance payment) or after the certification of the expenditures.

(2) The support shall be paid out after verification of the compliance with the conditions and obligations being the basis for the payment, taking account of the decisions on financial correction specified in subsections 45 (1) and (4) of this Act.

(3) If a beneficiary orders services to be ordered in a simplified procedure for the purposes of § 19 of the Public Procurement Act or organises public procurement with the estimated value falling under the simple procurement threshold, the compliance of the public procurement with the principles specified in § 3 of the Public Procurement Act and the provisions of the Public Procurement Act applied to that public procurement shall be verified only if the estimated value of the public procurement without VAT is equal to 5,000 euros or higher.

### **§ 29. Conditions and procedure for payment of support**

(1) The support shall be paid out under the conditions specified in Article 67 (1) and Article 68 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and Article 14 of Regulation (EU) No 1304/2013 of the European Parliament and of the Council.

(2) The support for the financial instrument shall be paid out pursuant to conditions provided for in Articles 41 and 42 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and in the agreement on the implementation of the financial instrument or directive.

(3) In the case of a joint action plan the support shall be paid out pursuant to Article 109 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, inter alia other taking account of the opinion of the steering committee regarding the achievement of results planned in the joint action plan.

(4) If the provision of support concerns the provision of state aid or de minimis aid, the advance payment may be made to the beneficiary under the conditions specified in Article 131 (4) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and if so provided for in the legislation on the conditions for provision of support.

(5) If the beneficiary is not a beneficiary of state aid or de minimis aid or a state agency, the advance payment may be made in justified cases with the approval of the Ministry of Finance under the conditions provided for in the regulation established on the basis of subsection (8) of this section and if so provided for in the legislation on the conditions of the provision of support. The Ministry of Finance shall grant approval in the course of coordination under subsection 13 (3) of this Act. Upon failure to submit information concerning approval in the course of coordination, the approval is deemed to have been granted.

(6) In the cases specified in subsections (4) and (5) of this section a beneficiary is required to provide evidence on the use of support received for payment of eligible expenditures under the conditions and by the time limit specified in the regulation established on the basis of subsection (8) of this section.

(7) If the taking effect of the grant decision is subject to occurrence or performance of the secondary conditions, the support may be paid out after the occurrence or performance of the secondary condition.

(8) The more specific conditions and procedure for submission of the payment application and the processing thereof and for the payment of support shall be established by a regulation of the Government of the Republic.

### **§ 30. Suspension of processing of application for payment and scope of payment**

(1) The implementing authority may suspend partially or wholly the processing of the application for payment or the report on the use of advance payment if:

- 1) there is a deficiency in the application for payment or the report on the use of advance payment;
- 2) the obligation relating to the use of support is not complied with;
- 3) the eligibility of the expenditure is not unambiguously clear;
- 4) there is a reasonable doubt, based on the circumstances which have become evident, that the beneficiary is not capable of the implementation of the project by the due term or achievement of the planned result;
- 5) it is possible to offset the amount of the support applied for by the application for payment pursuant to subsection 48 (3) of this Act with the support not payable on the basis of subsections (5) and (6) of this section or with the support to be refunded specified in the draft decision of financial correction.

(2) If it appears upon the verification of the application for payment or of the report on the use of advance payment that the beneficiary has not complied with the obligation or claim relating to the expenditure specified in the application for payment or there is a deficiency in the application for payment which is possible to eliminate within the term designated by the 2nd level intermediate body, the 2nd level intermediate body may assign a new term for the compliance with the obligation and claim and for the elimination of the deficiency. If the deficiency is eliminated or the obligation or claim is complied with within the term set, it is deemed that the application for payment or the report on the use of advance payment is submitted without deficiencies and the obligation or claim is complied with.

(3) The amount of support applied for with the application for payment shall be reduced by the amount of support specified in the decision on financial correction.

(4) The managing authority may verify the eligibility of expenditures, including data, documents and other evidence being the basis for considering the expenditure eligible. The managing authority may require the 2nd level intermediate body to suspend partially or wholly the processing of the application for payment or the report on the use of advance payment in the following cases:

- 1) in the cases specified in subsection (1) of this section;
- 2) the certifying authority does not agree, on the basis of point (c) of Article 126 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, to include the expenditure considered eligible by the 2nd level intermediate body in the application for payment to be submitted to the European Commission, specified in point (a) of the same Article, or in the annual report, specified in point (b) of the same Article;
- 3) the European Commission suspends payments to Estonia.

(5) The managing authority shall prohibit the payment of support by the 2nd level intermediate body or considering eligible the expenditure, specified in the report on the use of advance payment if the expenditure is ineligible.

(6) The managing authority may prohibit payment of support or approval of the report on the use of advance payment in the following cases:

- 1) a beneficiary or partner does not comply with their obligations;
- 2) a beneficiary is not capable of the implementation of the project;
- 3) the performance of functions of the managing authority, 1st level intermediate body or 2nd level intermediate body is suspended or terminated;
- 4) as a result of the audit or verification of the managing authority, 1st level intermediate body or 2nd level intermediate body it appears that their work procedures are not in compliance with the requirements or they fail to comply with their functions as required;
- 5) in the case specified in clause (4) 2) of this section;
- 6) the European Commission refuses to make payments to Estonia .

(7) If the managing authority prohibits payment of support or approval of the report on the use of advance payment on the basis of subsections (5) and (6) of this section, the 2nd level intermediate body shall make a decision on financial correction.

## **Division 8**

### **Monitoring and appraisal of operational programme**

#### **§ 31. Monitoring of implementation of operational programme**

(1) The managing authority shall perform the functions relating to the monitoring of implementation of the operational programme specified in points (a) and (b) of Article 125(2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council. The managing authority may, on its own initiative and on the basis of the observations of the European Commission pursuant to Article 50 (7) of the specified Regulation, give recommendations to the 1st level intermediate body and 2nd level intermediate body for more efficient implementation of the operational programme and monitor the application of the recommendations for implementation of the operational programme.

(2) The managing authority shall draw up a report on the operational programme (hereinafter monitoring report) in cooperation with the 1st level intermediate bodies for the purposes of Articles 46 and 50 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and the final report of the operational programme for the purposes of Article 141 (1) of the same Regulation and shall submit them to the monitoring committee of the operational programme, the Government of the Republic and the European Committee.

(3) The 1st level intermediate bodies, 2nd level intermediate bodies and bodies implementing the financial instrument shall provide, at the request of the managing authority, the managing authority with the data necessary for drawing up the monitoring report, preparing other reviews on the implementation of the operational programme and the monitoring of the implementation of the recommendations.

#### **§ 32. Monitoring committee of operational programme**

(1) The head of the managing authority shall establish, by a directive, the monitoring committee of the operational programme specified in Article 47 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, appointing the representative of the managing authority as the chairman thereof. The managing authority shall ensure the administration of the monitoring committee, including preparation of materials and record-keeping of the meetings of the committee.

(2) The monitoring committee of the operational programme shall perform the functions specified in Article 47 (2) and Articles 49 and 110 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

#### **§ 33. Thematic committee**

(1) According to the proposal of the monitoring committee of the operational programme the head of the managing authority or the 1st level intermediate body shall establish a thematic committee for more effective management of the sector, including a measure or an activity under the measure falling under one or more priority axes.

(2) The members of the thematic committee include representatives of the managing authority, the 1st level intermediate body and partner organisations of the sector.

(3) The head of the managing authority or the 1st level intermediate body shall establish the work procedure of the thematic committee and ensure the administration of the committee, including preparation of materials and record-keeping of the meetings of the committee.

(4) The thematic committee shall perform the following functions:

- 1) give opinions of the amendments of the partnership agreement and operational programme;
- 2) monitor the achievement of the results of the measure;
- 3) give recommendations for more efficient implementation of the measure and monitor taking account thereof;
- 4) provide an opinion with regard to the objective of the provision of support, the applicants for support and target groups of final recipients, activities supported and the project selection criteria and methods specified in the conditions for the provision of support;
- 5) in the case of the financial instruments implementing agreement provide an opinion with regard to the circumstances specified in point (1) (a) and (c) of Annex IV to Regulation (EU) No 1303/2013 of the European Parliament and of the Council and, in the case of the directive on the implementation of the financial instrument with regard to the circumstances specified in point (2) (a) of the same Annex, taking account of the results of ex ante assessment under Article 37 (2) of the same regulation;
- 6) make proposals for the intention to evaluate within the framework of the sector thereof, specified in 34 (3) of this Act;
- 7) perform other functions specified in the work procedure.

### **§ 34. Evaluation**

(1) The managing authority shall organise or carry out evaluations covering an operational programme specified in Article 56 (3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, prepare a report summarizing the findings of evaluations specified in Article 114 (2) of the same regulation and submit it to the European Commission.

(2) The 1st level intermediate body shall organise or, where necessary, carry out evaluations of the activity under the measure in their field of responsibility, taking account of the recommendations of the monitoring committee of the operational programme and the proposals pursuant to clause 33 (4) 6) of this Act. The 1st level intermediate body shall submit the data about the conclusions and recommendations of the evaluation and implementation thereof to the sectoral committee and the managing authority.

(3) The managing authority shall draw up, in cooperation with the 1st level intermediate bodies, an evaluation plan specified in Article 56 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council for evaluations specified in subsections (1) and (2) of this section and shall submit it to the monitoring committee of the operational programme for approval.

(4) The managing authority shall submit to the monitoring committee of the operational programme the data about the conclusions of evaluation, recommendations and the implementation thereof.

(5) In the course of the ex post evaluation specified in Article 57 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council the 1st level intermediate body and 2nd level intermediate body are required to, where necessary, submit data to the managing authority for forwarding to the European Commission.

## **Division 9**

### **Retention of documents, processing of data and register of structural support**

#### **§ 35. Retention of documents**

(1) The organisers of the implementation of the operational programme and the auditor shall retain the data, created documents and other evidence received in the course of the performance of their functions pursuant to Article 140 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(2) Documents proving the eligibility of expenditures and other evidence shall be retained according to Article 140 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council for four years, starting from 31 December of the year when, as of 30 June, the support was paid out on the basis of all the expenditures deemed to be eligible in the project, unless a longer term is provided for in other legislation.

(3) The 2nd level intermediate body shall notify the beneficiary of the commencement and expiry of the term for retention of documents and other evidence pursuant to subsection (2) of this section.

(4) The term for retention of documents and other evidence arising from subsection (1) of this section shall interrupt in the case specified in Article 140 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(5) A beneficiary may transfer the documents and other evidence proving eligibility of expenditure to the 2nd level intermediate body for retention if so provided for in the legislation on the conditions for the provision of support.

### **§ 36. Processing of data relating to provision of support**

(1) The organisers of the implementation of the operational programme and the auditor may process and exchange data and documents concerning applicants and beneficiaries and other information and documents received in the course of proceedings for the performance of functions specified in this Act and the legislation established on the basis thereof.

(2) The organisers of the implementation of the operational programme and the officials, employees and persons involved in the performance of functions of the auditing authority shall not, during their service or employment relationship or following thereof, disclose state and business secrets, classified foreign information, data relating to the family and private life of other people, which has become known to them due to the performance of their functions, and other information designated for internal use.

### **§ 37. Register of structural support**

(1) The register of structural support (hereinafter register) is a database established in accordance with the Public Information Act. The register is used for the performance of functions specified in points (d) and (e) of Article 125 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and for making statistical reviews.

(2) Data and documents related to the application for the provision of support and the use thereof shall be submitted via the register if so provided for in the legislation on the conditions for the provision of support.

(3) The organisers of the implementation of the operational programme and the auditor shall enter the data and documents created or received upon the performance of functions into the register, except in the case specified in subsection (2) of this section.

(4) The statutes and procedure for use of the register shall be established by a regulation of the Government of the Republic.

(5) The data entered into the register about the provision and use of support shall have legal significance.

## **Division 10**

### **Communication strategy and access to data related to application for support and provision thereof**

### **§ 38. Communication strategy**

(1) The managing authority shall draw up the communication strategy of the operational programme pursuant to Article 116 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(2) The managing authority, 1st level intermediate body and 2nd level intermediate body shall perform the functions relating to the communication specified in points (c) and (d) of Article 115 (1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council pursuant to the communication strategy specified in subsection (1) of this section.

(3) The head of the managing authority shall appoint the implementer of the communication functions specified in Article 117 (3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council and notify the European Commission of the person appointed.

### **§ 39. Public disclosure of data relating to application for and provision of support**

(1) Before the entry into force of the grant decision or the decision to refuse to satisfy the application or approval of the investment plan the managing authority, 1st level intermediate body and 2nd level intermediate body may publish only statistical reviews of the applicants and applications unless otherwise arising from this section.

(2) By way of derogation from subsection (1) of this section the managing authority, 1st level intermediate body and 2nd level intermediate body may publicize, except where the data are classified as restricted information on the basis of another act, the following data:

- 1) data relating to the application of the holder of information specified in § 5 of the Public Information Act;
- 2) data relating to an application of a research and development institution in the procedure provided for in the legislation on the conditions for the provision of support and to the persons specified therein if support is applied for research and development activities, except for the data of the business plan of the project and technological solutions and other data, which is deemed to be business secret pursuant to subsection 63 (1) of the Competition Act and clause 35 (1) 17) of the Public Information Act;

3) for the purposes of Article 100 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council the name of the major project, applicant thereof and the amount of the support applied for before approval by the European Commission.

(3) The managing authority shall publicize the data specified in point (1) of Annex XII to Regulation (EU) No 1303/2013 of the European Parliament and of the Council after the entry into force of the grant decision or the directive on the conditions for the provision of support or the approval of the joint action plan by the European Commission.

(4) The data that need not be disclosed on the basis of subsection (3) of this section shall be published in the procedure provided for in the Public Information Act, taking account of the specifications provided for in this Act.

(5) The data concerning the application which was not satisfied, except for the data relating to the application of the holder of information specified in subsections 5 (1) and (2) of the Public Information Act, and statistical data shall not be publicized until 31 December 2028.

(6) The name of the person involved in the appraisal and the appraisal given to a project may be made public in a manner which ensures that the name and the appraisal cannot be associated with each other.

(7) The documents on the preparation of audit and verification shall not be disclosed before the carrying out thereof.

(8) The Ministry of Finance shall disclose on its web page the beneficiary, specified in the decision on the financial correction made on the basis of clauses 45 (1) 1)-6) of this Act, a short description of the circumstances being the basis for the decision, the amount of the reduced or cancelled support and the authority that has made the decision.

(9) An applicant and a beneficiary shall have the right to examine the data included in the document prepared with regard to them or the data integrally relating thereto on another data carrier.

(10) The Government of the Republic shall establish by a regulation the requirements and procedure for the public disclosure of the provision of support pursuant to Annex XII to Regulation (EU) No 1303/2013 of the European Parliament and of the Council, including the marking of the objects financed from the support and making the reference to the participation of the European Union.

## **Division 11**

### **Verification of project and performance of functions of 1st level intermediate body and 2nd level intermediate body**

#### **§ 40. Contents of verification**

(1) Upon verification of the eligibility of expenditures the compliance of expenditures with the conditions for eligibility is assessed, including the compliance with the requirements specified in the legislation on the conditions for the provision of support, the financial instruments implementing agreement, the grant decision and the joint action plan, and the compliance with the obligation and requirements relating to the provision of support and the use thereof, specified in the national or European Union legislation.

(2) Upon verification of the performance of functions of the 1st level intermediate body and 2nd level intermediate body the compliance with the function or requirement relating to the provision and use of support, arising from the national or European Union legislation, shall be assessed.

#### **§ 41. Verifiers and verified**

(1) A managing authority and certifying authority shall verify the circumstances specified in § 40 of this Act on the spot at the 1st level intermediate body and 2nd level intermediate body, and where necessary, at the location of the beneficiary. The managing authority and certifying authority may involve the 1st level intermediate body in the verification of the 2nd level intermediate body.

(2) The 2nd level intermediate body shall verify the circumstances specified in subsection 40 (1) of this Act at the location of the beneficiary, except in the case specified in subsection 6 (3) of this Act.

(3) The verification is carried out by an official or employee authorised therefor (hereinafter verifier).

(4) In the case of the verification, specified in subsection 40 (1) of this Act, a verifier is required to submit a document certifying the authorisation at the request of those subject to verification.

## **§ 42. Rights of verifier**

- (1) In order to verify the circumstances specified in § 40 of this Act the verifier shall have the right:
- 1) to get access to data relating to performance of functions and obligations and data relating to the provision and use of support, management decisions, accounting and assets, including the data relating to obtaining and payment of money, regardless of the data carrier.
  - 2) to receive copies, transcripts and extracts of the documents or other evidence, including extracts from the accounting programme and bank account;
  - 3) to receive data and documents from the final recipient or person related to the project in the case the documents or other evidence are not available at the location of the person to be verified or there is a doubt that the submitted data is not in compliance with the reality;
  - 4) to request oral and written explanations from the representative of the person to be verified.

(2) Upon verification of the project the verifier shall have, in addition to the rights specified in subsection (1) of this section, the right:

- 1) for the stay in the premises and territory relating to the project available for use by the beneficiary and the partner and at the location of the final recipient or a person related to the project if the documents or other evidence are not available at the location of those to be verified or there is a doubt that the data submitted for verification are not in compliance with the reality, including, examine the object created by means of the support, make inventories of the goods, materials and other property and take photos or record in any other manner the territory observed, buildings and objects;
- 2) verify the compliance with the requirements relating to the provision of support to the final recipient;
- 3) issue a precept in the case of noncompliance with the obligation or requirement or the compliance with deficiencies and appoint a new term for the compliance with them or impose additional activities;
- 4) upon failure to comply with the precept apply a coercive measure in the procedure provided for in the Substitutive Enforcement and Penalty Payment Act and at the rate provided for in § 44 of this Act.

(3) Upon verification of the 1st level intermediate body and 2nd level intermediate body the managing authority shall have the right, in addition to the provisions specified in subsection (1) and clause (2) 1) of this section, to give recommendations for the compliance with the function or requirement or impose follow-up activities, where necessary, providing the term for the compliance.

## **§ 43. On-the-spot verification**

(1) Those being verified shall be notified of the on-the-spot verification in advance, except in the case the advance notification is incompatible with the objective of the control.

(2) The conduct of the on-the-spot verification shall be recorded and if the deficiencies occur, they shall be described in the record. The verifier may set the term in the record for the elimination of the deficiencies.

(3) An expert may be involved in the verification.

## **§ 44. Penalty payment rate**

Upon failure to comply with the obligation a penalty payment of up to 2,000 euros may be imposed for a single case. To enforce one and the same obligation the penalty payment of up to 6,400 euros may be imposed.

# **Division 12**

## **Financial correction**

## **§ 45. Bases of financial correction**

(1) The decision on a financial correction to reduce or cancel support shall be made on the basis of and in accordance with Article 143 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council in the following cases:

- 1) the cost is ineligible, including, where a circumstance being the basis for suspension of the processing of the application for support specified in clauses 30 (1) 1) 2) and 4) of this Act has not become clear or eliminated, or the obligation performed within the term;
- 2) support has been paid for reimbursement of ineligible cost;
- 3) the beneficiary has failed to comply, partially or wholly, with the obligation or requirement and this has had an impact on the eligibility of the cost;
- 4) liquidation procedures have been initiated with regard to the beneficiary and the obligation specified in clause 24 1) or 14) has not been complied with within the prescribed term;
- 5) the administrator or court has submitted data pursuant to subsection 28 (1) of the Bankruptcy Act to the prosecutor or police for making a decision to start criminal procedure and the obligation specified in clause 24 1) or 14) of this Act is not complied with within the prescribed term;
- 6) the beneficiary has been punished on the basis of § 260<sup>C</sup>3F of the Penal Code;
- 7) the beneficiary earns net revenue which is subject to deduction from the eligible costs for the purposes of Article 61 and Article 65 (8) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(2) In the case specified in clause (1) 6) of this section the support which has been assigned within 12 months before illegal employment has been detected or which is planned to be paid in the course of five years as of the detection of illegal employment shall be cancelled.

(3) The decision on financial correction shall not be made:

- 1) if it is possible to eliminate the deficiency or comply with the obligation or requirement by complying with the precept;
- 2) if the beneficiary has detected that ineligible costs have been reimbursed and notified the 2nd level intermediate body thereof in writing or through the register at the first opportunity and has returned the support with the approval of the 2nd level intermediate body within ten working days as of the receipt of the approval of the 2nd level intermediate body, forwarded in writing or through the register;
- 3) in the cases specified in Article 71 (3) and (4) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(4) If the circumstance being the basis for the financial correction decision has been detected by a managing authority in the course of the verification provided for in subsection 6 (3) of this Act, the financial correction decision shall be made by the managing authority. The managing authority shall submit the decision to the 1st level intermediate body and 2nd level intermediate body for information.

(5) The financial correction decision may be made within one year as of the termination of the performance of the last obligation of the beneficiary unless otherwise provided for by the legislation regulating the provision of state aid. Upon violation of the obligation arising from Article 71 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council the financial correction may be made within ten years as of the final payment to the beneficiary.

(6) If a circumstance specified in clause (1) 5) of this section becomes evident, the financial correction decision shall be made with the secondary condition according to which the financial correction decision shall enter into force upon the entry into force of the judgment of conviction.

#### **§ 46. Extent of financial correction**

(1) If, upon the making of the financial correction decision, it is impossible to establish the amount of the financial impact due to the nature of a failure to comply with the obligation or requirement but there is a reasoned doubt that the failure to comply with the obligation or requirement has brought about the financial impact, the support shall be reduced to the extent provided for in the legislation established on the basis of subsection (2) of this section.

(2) The Government of the Republic shall establish by a regulation the extent of the financial correction in percentages.

(3) Upon making the financial correction decision the support and self-financing shall be reduced correspondingly in accordance with the percentage valid during the making of the decision in the grant decision, the directive on the conditions for the provision of support, in the directive on the implementation of the financial instrument or the financial instruments implementing agreement. If the support has been paid out to cover the costs forming a basis for the reduction, the amount of the support subject to return and the amount of self-financing shall be set out in the decision.

#### **§ 47. Formalisation of financial correction decision**

(1) The Government of the Republic shall establish by a regulation the requirements for the formalisation of the financial correction decision.

(2) If the financial correction decision has been made by the managing authority or the 2nd level intermediate body, the 1st level intermediate body shall reduce the budget of eligible costs approved by the directive on the conditions for the provision of support, the directive on the implementation of financial instrument or the financial instruments implementing agreement pursuant to the financial correction decision.

(3) If the financial correction decision cancels the whole support specified in the grant decision, the grant decision shall be revoked. The decision sets out the amount of support to be refunded.

#### **§ 48. Repayment of support and interest**

(1) A beneficiary is required to repay the support to be refunded specified in the financial correction decision within 60 calendar days as of the date of entry into force of the decision.

(2) In the case of the unlawful state aid the support shall be recovered together with the interest as of the payment of the support pursuant to Article 9 of Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the

EC Treaty (OJ L 140, 30.04.2004, pp.1-134; special issue in Estonian: Chapter 8, Volume 4, pp.3-136), the interest rate announced to the member states on the basis of Article 10 of the same regulation and the method of application of interest specified in Article 11.

(3) The support to be refunded may be set off with the support payable within the framework of the same project.

(4) The repayment of the support to be refunded may be postponed on the basis of the reasoned application of the beneficiary if the one-time payment shall put the beneficiary to substantial payment difficulties. Upon postponement interest is applied, except in the cases specified in subsection 49 (2) of this Act, as from the day following the time limit specified in subsection (1) of this section. The interest rate on the remainder of the amount of support to be refunded shall be six months Euribor interest rate plus an annual rate of three per cent. The six months Euribor shall be taken as of the banking day preceding the making of the decision on postponement. The basis for interest calculation shall be a period of 360 days.

(5) Repayment of the unlawful state aid shall be guided by this section unless otherwise provided for in the EU law.

(6) If a beneficiary fails to repay the support pursuant to the schedule for postponement, the decision on postponement may be revoked. In the case of the revocation of the decision on postponement, the beneficiary is required to repay the support within 30 days as of the entry into force of the decision on revocation of the decision on postponement. The beneficiary is required to pay interest specified in subsection (4) of this section as of the entering into force of the decision on postponement of support until the repayment of support, but for no longer than the due term of repayment specified in this subsection.

(7) The Government of the Republic shall establish by a regulation the conditions and procedure for the postponement of the repayment of support.

(8) If the support to be refunded is not repaid within the term for repayment and it is impossible to apply the provisions of subsection (3) of this section, the institution that has made the financial correction decision shall place the financial correction for compulsory execution in the procedure provided for in the Code of Enforcement Procedure.

#### **§ 49. Fine for delay**

(1) If the support is not repaid by the due term for repayment of support, the beneficiary shall pay a fine for delay in the amount of 0.1 per cent for each calendar day by which repayment of support is delayed.

(2) The state authority, 2nd level intermediate body and a person specified in clause 16 (1) 1) of this Act is not required to pay a fine for delay, except where the European Commission demands payment of the fine for delay from the state. In such case the state claims a fine for delay to the extent of the amount of fine paid by the state to the European Commission.

(3) The payment of the support to be refunded shall be considered to have been made in the following order: the fine for delay shall be the first, then the interest and the last shall be the recoverable support.

#### **§ 50. Notification of failure to comply with obligation or claim**

(1) The 2nd level intermediate body shall notify the Ministry of Finance within ten working days of the following circumstances which have become evident:

- 1) there is a basis for making a financial correction decision specified in clauses 45 (1) 1)-6) of this Act;
- 2) an investigating body or the Prosecutor's Office has initiated criminal proceedings for the purposes of Article 1 of the Convention for the Protection of the financial interests of the European Communities due to the suspicion of criminal offence related to fraudulent conduct or fraud;
- 3) information specified in clauses 1) and 2) of this section is being supplemented or amended.

(2) The Ministry of Finance shall notify the European Anti-Fraud Office of the circumstances specified in subsection (1) of this section pursuant to the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF) (OJ L 136, 31.05.1999, pp. 1-7, special edition in Estonia: Chapter 1, Volume 3, pp.91-97) and other legislation of the European Union.

## **Division 13 Challenge proceedings**

#### **§ 51. Challenge proceedings**

(1) A challenge proceeding is required to be completed before filing an action with the administrative court upon challenging a decision or act of the managing authority, 1st level intermediate body or 2nd level intermediate body.

(2) If the challenge is filed against a decision or act of the managing authority, the challenge shall be adjudicated by the Ministry of Finance. If the challenge is filed against a decision or act of the 1st level intermediate body, the challenge shall be adjudicated by the 1st level intermediate body. If the challenge is filed against a decision or act of the 2nd level intermediate body, the challenge shall be adjudicated by the 1st level intermediate body, except where the 1st level intermediate body has imposed the adjudication of the challenge on the 2nd level intermediate body in the legislation on the conditions for the provision of support. If the challenge against a decision or act of the 2nd level intermediate body is adjudicated by the 1st level intermediate body, the challenge shall be filed with the 1st level intermediate body through the 2nd level intermediate body. Upon the provision of support pursuant to Article 7 (4) and (5) of Regulation (EU) No 1301/2013 of the European Parliament and of the Council the challenge shall be adjudicated by the 1st level intermediate body. The 2nd level intermediate body may be the adjudicator of the challenge if it is an authority of executive power or a state foundation for the purposes of clause 3 (8) of the State Assets Act.

(3) A challenge shall be adjudicated within 30 calendar days as of the filing of the challenge with the authority adjudicating the challenge specified in subsection (2) of this section. The term for adjudicating the challenge may be extended pursuant to subsection 84 (2) of the Administrative Procedure Act.

## **Chapter 4**

### **IMPLEMENTATION OF ETC PROGRAMME**

#### **§ 52. Drawing up and approval of programme and allocation of financial resources**

(1) The Ministry of finance shall represent Estonia in the negotiations over the drawing up of the ETC programme with the authority concerned of the state participating in the ETC programme and the European Commission and shall enter into agreements related to the implementation of the ETC programme on behalf of Estonia.

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(2) The Government of the Republic shall approve the data specified in Article 8 (9) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council on the proposal of the minister responsible for the field.

(3) If, pursuant to the ETC programme, the managing authority is located in Estonia, the Ministry of Finance shall submit the ETC programme to the European Commission after the receipt of the approvals specified in Article 8 (9) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council.

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(4) The allocation of resources pursuant to Article 4 (3) and (4) and Article (5) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council between components specified in points (a) and (b) of Article 4 (1) shall be decided by the minister responsible for the field, who shall submit the information to the European Commission to this effect.

(5) Allocation of support specified in Article 4 (8) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council to the cross-border cooperation programmes specified in point (a) of subsection (1) of the same Article shall be decided by the minister responsible for the field.

#### **§ 53. Compliance with functions of managing authority, certifying authority, secretariat, auditing authority and member state**

(1) The Ministry of the Interior shall perform the functions of a managing authority, certifying authority and auditing authority for the purposes of Article 21 (1) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council, which is provided for in the same regulation, this Act and the legislation issued on the basis thereof, and the functions of a member state related to the implementation of the ETC programme, which is provided for in the specified regulation and Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(2) The managing authority may start to perform the functions of the managing authority and certifying authority provided for in Articles 23 and 24 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council if the auditing authority has qualified their work procedures as being in compliance with the requirements provided for in Article 124 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

(3) The minister responsible for the field shall appoint a person or agency responsible for the performance of the functions of a joint secretariat (hereinafter secretariat) specified in Article 23 (2) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council, which may be a state authority or a state agency governed by the state authority, or authorise a legal person governed by private law to perform the functions.

(4) Subsections (1)-(3) of this section shall be applied if, pursuant to ETC programme, Estonia performs the functions of a managing authority, certifying authority, secretariat or auditing authority specified in Regulation (EU) No 1303/2013 of the European Parliament and of the Council and Regulation (EU) No 1299/2013 of the European Parliament and of the Council.

(5) The minister responsible for the field may impose the function of a verifier specified in Article 23 (4) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council on a state authority or a state agency in the area of government of the state authority or authorise a legal person governed by private law to perform the function.

(6) If the function specified in subsection (3) or (5) of this section is imposed on a legal person governed by private law, the minister responsible for the field shall enter into an administrative contract for the performance of the function.

(7) The monitoring committee specified in Article 47 of Regulation (EU) No 1303/2013 of the European Parliament and the steering committee of the joint action plan specified in Article 108 and the Estonian members of the steering committee specified in Article 12 (1) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council shall be appointed by the minister responsible for the field.

(8) The Estonian members of the auditing group, specified in Article 25 (2) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council shall be appointed by the minister responsible for the field.

(9) The performance of the functions of a managing authority, certifying authority, auditing authority, secretariat and a verifier shall terminate with the termination of the obligations arising from Regulation (EU) No 1303/2013 or (EU) No 1299/2013 of the European Parliament and of the Council or other legislation.

#### **§ 54. Eligibility of costs, verification thereof and conduct of financial correction**

(1) The minister responsible for the field shall establish by a regulation the conditions and procedure for determination of the eligibility of costs for the purposes of Article 18 (3) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council, taking account of the provisions of the ETC programme, decision of the monitoring committee of the ETC programme pursuant to Article 18 (2) of Regulation (EU) No 1299/2013 of the European Parliament and of the Council, Regulations (EU) No 1303/2013 and No 1299/2013 of the European Parliament and of the Council and other legislation.

(2) Upon verification of the eligibility of the costs an assessment shall be carried out of the connectedness of the costs with the activities supported, of the eligibility of the volume and type of costs and of the performance of obligations and requirements, taking account of the provisions of subsection 28 (2) of this Act, on the basis of the conditions specified in the legislation specified in subsection (1) of this section and in the decision of the monitoring committee and in the contract on the provision of support entered into with the beneficiary (hereinafter contract for support).

(3) The eligibility of the costs of the performers of the functions specified in § 53 of this Act to be reimbursed from the technical assistance specified in Article 17 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council shall be verified pursuant to the legislation specified in subsection (1) of this section and the decision of the monitoring committee of the ETC programme.

(4) Where a managing authority verifies the compliance with the State Procurement Act pursuant to subsection 6 (3) of this Act, the Ministry of Finance shall verify the compliance with the State Procurement Act to the extent specified in the directive of the minister responsible for the field and, in the case of negligence of the State Procurement Act, shall make a financial correction decision on the basis of the procedure specified in subsection (6) or (7) of this section.

(5) Subsections 41 (3) and (4) and 42 (1) and clauses (2) 1-3) of this Act shall be applied to verification.

(6) The making of the financial correction decision shall be based on the procedure for making a financial correction decision established in the ETC programme or in the procedure for making a financial correction decision, established on the basis of subsection (7) of this section, while pursuant to the ETC programme the making of the financial correction decision is based on the procedure established nationally in the states participating in the programme.

(7) If the procedure for financial correction established nationally in the states participating in the programme shall be taken as a basis for making the financial correction decision pursuant to the ETC programme, the bases, conditions and procedure for the making of the financial correction decision shall be established by a regulation of the minister responsible for the field.

#### **§ 55. Application for support, processing of application and obligations of applicant**

(1) At the request of the Ministry of Finance an applicant and a partner are required to certify that they are in compliance with the conditions provided for in the ETC programme or the decisions of the monitoring committee of the ETC committee and submit additional data and documents for verification of the data submitted in the application.

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(2) At the request of the Ministry of Finance the ministry of the respective field and an agency in the area of government thereof and the Government Office are required to submit their opinions of the application and of the partner if this is necessary for the processing of the application.

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#### **§ 56. Obligations of beneficiary and partner of ETC programme**

The beneficiary and partner are required to:

- 1) ensure implementation of the project under the prescribed conditions and achievement of the planned results;
- 2) ensure provision of self-financing to the prescribed extent and in the required procedure;
- 3) certify, at the request of the managing authority, certifying authority, secretariat, inspector or auditing authority, the capability to implement the project-related activities not supported;
- 4) ensure the existence of the persons with necessary qualifications and legal prerequisites;
- 5) provide accurate and complete information, documents and reports on the implementation of the project in such a manner and by the term as requested;
- 6) prove the eligibility of the costs and achievement of the planned results;
- 7) notify immediately the managing authority or secretariat in writing or in a format enabling reproduction in writing of the amendment of the data submitted in the application or related to the project, particularly of the circumstances that hinder implementation of the project, liquidation proceedings, judicial proceedings related to the project, procurement challenges, depreciation or appreciation of the project, receipts related to the project that are not directly connected to the covering of the added costs, and of the transfer of assets related to the project;
- 8) apply for amendment of the contract for support if the amendment is to be approved by the managing authority, secretariat, monitoring committee or steering committee;
- 9) enable an auditor or supervisor to perform their functions, including enable staying in the premises and territory related to the project, give written and oral explanations and data about the implementation of the project, including the using of the support, inter alia, provide extracts from the accounting programme and bank account, and enable them to make copies or extracts from the data and documents;
- 10) distinguish eligible and ineligible costs related to the project in accounting, using separate accounts systems or accounting codes, except in the case where the generation of the costs is not supervised;
- 11) notify the managing authority or secretariat immediately in writing of the earning of net revenue and deduct net revenue from the budget of eligible costs pursuant to Article 61 or Article 65 (8) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 12) comply with the obligations and requirements arising from the legislation regulating the provision of state aid and de minimis aid if they are beneficiaries of the respective aid;
- 13) ensure that the obligation specified in Article 71 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, related to the duration of the activities supported, shall be performed in the case and within the period of time specified in the article;
- 14) return the support recovered pursuant to the claim based on the contract for support on the due term;
- 15) comply with the notification obligations specified in Annex XII to Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 16) retain documents and other evidence within the term specified in Article 140 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;
- 17) perform other obligations arising from the contract for support, this Chapter and other legislation.

#### **§ 57. Obligations related to procurement**

Upon organising procurements the provisions of §§ 26 and 27 of this Act shall be applied.

#### **§ 58. Rights of applicant and beneficiary**

An applicant and a beneficiary shall have the right to examine the data included in the documents prepared with regard to them and, in the case of violation of rights, file a complaint in accordance with the procedure agreed upon in the ETC programme.

#### **§ 59. Processing of data related to provision of support**

(1) The agencies and persons specified in subsections 53 (1), (3), (5) and (7) of this Act may process and exchange data and documents concerning applicants and beneficiaries and other data received in the course of proceedings in order to perform functions specified in the legislation of the European Union and other legislation.

(2) The officials, employees and persons involved in the performance of functions of the agencies and legal persons specified in subsection (1) of this section are required to maintain confidentiality during their service

or employment relationship of the data that has become known to them within the frames of the performance of their functions and thereafter, which are not subject to disclosure on the basis of this Act or other act.

(3) The minister responsible for the field may use the current database or establish a new database for the performance of the functions of the managing authority specified in Article 23 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council, establishing the statutes and procedure for use of the database by a regulation upon foundation.

#### **§ 60. Disclosure of data related to application for support and provision thereof**

(1) Only statistical reviews may be disclosed with regard to the applications before the entering into the contract for the provision of support unless otherwise provided for in the ETC programme or decisions of the monitoring committee of the ETC programme.

(2) The managing authority shall disclose the data specified in point (1) of Annex XII to Regulation (EU) No 1303/2013 of the European Parliament and of the Council only after the entering into the contract for the provision of support and approval of the joint action plan by the European Commission.

(3) If the agencies specified in subsections 53 (1) and (3) of this Act are located in Estonia, the data not specified in subsection (2) of this section shall be disclosed in the procedure provided for in the Public Information Act, taking account of the specifications of this Act.

(4) Upon the disclosure of the data of the application that has been rejected, subsection 39 (5) of this Act shall be applied.

(5) The documents concerning preparation for the audit and supervision shall not be disclosed pursuant to subsection 39 (7) of this Act.

(6) Data related to financial correction shall be disclosed pursuant to subsection 39 (8) of this Act.

#### **§ 61. Failure to comply with obligation or claim and notification thereof**

In the case of noncompliance with the obligation or requirement the Ministry of Finance shall be notified of the cases specified in subsection 50 (1) of this Act as of becoming aware of them if these are related to the beneficiary or partner registered in Estonia and the amount of support relating to the violation exceeds 10,000 euros.

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## **Chapter 5 IMPLEMENTATION OF OPERATIONAL PLAN OF AID FUND**

#### **§ 62. Specifications of drawing up and implementation of operational plan**

(1) The Ministry of Social Affairs shall draw up the operational plan for the fund for aid in cooperation with the Ministry of Finance.

(2) The Government of the Republic shall approve the operational plan of the fund for aid on the proposal of the Ministry of Finance. The Ministry of Finance shall submit the operational plan of the fund for aid, approved by the Government of the Republic, to the European Commission.

(3) The 1st level intermediate body of the operational plan of the fund for aid shall carry out evaluations and investigations specified in Regulation (EU) No 223/2014 of the European Parliament and of the Council and submit the data concerning the results of evaluations to the Ministry of Finance.

## **Chapter 6 PREPARATION OF ENI PROGRAMME**

#### **§ 63. Drawing up and approval of programme**

(1) The Ministry of Finance shall represent Estonia in the negotiations over the drawing up of the ENI programme with the agency concerned of the state participating in the ENI programme and the European Commission and shall enter into agreements related to the implementation of the ENI programme on behalf of Estonia.

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(2) The Government of the Republic shall approve the data specified in Article 10 (4) of Regulation (EU) No 232/2014 of the European Parliament and of the Council on the proposal of the minister responsible for the field.

## **Chapter 7**

### **IMPLEMENTING PROVISIONS**

#### **§ 64. Divestment of claims for payment of compensation and acceptance of compulsory enforcement**

The claim for payment of support provided on the basis of the operational programmes and programmes specified in § 1 of this Act cannot be divested by the beneficiary and the paid support shall not be subject to compulsory execution in the banking account of the beneficiary.

**§ 65.–§ 67.**[Omitted from this text.]