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Regulation on applied research of undertaking

Adopted on 21 March 2022 No 23

The Regulation is established on the basis of § 161 subsection 3 and § 1821 subsection 5 of the Atmospheric Air Protection Act and subsection 53¹ (1) of the [State Budget Act](#).

Chapter 1 General provisions

§ 1 Scope of application

(1) The regulation stipulates:

- 1) the conditions and procedure for undertaking for applied research of an enterprise and the product development following applied research;
- 2) the conditions and procedure for supporting the research and development (hereinafter *R&D*) infrastructure of an undertaking providing R&D services;
- 3) the conditions and procedure for supporting the R&D of a project of pan-European interest.

(2) The regulation does not apply:

- 1) to an undertaking which is subject to an outstanding recovery order following a previous European Commission decision declaring an aid illegal and incompatible with the internal market;
- 2) recipients of de minimis aid in the cases set forth in article 1(1) of European Commission Regulation (EU) No 2023/2831 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (ELT L, 2023/2831, 15.12.2023) (hereinafter referred to as *De Minimis Aid Regulation*);
- 3) recipients of aid in the cases set forth in article 1(2)–(5) of the European Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (ELT L 187, 26.06.2014, pages 1-78) (hereinafter referred to as the *General Block Exemption Regulation*);
- 4) in the cases set forth in point 10 of the European Commission Communication “Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest” (OJ C 528, 30.12.2021, pp 10-18) (hereinafter referred to as the *IPCEI Communication*);
- 5) to an undertaking in difficulty within the meaning of this Regulation.

§ 2 Application of State aid rules

(1) The aid to be granted for the activities referred to in Section 8(1) will constitute State aid within the meaning of subsection 30 (1) of the Competition Act or de minimis aid within the meaning of subsection 33 (1) of the Competition Act.

(2) The aid is granted in accordance with the following legal acts concerning State aid or de minimis aid:

- 1) the aid granted for the activities set out in clauses 8 (1) 1)–3) constitutes aid to R&D projects within the meaning of Article 25 of the General Block Exemption Regulation and is subject to the provisions of said Regulation and § 34² of the Competition Act;
- 2) the aid granted for the activities specified in point clause 8 (1) 4) is innovation aid within the meaning of Article 28 of the General Block Exemption Regulation and it is subject to the provisions of said Regulation and § 34² of the Competition Act or de minimis aid within the meaning of the De Minimis Aid Regulation and it is subject to the provisions of the De Minimis Aid Regulation and § 33 of the Competition Act;
- 3) the aid granted for the activity set out in clause 8 (1) 5) constitutes aid for investment in research infrastructure within the meaning of Article 26 of the General Block Exemption Regulation and is subject to the provisions of that Regulation and to the provisions of § 34² of the Competition Act;
- 4) the aid granted for the activities set out in clause 8 (1) 6) constitutes State aid within the meaning of the IPCEI Communication or aid granted to R&D projects within the meaning of Article 25 of the General Block Exemption Regulation and is subject to the provisions of said Regulation and § 34² of the Competition Act.

§ 3 Purpose of aid and expected outcome

- (1) The purpose of granting the aid is to increase the volume of R&D related to the new business opportunities of entrepreneurs and thereby increasing the sales revenue from new or significantly changed technology, products or services.
- (2) The purpose of aid to IPCEI projects is to increase the volume of R&D related to the development of new products, services or technologies of undertakings that are of strategic pan-European importance, and thereby increase the international competitiveness of undertakings.
- (3) As a result of the grant of aid:
 - 1) the share of private sector R&D funded by the private sector, which is calculated as a percentage of gross domestic product, will increase;
 - 2) the number of undertakings involved in R&D will increase;
 - 3) the number of R&D employees of undertakings will increase;
 - 4) an internationally competitive technology, process, product or service that is new or significantly altered will be developed;
 - 5) knowledge transfer between undertakings and research and development institutions (hereinafter *R&D Institutions*) will progress;
 - 6) the intangible fixed assets of undertakings and their value will increase through intellectual property;
 - 7) the revenue of Estonian research and development institutions from the sale of applied research and experimental development services will increase;
 - 8) Estonian undertakings will participate in value chains linked to IPCEI projects.

§ 4 Definitions

Within the meaning of the current regulation:

- 1) pre-consultation is an activity that takes place prior to applying for aid, during which the Estonian Business and Innovation Agency explains the basis on which aid is granted, brings attention to potential technical and substantive shortcomings and makes suggestions for their removal;
- 1¹) a start-up is any unlisted small enterprise up to five years following its registration, that has not taken over the activity of another enterprise, has not yet distributed profits and has not been formed through a merger;
- 2) an IPCEI project is a project for which a decision of the European Commission is required to authorise State aid under the IPCEI Communication and for which a pre-notification of IPCEI State aid has been submitted to the European Commission for the grant of State aid under the General Block Exemption Regulation;
- 2¹) a scale-up is an enterprise whose average annual return within the three financial years prior to the submission of the application has been at least 20 per cent and who had at least ten employees at the beginning of the three-year period;
- 3) deleted;
- 4) medium-sized enterprise means an enterprise that meets the criteria set out in Annex I to the General Block Exemption Regulation;
- 5) a partner is a juridical person named in the application, who implements project activities for which the aid is granted and makes a profit while doing so;
- 6) a project is an activity or a set of related activities with a defined outcome, budget and timeframe for which aid is requested or used to reimburse the costs incurred;
- 7) a project plan is an action plan that includes the activities carried out during the project and their expected outcomes, novelty and innovation, a market analysis, a marketing and action plan, description of the intellectual property strategy and the planning of its protection, a project budget and its predication, a description of the project team and a prognosis of the undertaking's economic indicators;
- 8) applied research within the meaning of Article 2(85) of the General Block Exemption Regulation is a first study for gaining new knowledge, which has a determined practical application and a business customer that will use the new knowledge gained for business purposes;
- 8¹) an undertaking in difficulty is an undertaking that meets the criteria specified in Article 2(18) of the General Block Exemption Regulation or in point 10(a) of the IPCEI Communication, except such start-up or scale-up in the event of which share premium is not included in the share capital;
- 9) large enterprise is an enterprise that does not meet the criteria set forth in Article 2 of Annex I to the General Block Exemption Regulation;
- 10) an R&D Institution is, according to Article 2(83) the General Block Exemption Regulation, a university or research institute, a technology transfer agency, an innovation intermediary or a physical or virtual collaborative entity that has the goal of independently carrying out baseline studies, applied research or product development or spreading the outcomes of such activities through teaching, publishing or knowledge transfer, regardless of its legal status or source of funding, either public or private;
- 11) RDIE focus areas are the focus areas of the Estonian R&D, Innovation and Entrepreneurship Development Plan 2021–2035, which are digital solutions in all areas of life, health technologies and services, valorisation of local resources, smart and sustainable energy solutions;
- 12) According to Article 2(2) of the General Block Exemption Regulation, R&D infrastructure is the research equipment, research instruments, knowledge-based resources, scientific information and ICT-based infrastructures, information processing, software and communication tools used by organisations providing R&D services to carry out R&D;
- 13) R&D is a systematic activity based on an individual's freedom of expression which has the goal of obtaining new knowledge about humans, nature, society and their mutual influence through scientific research and applying that knowledge;
- 14) according to Article 2(87) of the General Block Exemption Regulation, a feasibility study is the assessment

and analysis of a project's potential, which has the goal of supporting the decision-making process, identifying the strengths and weaknesses of the project, its opportunities and dangers and ascertaining the tools necessary to carry out the project and its prospects for success;

15) according to Article 2(86) of the General Block Exemption, product development is the development of new or advanced products, processes or services as stated in the General Block Exemption Regulation;

16) market conditions are market conditions within the meaning of Article 2(39a) of the General Block Exemption Regulation;

17) according to Article 2(90) of the General Block Exemption, effective cooperation means cooperation between at least two independent parties to exchange knowledge or technology, or to achieve a common objective based on the division of labour where the parties jointly define the scope of the collaborative project, contribute to its implementation and share its risks, as well as its results;

18) small enterprise means an enterprise that meets the criteria set out in Annex I to the General Block Exemption Regulation.

§ 5 Implementation of aid

The aid applications will be processed, the payouts will be made and the supervision will be exercised by the Estonian Business and Innovation Agency.

§ 6 Communication of information

The communication of information and documents related to applying for aid and its use between the applicant or the beneficiary and the Estonian Business and Innovation Agency takes place via the e-aid environment of the register of structural support.

§ 7 State aid terms for collaborative projects, the contract and principles of sharing the rights to intellectual property

(1) The terms for carrying out the project collaboratively, sharing profits, risks and outcomes, disseminating project outcomes and using and sharing the rights to any intellectual property will be stipulated in a cooperation agreement between two parties.

(2) The cooperation agreement referred to in subsection (1) will lay down the terms and conditions of the remuneration to be paid to the partner. The fee must be at least equal to the market conditions of the intellectual property rights generated by the partner's activities.

(3) If a beneficiary and an R&D Institution execute a collaborative project together, the beneficiary cannot receive indirect state aid through the R&D Institution due to collaborative conditions if at least one term set forth in point 29 of the Communication from Commission of 28th October 2022 'Framework for State aid for research and development and innovation' (2022/C414/01) (hereinafter the *R&D Framework*) is met.

(4) Payment made to an R&D Institution for the rights of the intellectual property created through its actions must be in accordance with the market conditions if the aforementioned payment will allow the R&D Institution to receive all economic benefit from the rights of the intellectual property and if at least one term stipulated in point 30 of the R&D Framework is fulfilled.

(5) If the rights of the intellectual property or their price corresponding to market conditions is not clear before the implementation of the collaborative project, the beneficiary guarantees that the payment stipulated in section 4 will be determined based on cost. The cooperation agreement specified in subsection (1) must contain a term, according to which, after the research has been performed, the amount of the payment can be reviewed in accordance with the intellectual property rights created during the research and its price corresponding to market conditions.

Chapter 2. Terms and conditions of grant of aid

§ 8 Supported activities

(1) The following goals and activities aimed at achieving the results mentioned in § 3 will be supported:

- 1) conducting applied research;
- 2) conducting experimental development;
- 3) conducting a feasibility study for the activities mentioned in point 1) or 2);
- 4) applying for the initial protection of intellectual property created as a result of the activities mentioned in points 1) or 2);
- 5) making the investments of the R&D infrastructure that provides R&D services to the undertaking;
- 6) implementation of the IPCEI project.

(2) The activities mentioned in clauses (1) 3) and 4) are supported only in conjunction with the performance applied research or product development.

(3) Implementation of an applied research and product development project within the framework of effective cooperation is also supported if the project involves effective cooperation:

- 1) between independent undertakings, at least one of which is a small and medium-sized enterprise, or the project is carried out in at least two European Union Member States or a European Union Member State and a country involved in the European Comprehensive Trade and Economic Agreement and neither entrepreneur carries over 70% of the eligible costs or
- 2) between an undertaking and at least one R&D establishment, which bears at least ten percent of all eligible costs and who has the right to publish the results of their research.

4) The applicant may not commence project-related activities or assume obligations for carrying out the aforementioned activities before submitting an application to the Estonian Business and Innovation Agency.

~~5) The applicant may not commence activities related to a project that receives aid on the basis of the IPCEI Communication or assume obligations for carrying out the aforementioned activities before receiving the decision authorising State aid from the European Commission.~~

(5¹) On the basis of the IPCEI state aid notification, support can be requested for an IPCEI project for which the European Commission has made a permissive decision.

[RT I, 17.02.2023, 1 - enters into force. 20.02.2023]

(5²) The activities of the project referred to in paragraph 51 are eligible from the date of submission of the preliminary notification.

[RT I, 17.02.2023, 1 - enters into force. 20.02.2023]

(5³) The application of the IPCEI project applying for state aid based on the Atmospheric Air Protection Act cannot be satisfied or support payments made until the European Commission has made a decision allowing state aid.

[RT I, 17.02.2023, 1 - enters into force. 20.02.2023]

(5⁴) The IPCEI project implementer has the right to submit an application based on the Atmospheric Air Protection Act after submitting a preliminary notification to the European Commission.

[RT I, 17.02.2023, 1 - enters into force. 20.02.2023]

(5⁵) The IPCEI project application, which is submitted after the submission of a preliminary notification to the European Commission, but before the European Commission has made a decision authorizing state aid, can only be satisfied in accordance with § 53 (2) point 2 of the Administrative Procedure Act and on the condition that the administrative act enters into force with the corresponding aid by the European Commission upon the entry into force of the decision authorizing the granting.

[RT I, 17.02.2023, 1 - enters into force. 20.02.2023]

§ 9 Eligibility of costs

(1) Eligible costs are the costs set out in the decision granting the aid, which are justified, documented and incurred during the period of eligibility of the project in the course of the supported activities and paid by the beneficiary or partner.

(1¹) To certify the costs of a partner who is registered with a register of a foreign state, the beneficiary submits to the implementing body an audit report on eligibility of the costs of the partner, which has been drawn up by an independent and certified auditor of the country of location of the partner and provides that the costs of the partner are in accordance with the General Block Exemption Regulation or the De Minimis Aid Regulation, this Regulation and local legislation and generally recognised accounting principles.

(2) Eligible costs are the costs necessary to conduct the activities outlined in clauses 8 (1) 1)–3) in accordance with the thresholds stipulated in § 10 and in the decision granting the application:

- 1) business travel expenses of the applicant's and the partner's employees related to the project, in accordance with the conditions set out in Government of the Republic Regulation No 110 of 25 June 2009 'Procedure for the reimbursement of business travel expenses and the minimum amount of, conditions and procedure for the payment of daily allowances for business travel abroad';
- 2) remuneration of the applicant's and partner's employees involved in the project and the related taxes and payments arising from law, remuneration paid on the basis of a contract under the law of obligations, which is subject to taxation similarly to salaries and the national taxes payable on the remuneration;
- 3) contractual scientific research, knowledge and patent costs as well as consultation services used only for the project and costs of other, similar services bought from an external source at market conditions;
- 4) the costs of renting and acquiring tools and equipment to the extent and for the period that they are used for the project;
- 5) costs of materials and accessories.

(3) Eligible costs are the costs of acquiring, validating and protecting the patents and other intangible assets,

other than trademarks, necessary for carrying out the activities referred to in clause 8 (1) 4).

(4) The following are eligible in order to carry out the activities specified in clause 8 (1) 5):

- 1) acquisition costs of tools and equipment;
- 2) acquisition costs of intangible assets.

(5) In the case of State aid granted under the IPCEI Communication, the following costs necessary to carry out the activities referred to in clause 8 (1) 6) are eligible, as set out in points (a) to (h) of the Annex to the IPCEI Communication, with the exception of administrative and land acquisition costs.

(5¹) The administrative costs of a project receiving support based on the IPCEI notification are eligible for aid if they are calculated on the basis of a uniform rate calculated from direct personnel costs, based on the IPCEI state aid notification and the corresponding enabling decision of the European Commission. The calculation of the flat rate is project-based.

[RT I, 17.02.2023, 1 - enters into force. 20.02.2023, applied retroactively from 27 March 2022.]

(5²) In the event that the uniform rate of the project receiving support based on the IPCEI notification cannot be identified based on the state aid notification or the European Commission's enabling decision, then the European Parliament and Council Regulation (EU) 2021/1060, which establishes common provisions for the European Regional Development Fund, shall be used for these projects, the European Social Fund+, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and the financial rules applicable to them and the Asylum, Migration and Integration Fund, the Internal Security Fund and the Border Management and Visa Policy Fund (OJ L 231, 30.06.2021, p. 159 -706) from the uniform rate according to Article 54 b.

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(6) If the aid is granted for an activity referred to in clause 8 (1) 6) under Article 25 of the General Block Exemption Regulation, the costs referred to in this subsection 2 of this section will be eligible.

(7) If the tools and equipment referred to in clause 4) of subsection (2) are not used for the project throughout their useful life, only depreciation costs, calculated in accordance with good accounting practice and corresponding to the duration of the project, will be eligible.

(8) Eligible costs must be paid during the project eligibility period or within 45 calendar days of the end of the project eligibility period.

(9) Eligible costs are only the costs paid by bank transfer, except for depreciation costs.

(10) The cost arising from a transaction between the following is not eligible:

- 1) between persons who are considered related according to subsection 8 (1) of the Income Tax Act, unless such a transaction is inevitable for completing project goals and does not damage the interests of other project partners
- 2) the project partners.

(11) Reimbursement will be made on the basis of supporting documents for eligible costs of at least €100 excluding VAT.

(12) Value-added tax is an ineligible cost.

§ 10 Amount and percentage of aid

(1) The minimum amount of aid requested for an applied research or product development project is one hundred thousand euros and the maximum amount is two million euros per project.

(2) The minimum amount of aid requested for an R&D investment project is one hundred thousand euros and the maximum amount is five million euros per project.

(3) The maximum amount of aid requested for the implementation of an IPCEI project per project is one-third of the budget of the IPCEI call for proposals.

(3¹) The maximum amount of support requested for the implementation of an IPCEI project based on the Atmospheric Air Protection Act per project is the maximum amount of state aid determined in the enabling decision of the European Commission on the basis of the IPCEI notification, from which the support allocated to the IPCEI project on the basis of this regulation on the basis of the State Budget Act and the support allocated from other support measures have been deducted.

[RT I, 17.02.2023, 1 - enters into force. 20.02.2023]

(3²) The maximum amount of support requested for the implementation of an IPCEI project based on the Atmospheric Air Protection Act per project is the maximum amount of state aid determined in the enabling

decision of the European Commission on the basis of the IPCEI notification, from which deduction is not made to aid allocated on the basis of the State Budget Act on the basis of this regulation if, before the enabling decision of the European Commission, a deduction is made from the respective sum of the support in the IPCEI pre-notification but support received from other support measures is deducted.

(4) The maximum percentage of the aid for the implementation of an applied research project referred to in clause 8 (1) 1) will be:

- 1) 70% of eligible costs for a small enterprise;
- 2) 60% of eligible costs for a medium-sized enterprise;
- 3) 50% of eligible costs for a large enterprise.

(5) The maximum percentage of aid for an applied research project for which aid is requested that involves effective cooperation meeting the conditions set out in subsection 8 (3) will be:

- 1) 80% of eligible costs for a small enterprise;
- 2) 75% of eligible costs for a medium-sized enterprise;
- 3) 65% of eligible costs for a large enterprise.

(6) The maximum percentage of the aid for the implementation of a product development project referred to in clause 8 (1) 2) will be:

- 1) 45% of eligible costs for a small enterprise;
- 2) 35% of eligible costs for a medium-sized enterprise;
- 3) 25% of eligible costs for a large enterprise.

(7) The maximum percentage of aid for a product development project for which aid is requested that involves effective cooperation meeting the conditions set out in subsection 8 (3) will be:

- 1) 60% of eligible costs for a small enterprise;
- 2) 50% of eligible costs for a medium-sized enterprise;
- 3) 40% of eligible costs for a large enterprise.

(8) The maximum percentage of the aid for the feasibility study of the implementation of an applied research or product development project referred to in clause 8 (1) 3) will be:

- 1) 70% of eligible costs for a small enterprise;
- 2) 60% of eligible costs for a medium-sized enterprise;
- 3) 50% of eligible costs for a large enterprise.

(9) The maximum percentage of the aid for the initial protection of intellectual property referred to in clause 8 (1) 4) will be:

- 1) 50% of eligible costs, if support is given within the meaning of Article 28 of the General Block Exemption Regulation;
- 2) 80% of eligible costs, if support is given within the meaning of the De Minimis Aid Regulation.

(10) The maximum percentage of the aid for making the R&D investments referred to in clause 8 (1) 5) will be 50%.

(11) The maximum percentage of the aid for the implementation of an IPCEI project on the basis of aid based on an IPCEI notification is:

- 1) The maximum percentage of the amount of State aid submitted as part of an IPCEI project's eligible total budget, which is not more than 2/3 of the project's eligible total budget and which the European Commission has approved, if the maximum amount of the support applied for for the implementation of an IPCEI project is based on the Atmospheric Air Protection Act according to subsection 3¹;
- 2) The maximum percentage of the amount of State aid submitted as part of an IPCEI project's eligible total budget, which is not more than 2/3 of the project's eligible total budget, if the maximum amount of the support applied for for the implementation of an IPCEI project is based on the Atmospheric Air Protection Act according to subsection 3².

(12) The maximum percentage of aid for the implementation of an IPCEI project for the purposes of applying for aid for R&D under the General Block Exemption Regulation must comply with the conditions set out in subsections (4)–(8) of this section.

(13) The minimum and maximum amount of aid for projects for the implementation of applied research or product development or R&D infrastructure investments in the call for proposals, which will meet the conditions set out in sections 1 and 2, will be established by the Estonian Business and Innovation Agency, after prior approval by the Ministry of Economic Affairs and Communications.

(14) The amount of self-financing must cover the part of the eligible costs that the aid does not cover.

(15) Other non-refundable aid granted by the state, local authorities or other European Union institutions or funds is not regarded as self-financing.

§ 11 Eligibility period of project

(1) A project's eligibility period is the time frame stipulated in the aid decision during which project-related

activities start and end and expenses necessary for carrying out the project are incurred.

(2) The eligibility period of the project begins as of the date of submission of the application or as of the later date specified in the decision granting the application, but no later than four months from the date of the positive aid decision, and ends on the date specified in the decision granting the application.

(3) The eligibility period of a project is up to 36 months.

(4) The beneficiary may apply for an extension of the eligibility period of the project, by a maximum of six months, with good reason and provided that the result to be achieved remains related to the objectives of the measure. In case of extension, the eligibility period may exceed the duration of the eligibility period specified in paragraph 3.

(4¹) When extending the eligibility period of a project implemented on the basis of an IPCEI notification, the eligibility period may exceed the duration of the eligibility period provided for in subsection 3, if it does not exceed the duration of the project provided for in the European Commission's state aid authorizing decision.

(5) The beneficiary may request the closure of the project before the date indicated in the decision granting the application, provided that all the project activities have been completed.

(6) The beneficiary must request the closure of the project before the date indicated in the decision granting the application, if circumstances that do not allow it to continue with the project become evident.

(7) The project ends when the final report has been approved by the Estonian Business and Innovation Agency and the final payment has been made to the beneficiary.

Chapter 3

Applying for aid and processing of applications

§ 12 Applying for aid

(1) Aid is applied for on a continuous basis or on the basis of calls.

(2) Before opening a call for proposals, the Estonian Business and Innovation Agency establishes the budget of the aid in the call, the duration of the call and the minimum and maximum amount of the aid that can be applied for in the call, having them approved by the Ministry of Economic Affairs and Communications in advance.

(3) The Estonian Business and Innovation Agency will announce the start, termination and suspension of the acceptance of applications and the budget of the call for proposals on its website.

(4) In the case of application based on calls, the Estonian Business and Innovation Agency will announce the start and end dates for the acceptance of applications on its website at least 20 calendar days prior to the start of the call.

(5) In the case of ongoing applications, the Estonian Business and Innovation Agency notifies on its website of the start of acceptance of applications, of the remaining budget for funding and of running out of budget.

(6) For the activities specified in clauses 8 (1) 1)–4), aid will be granted to an undertaking in an ongoing call once every three calendar years.

(7) Application for aid for the implementation of an IPCEI project takes place on an ongoing basis within the limits of the earmarked budget allocated by the Ministry of Economic Affairs and Communications.

§ 13 Pre-consultation

(1) Before applying for aid, the applicant must undergo a pre-consultation and receive a positive ex-ante evaluation of the project plan. In calls for proposals with ongoing application, it is not mandatory to obtain a positive ex-ante evaluation of the project plan before submitting an application.

(2) A positive preliminary assessment of the project plan is not binding for the Estonian Business and Innovation Agency and it may still deny the application.

(3) The Estonian Business and Innovation Agency will give the project plan a positive preliminary assessment during the pre-consultation if the project plan meets the goal set out in subsection 3 (1) or (2) or contributes to the achievement of at least three of the outcomes specified in subsection 3 (3).

(4) The Estonian Business and Innovation Agency may include experts in giving a preliminary assessment.

§ 14 Requirements for applicants and partners

(1) A company registered in the Estonian business register may apply for aid.

(2) The applicant may involve partners in the project who may be, in addition to the persons named in subsection (1), other private legal entities or an R&D Institution.

- (3) The tax and payment arrears of the applicant and the partner with interest may not exceed €100 or their payment must be deferred. In the case of deferred payment, the tax arrears must be paid according to the schedule. By the moment a decision to grant an application is made, the applicant and the partner must have duly fulfilled the obligation to submit tax returns as provided in the Taxation Act and must have submitted to the business register the annual reports, the deadline for submission of which has arrived.
- (4) If the applicant or the partner has previously received aid that has been subject to repayment, any repayments that are due must have been made in the amount requested.
- (5) No liquidation, compulsory dissolution or bankruptcy proceedings may have been initiated or a bankruptcy order may have been issued against the applicant and the partner or a person with control over the applicant.
- (6) De minimis aid given to applicants and partners along with de minimis aid applied for in the scope of this regulation can not exceed the thresholds stipulated in article 3 subsection 2 of the De Minimis Aid Regulation, additionally taking into account the cumulation rules stipulated in article 5 of the De Minimis Aid Regulation. The undertaking specified in Article 2(2) of the De Minimis Aid Regulation is regarded as one undertaking when the size of de minimis aid is calculated.
- (7) ~~If the applicant or the partner has received de minimis aid under Commission Regulation (EU) No 360/2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.04.2012, pp 8-13), the de minimis aid granted to that applicant or partner under that Regulation and under the De Minimis Regulation during the current financial year and the two preceding financial years, with the aid applied for under this Regulation, may not exceed €500,000.~~

§ 15 Requirements for application

- (1) An application must comply with the following requirements:
 - 1) the application has been submitted in accordance according to the required procedure and format;
 - 2) the application meets the objectives and results of the aid as set out in the Regulation;
 - 3) the aid is requested for the activities referred to in § 8 and the eligible costs referred to in § 9;
 - 4) the amount of the requested aid corresponds to the amount and percentage of the aid provided for in § 10;
 - 5) the activities of the project are completed during the project's eligibility period;
 - 6) the required co-financing is foreseen in the project budget;
 - 7) the data given in the application are complete and correct;
 - 8) when aid is requested for the activities specified in clause 8 (1) 6), the activities must comply with the conditions set out either in the authorising decision adopted on the basis of the European Commission's IPCEI Communication or in the pre-notification of IPCEI State aid submitted to the European Commission for the grant of State aid on the basis of the General Block Exemption Regulation.
- (2) The application must contain at least the following information, declarations or documents:
 - 1) the applicant's and the undertaking partner's volume of R&D investments, the sales revenue from new or significantly altered technologies, products or services and the number of R&D personnel employed by the undertaking in the financial year preceding the submission of the application, in the year the aid is applied for and for five years after the end of the implementation of the project;
 - 2) the amount of the requested aid and the costs of the project;
 - 3) the location in which the project will be carried out
 - 4) the project plan that has been positively pre-assessed in the case of a call for proposals;
 - 5) the project plan in English with annexes, if the need to involve external experts in the evaluation of the application was identified during the preliminary consultation;
 - 6) if a partner is involved, the partner information form signed by the partner's representative;
 - 7) the written confirmation of the financial contribution of both the applicant and the partner;
 - 8) the power of attorney if the applicant's or partner's representative acts on the basis of a power of attorney;
 - 9) the applicant's confirmation that the submitted data are true;
 - 10) information on whether the applicant has applied for aid for the project or a part thereof from several measures at the same time, other state budget, European Union or other external aid resources;
 - 11) the balance sheet and profit and loss account of the applicant and the undertaking partner at the end of the quarter preceding the submission of the application;
 - 12) the applicant's consent to the electronic delivery of the documents related to the processing and internal review of their application, including the decision made on the application and the judgment on challenge.
 - 13) information on whether support is requested on the basis of the Atmospheric Air Protection Act or the State Budget Act.
- (3) When applying for aid for the activity specified in clause 8 (1) 5), the application must include the following data in addition to those specified in subsection (2):
 - 1) the share and division of economic and non-economic activities of the R&D infrastructure to be established;
 - 2) the principles for charging for the operation or use of the infrastructure and the correspondence with market prices;
 - 3) the accessibility of the infrastructure and the principles of use for different users.
- (4) When applying for aid for the activity specified in clause 8 (1) 6), the application must include:
 - 1) the data, declarations or documents referred to in clauses (2) 2), 3), 4) and 6)–10);

- 2) confirmation that the State aid notification submitted to the European Commission for the implementation of the activities referred to in clause 8 (1) 6) has been approved by the European Commission or confirmation that a IPCEI pre-notification of State aid has been submitted to the European Commission;
- 3) consent to the Estonian Business and Innovation Agency for accessing the data and documents relating to the State aid notification or the pre-notification by the notifying public authority.

§ 16 Processing an application

- (1) The processing of an application entails:
 - 1) registration;
 - 2) acceptance or rejection of the application for processing;
 - 3) verification of whether the applicant and the partner meet all necessary criteria;
 - 4) if necessary, explanations and additional information or questions about additions and changes to the application;
 - 5) assessment of an application that meets all requirements;
 - 6) assessment of whether the application complies with the rules of State aid;
 - 7) making a decision on whether to grant the application, including whether to grant it in part or with a secondary condition.
- (2) In the case of ongoing application, from the moment when the financial amount requested in the registered applications for which no decision has been made on acceptance or rejection reaches at least the amount available in the budget for financing the aid, the applications will be processed in the order in which they were registered.
- (3) The deadline for processing an application is:
 - 1) 40 working days from the date of registration of the application in the case of ongoing application;
 - 2) 60 working days from the date of closure of the call for proposals if application takes place in calls.
- (4) The time for processing the application may be extended by up to ten working days in justified cases and the applicant will be informed of this.
- (5) If shortcomings are discovered when the compliance of the application is verified, the applicant will be immediately informed about this and given up to ten working days to fix them and the deadline for processing the application will extend by this time.
- (6) The Estonian Business and Innovation Agency will make the decision to deny an application without assessing the application substantively if the applicant has not fixed the shortcomings during the term specified in subsection (5).

§ 17 Conditions for declaring an applicant, partner and application compliant

- (1) The Estonian Business and Innovation Agency declares an applicant and partner compliant if all the requirements for the applicant and the partner set out in clause 14) have been met.
- (2) An application is declared compliant if all the requirements set for the application in § 15 are met.
- (3) An application is not declared compliant if at least one of the following circumstances exists:
 - 1) the application does not meet the requirements set forth in § 15 and the shortcoming cannot be eliminated within the deadline set forth in subsection 16 (5);
 - 2) the application contains incorrect or incomplete data or the applicant unlawfully influences the decision making;
 - 3) the applicant does not allow the application to be checked for compliance or a site visit to be carried out.
- (4) The Estonian Business and Innovation Agency will make the decision to deny an application without assessing the application substantively if the applicant, the partner or the application does not comply with the requirements of this regulation.

§ 18 Assessment of applications, selection criteria and procedure

- (1) The Estonian Business and Innovation Agency may set up an assessment committee for the assessment of applications.
- (2) The composition of the assessment committee will be coordinated in advance with the Ministry of Economic Affairs and Communications.
- (3) The composition of the assessment committee will be made public on the webpage of the Estonian Business and Innovation Agency not later than on the first day of receipt of applications.
- (4) The Estonian Business and Innovation Agency will involve experts in the assessment of applications.
- (5) The tasks of the assessment committee are:
 - 1) to make suggestions on funding projects, funding projects partially or with additional conditions or not funding projects;
 - 2) to analyse the success and quality of projects and make, in justified cases, suggestions to the Estonian Business and Innovation Agency on changing the goals of the projects, the action plan, the budget or the establishment of additional conditions.

(6) Applications for aid for activities specified in clauses 8 (1) 1)–2) and for activities to be implemented on the basis of the pre-notification of State aid specified in clause 8 (1) 6) will be assessed on the basis of the following selection criteria, the weight of which the aggregate score is as follows:

- 1) the impact of the project on the achievement of the objectives and expected results of the aid, which includes assessment of the impact of the project on the increase in R&D investments of Estonian enterprises, the impact and relevance of the project as a pan-European project, the impact of the project on the applicant's and the impact of the project on the sectoral development in international comparison and on the value chains related to the project, the impact of the project on cross-sectoral cooperation, the impact of the project on the fulfilment of the objectives of the RDIE focus areas – 20% of the total score;
- 2) the economic impact of the project on the company and its ability to commercially implement the results of the project, which includes assessment of the impact of the project on the increase in the added value of the company, the economic necessity and justification of the project for the applicant and the partners, the economic benefits of the project, the change in the applicant's business model and the future economic benefits, the relevance of the business plan, the ability of the applicant and the partners to implement the business plan and commercially implement the results of the project and the ability of the applicant to finance the implementation of the results of the project – 45% of the total score;
- 3) the technological justification and feasibility of the project, which includes the assessment of the innovation and technological advantages of a new product, service, technology or process in comparison with a similar product, and the technological level of the development plan with the descriptions of activities that will be carried out and the relevance of the schedule, the method by which the project will be conducted and whether it can be conducted at all, the knowledge, skills and earlier experiences, relevancy and thoroughness of the intellectual property strategy, of the team performing research for the project and the existence of necessary infrastructure for the project and the justification of the budget of the project – 35% of the total score;
- 4) the impact of the project on the achievement of sustainable development goals, which assesses the contribution of the project to the development of sustainable energy, sustainable production and consumption and solutions to climate change as well as to health and welfare – 10% of the total score.

(7) The activities specified in clause 8 (1) 5) are assessed on the basis of the following award criteria, each of which make up the following percentage of the total score:

- 1) the impact of the project on the achievement of the objectives and expected results of the aid, which includes the assessment of the impact of the created R&D infrastructure on the increase of the volume of R&D activities carried out by Estonian enterprises for business purposes, the accessibility of R&D services for enterprises, the impact of the created R&D infrastructure on the technological development of the sector and across sectors – 45% of the total score;
- 2) the economic impact of the project on the entrepreneur and the entrepreneur's ability to economically exploit the results of the project, assessing the economic sustainability of the R&D infrastructure to be created, the volume of R&D services to be provided, the business plan and pricing model of the R&D infrastructure to be created and the accessibility and openness of the R&D infrastructure to different users – 25% of the total score;
- 3) the technological justification and feasibility of the project, which assesses the technological level and innovation of the R&D infrastructure to be created, the technological knowledge, skills and competences of the team providing the R&D services of the R&D infrastructure – 30% of the total score.

(8) The applications will be assessed on the basis of the award criteria specified in subsection (6) or (7) on a scale of zero to four points, where zero is non-satisfactory and four is excellent.

(9) The total score of an application is formed from the weighted average of the scores, taking into account the scores given on the basis of the award criteria specified in subsection (6) or (7).

(10) If the weighted average score of the experts involved in the assessment of the application for at least one of the award criteria specified to in clause (6) 1) or 3) or subsection (7) is less than 2.0 points or the weighted average score of the award criteria referred to in clause 6 2) is less than 2.5 points, the Estonian Business and Innovation Agency will make the decision to deny the application without involving the assessment committee.

(11) If the score for at least one of the award criteria specified to in clause (6) 1) or 3) or subsection (7) is less than 2.0 points or the score of the award criteria referred to in clause 6 2) is less than 2.5 points or the total score of the application is less than 2.50 points, the Estonian Business and Innovation Agency will make the decision to deny the application.

(12) In the case of application in calls, the Estonian Business and Innovation Agency will rank the applications on the basis of the scores received in the assessment committee starting from the application that received the highest score. If two applications have the same average aggregate score, the application where the amount of the requested aid is smaller will be placed higher in the rankings.

(13) The process of carrying out the assessment will be regulated in the assessment methodology to be prepared by the Estonian Business and Innovation Agency.

(14) Before starting the acceptance of applications, the Estonian Business and Innovation Agency obtains approval for the evaluation methodology from the Ministry of Economic Affairs and Communications and makes it available on its website.

§ 19 Assessment of a project receiving State aid under the IPCEI Communication

(1) The aid application of an IPCEI project will be deemed to be aimed at the purpose of granting the aid set forth in § 3 and at least three results if all of the following conditions have been met:

- 1) the project complies with the conditions of a decision authorising State aid made on the basis of the European Commission's IPCEI Communication and contributes to the implementation of the applicant's business plan;
- 2) the applicant has an action plan and the necessary budgetary means or preconditions to carry out the activities for which a decision authorising State aid has been received from the European Commission on the basis of the IPCEI Communication;
- 3) the project implementation team has the knowledge, skills and experience to carry out the project.
- 4) as a result of the implementation of the project, first industrial deployment and subsequent production activities in Estonia are planned.

(2) Projects will be assessed against the criteria set out in subsection (1), with an assessment of whether a criterion is met or not.

(3) The Estonian Business and Innovation Agency has the right to include experts in the assessment of applications.

§ 20 Granting or denying an application

(1) On the basis of the assessment results, the Estonian Business and Innovation Agency will make the decision to:

- 1) grant the application in the requested amount;
- 2) grant the application partially or with secondary conditions;
- 3) deny the application.

(2) The following will be set out in a decision to grant an application:

- 1) the name of the beneficiary and the name of the project;
- 2) the total cost of the project, the amount of the aid and the rate of self-financing;
- 3) eligibility period of the project;
- 4) terms and conditions of implementing the project;
- 5) reporting periods, deadlines and procedure for submission of reports;
- 6) terms and conditions of paying out the aid;
- 7) rights and obligations of the beneficiary;
- 8) the fact that the aid is State aid or de minimis aid;
- 9) grounds for changing the decision to grant the request in accordance with § 12 subsection 8.

(2¹) In addition to the conditions and information given in subsection 2, the decision to approve the application for IPCEI projects also stipulates the cost of the projects and the forecast of payments by calendar year and the expected amount of support by calendar year.

~~(2²) A decision to grant an IPCEI application to be funded on the basis of the Atmospheric Air Protection Act provides, in addition to the conditions set out in subsections 2 and 2¹, the obligation of the beneficiary to notify the committee, which has been formed by the Ministry of Climate for monitoring the use of funds received from auctioning of emission allowances, of the measures and European Union programmes as well as calls for proposals from which it is intended to request aid for covering the costs related to the IPCEI project and to submit, no later than upon completion of the project related activities, an overview of the planned initial industrial deployment and production activities in Estonia.~~

(3) In the case of ongoing application, a decision to deny an application will be made for pending applications whose financial volume exceeds the available balance of the budget for the financing of aid and which cannot be partially granted in accordance with the conditions set forth in § 21.

(4) In the case of application in calls, a decision to deny an application will be made for pending applications which do not fit into the financing budget on the basis of the ranking specified in subsection 18 (12) and which cannot be partially granted in accordance with the conditions set forth in § 21.

(5) The decision to deny the application about a project receiving State aid under the IPCEI Communication will be made if any of the criteria set out in subsection 19 (1) are not met upon assessment.

(6) The decision to grant or deny an application is sent to the applicant within three working days of the date of the decision.

§ 21 Partial grant of application or grant with secondary conditions

(1) Partial grant of an application is permitted in the following cases:

- 1) the aid has been requested for covering activities or expenses that are not important or justified from the viewpoint of the implementation of the project;
- 2) the financial volume of the application exceeds the available balance of the funding budget;
- 3) In financing the IPCEI project in accordance with § 21 subsection 5.

(2) The application may be partially granted provided that the applicant agrees with the proposal of the Estonian Business and Innovation Agency for reducing the amount of the requested aid or amending the activities planned in the project. The applicant may agree to a partial grant of the application provided that the objective of the application can be achieved when the application is partially granted. If the applicant does not consent to the proposal of the Estonian Business and Innovation Agency, the Estonian Business and Innovation Agency makes a decision to deny the application.

(3) A decision to grant an application may be made with a secondary condition within the meaning of § 53 of the Administrative Procedure Act if the applicant must submit additional documents or perform additional acts. If the applicant does not consent to the establishment of a secondary condition, the Estonian Business and Innovation Agency makes the decision to deny the application. Upon proper compliance with the secondary condition, the relevant information is added to the decision to grant the application.

(3¹) An IPCEI project request submitted after the submission of a preliminary notification to the European Commission, but before the European Commission has made a decision authorizing state aid, can only be satisfied in accordance with § 53 (2) point 2 of the Administrative Procedure Act and on the condition that the administrative act enters into force with the corresponding aid by the European Commission upon the entry into force of the decision authorizing the granting.

(4) A decision to grant an application with a secondary condition does not give the beneficiary the right to the payment of the aid. The beneficiary's right to the payment of the aid arises after the Estonian Business and Innovation Agency has verified the proper fulfilment of the secondary condition.

(5) When applying for a grant to implement an IPCEI project on the basis of the Atmospheric Air Protection Act, the Entrepreneurship and Innovation Foundation decides on the basis of the calendar year of the funding given to the grantee based on the action plan and budget forecast submitted by the grantee and taking into account the amount of income received into the state budget under § 161 (1) of the Atmospheric Air Protection Act and the use of the income specified in the state budget strategy planned distribution. In case of budget insufficiency, IPCEI projects are allocated funds in proportion to their submitted budget estimates. From the support allocated on the basis of the Atmospheric Air Protection Act, the state aid previously received for the same activity on the basis of this regulation and received from other public sector sources is deducted.

§ 22 Amendment and annulment of decision to grant application

(1) The decision to grant an application is amended by the Estonian Business and Innovation Agency on its own initiative or on the basis of a written request digitally signed by the person entitled to represent the beneficiary.

(2) The beneficiary may change the budget approved by the decision to grant an application without the submission of the application specified in subsection (1) if the changes are related to amending the budget allocation, the sums of different types of State aid and the weights of the aid do not change and the beneficiary can confirm any changes with the Estonian Business and Innovation Agency.

(3) The size of the aid may be increased if:

- 1) the need for additional activities arises during the implementation of the project;
- 2) the increase in the project costs is justified;
- 3) the increase in the amount of aid is in line with the limits set out in § 10 and the State aid rules set out in § 2; and
- 4) the balance of the budget for financing the aid allows for the amount to be increased.

(3¹) The decision to approve an application for an IPCEI project supported on the basis of the State Budget Act and the Atmospheric Air Protection Act may be changed under the conditions provided for in § 21 subsection 5.

(4) If the beneficiary's self-financing decreases below the amount set out in the decision to grant the application, the Estonian Business and Innovation Agency may reduce the amount of the aid in proportion to the decrease.

(5) Before deciding to amend the decision to grant aid, the Estonian Business and Innovation Agency will verify the relevance and necessity of the changes and, if necessary, assess the impact of the changes on the basis of the award criteria set out in subsection 18 (6) or (7), involving experts or an assessment committee as necessary.

(6) The Estonian Business and Innovation Agency has the right to refuse to change the decision to grant the application and accept any changes referred to in subsection (2) of this section if the change could endanger the possibility of achieving the project's expected results or the possibility of the project being completed during its eligibility period.

(7) The Estonian Business and Innovation Agency decides on the amendment of the decision to grant the application within 20 working days of receiving a respective application.

(8) The amendments referred to in subsection (2) will be approved by the Estonian Business and Innovation Agency within ten working days of receipt of the respective proposal.

- (9) The decision to grant an application may be amended retroactively until the end of the project if it contributes to the achievement of the result of the project and the amendment is substantiated.
- (10) The Estonian Business and Innovation Agency will declare a decision granting an application fully or partially invalid in the following cases:
- 1) a circumstance becomes evident in the case of which the application would not have been granted;
 - 2) incorrect or incomplete information has been knowingly submitted or information has knowingly not been submitted upon application or implementation of the project;
 - 3) in the case of a decision granting an application subject to a secondary condition, the beneficiary does not comply with the secondary condition;
 - 4) the beneficiary's application for amendment of the decision granting the aid application is not granted and the beneficiary is unable to continue using the aid under the conditions laid down;
 - 5) the beneficiary submits an application for giving up the aid.
- (11) The beneficiary must repay the aid received in accordance with the decision to partially or totally withdraw the decision granting the aid.
- (12) If it becomes evident that the beneficiary has failed to comply with its obligations or with the requirements imposed on it and that the non-compliance has had a financial impact, but the aid provider is unable to quantify the financial impact, the grant will be reduced proportionately according to the seriousness of the non-compliance and its impact on the eligibility of the expenditure.

§ 23 Hearing an applicant and a beneficiary

- (1) The applicant will be given the opportunity to make its views known before:
- 1) the partial grant of the application;
 - 2) the denial of the application, unless the decision is based on the information provided in the application or on the information and explanations provided to remedy the deficiencies.
- (2) The beneficiary will be given the opportunity to make its views known before:
- 1) the annulment or amendment of the decision granting the application, unless the beneficiary's request for amendment of the decision granting the application is granted in full;
 - 2) the decision to recover the aid is made.

Chapter 4

Submission of reports and payment of aid

§ 24 Submission of reports related to use of aid

- (1) The beneficiary will submit the following reports:
- 1) interim report;
 - 2) final report.
- (2) The forms for the interim and final project reports will be established and made available to the beneficiary by the Estonian Business and Innovation Agency.
- (3) The dates for submitting the interim and final reports and the period for submission of the interim report will be set out in the decision granting the application.
- (4) The interim report includes a description of the executed activities compared with the results achieved with the project application. The beneficiary will submit an interim report for each project reporting period.
- (5) The final report includes a description of the main activities of the entire project and information about the achievement of the project outputs and results. The final report includes, among other things, information on the use of intellectual property, patent applications and publications.
- (5¹) The interim and final report of projects receiving state aid based on the IPCEI notification must contain a description of the main activities and information on the achievement of project outputs and results. The final report includes, among other things, information on the use of intellectual property, patent applications and publications, and information on subsequent initial industrial deployment and subsequent production activities in Estonia, changes achieved or contributed to in the production or consumption of renewable energy, energy efficiency and greenhouse gas emissions in the project's value chain as a result of the project.
- (6) The Estonian Business and Innovation Agency may involve the assessment committee or experts in making an evaluation of the interim and final report.
- (7) The Estonian Business and Innovation Agency approves or rejects the interim report and final report with 42 working days of its registration in the Estonian Business and Innovation Agency.
- (8) If the period between the submission of the interim report and the final report is shorter or the duration of

the project is less than six months, only the final report will be submitted.

§ 25 Payment of aid

- (1) The aid will be paid to the beneficiary on the basis of supporting documents relating to the expenditure actually incurred or paid up to the amount of the self-financing, in accordance with the conditions laid down in the decision granting the application. The support for administrative costs is paid on the basis of a flat rate.
- (2) Payment of the aid on the basis of actual costs is conditional on the implementation of the project activities, the incurrence and payment of eligible costs.
- (3) The aid may be paid out on the basis of the cost statements paid to the extent of the self-financing if the eligible costs have been incurred and paid to the extent of the self-financing. If the aid payment is made on the basis of the cost statements paid to the extent of the self-financing, the beneficiary is obliged to submit to the Estonian Business and Innovation Agency the documents certifying the payment of the unpaid part of the cost within ten calendar days of the receipt of the aid payment.

(3¹) A project receiving support on the basis of an IPCEI notification shall be paid support for administrative costs on the basis of a flat rate in accordance with § 9 subsection 51. When the support is paid on the basis of a flat rate, the cost and payment of the cost shall not be verified or checked.

(3²) If the partner is an R&D institution that is a public institution, no documents certifying the payment of the cost are submitted on their part. If the partner is an R&D institution that is a public legal person, no documents certifying the salary and taxes from therein are submitted on their part.

- (4) The support will be paid out on the basis of the payment request submitted by the beneficiary. A payment request is submitted to the Estonian Business and Innovation Agency on the deadlines provided in the decision granting the application, but no more frequently than once a quarter.
- (5) The final payment is made after the project activities have been carried out, the results have been achieved and the final report has been approved.
- (6) The Estonian Business and Innovation Agency processes payment requests within 42 working days of submission of the payment request.
- (7) The Estonian Business and Innovation Agency may check the cost statements as part of on-site inspection of the beneficiary.
- (8) If the processing of a payment application or a related cost statement reveals a shortcoming that can be rectified, the Estonian Business and Innovation Agency will set a deadline for rectifying the shortcoming.
- (9) The Estonian Business and Innovation Agency may make a decision to refuse to pay out the aid either in part or in full if:
 - 1) the submitted cost statements do not comply with the project period, activities, eligible costs and goals specified in the application;
 - 2) the activities carried out do not comply with the activities set out in the application or their performance has not been proven;
 - 3) The Estonian Business and Innovation Agency did not approve the interim or final report of the respective reporting period;
 - 4) the beneficiary has not repaid the aid subject to repayment;
 - 5) the beneficiary is in breach of the terms and conditions of the Regulation or deviates from the provisions of the application or the decision granting the application in any other manner;
 - 6) the beneficiary's economic situation has deteriorated so much that the use of the support or implementation of the action plan is compromised.
- (10) The Estonian Business and Innovation Agency may suspend aid payments to the beneficiary until full repayment of the aid subject to repayment.

Chapter 5

Rights and obligations of beneficiary, partner, Estonian Business and Innovation Agency and repayment of aid

§ 26 Rights and obligations of beneficiary and partner

- (1) The beneficiary and the partner have the right to receive from the Estonian Business and Innovation Agency information and explanations related to the requirements laid down in the legislation and the obligations of the beneficiary and the partner.

- (2) The beneficiary and the partner are required to:
 - 1) implement the project, ensure its management and use the aid in accordance with the information in the application and the conditions of the decision granting the application;
 - 2) deleted;
 - 3) ensure that the costs of the supporting and the cost statements and payment documents recognising them can be clearly distinguished from the beneficiary's other cost statements and payment documents in its accounting;
 - 4) provide the requested information to the Estonian Business and Innovation Agency within ten working days of receipt of the request;
 - 5) inform the Estonian Business and Innovation Agency in writing of any change in the beneficiary's shareholder or member of the management body with the right to make important decisions, even if the change is recorded in the business register;
 - 6) submit to the Estonian Business and Innovation Agency the contract signed with the R&D Institution and the partners that provides the mutual rights and obligations of the parties, incl. the ownership and distribution of intellectual property occurring in the process of the supported applied research or product development and the material and immaterial assets purchased or created within the project;
 - 7) allow the person exercising supervision access to the premises and territories related to the implementation of the project that the beneficiary uses;
 - 8) provide all assistance necessary to carry out audits and inspections quickly;
 - 9) ensure the existence of all permits and approvals necessary for carrying out the project required by legislation;
 - 10) comply with the obligations and requirements arising from the legislation on State aid and de minimis aid;
 - 11) retain the documentation related to the application, the aid and the implementation of the project for ten years as of the decision granting the application;
 - 12) immediately inform the Estonian Business and Innovation Agency in writing of any changes in the information provided or any circumstances that affect or may affect the beneficiary's ability to meet its obligations, to achieve the results set and to continue with the implementation of the project activities;
 - 13) a grant recipient who receives support for the activities specified in § 8 (1) point 6 on the basis of the IPCEI state aid notice, to ensure that when applying for support from other budget sources of the state, local government unit, another institution of the European Union or a fund for the expenses specified in § 8 (1) point 6 is not supported for the implementation of the activity, the support received from different budget sources does not exceed the maximum amount of state aid for a project of pan-European interest approved by the recipient European Commission;
 - 14) When receiving support based on the IPCEI notification, the support recipient submits the next calendar year's action plan, budget and disbursement forecast no later than one month before the start of the calendar year;
 - 15) When receiving support on the basis of the IPCEI notification, the recipient of the support shall submit information about the support applied for and received from other support measures no later than one month before the start of the calendar year.

§ 27 Rights and obligations of Estonian Business and Innovation Agency

- (1) The Estonian Business and Innovation Agency has the right to:
 - 1) request the submission of additional data and documents on the duration, activities, goals, results and costs of the project in the application;
 - 2) conduct supervision over the cost statements and project execution at the beneficiary's and partner's location, including stay in the beneficiary's and partner's rooms and on their territory and review the data, documents and other materials related with using the support.
 - 3) to refuse partial or full funding of projects receiving support on the basis of the IPCEI notification and the Atmospheric Air Protection Act, if the prescribed amounts have not been allocated to the budget of the Enterprise and Innovation Foundation for the following calendar year, having previously informed the recipient of the support and the Ministry of Economic Affairs and Communications.
- (2) The Estonian Business and Innovation Agency is required to:
 - 1) make the application and reporting forms and guidance materials available to applicants and beneficiaries on its website;
 - 2) immediately inform the beneficiary of any amendments to the documents regulating the use of the aid;
 - 3) after the decision to grant the aid has been made, publish on its website the name of the beneficiary, the name of the project receiving the aid, the amount of the aid, the total volume of the project, the purpose and duration of the project;
 - 4) not disclose any information or documents obtained in the course of the processing of the application, except information which must be disclosed in accordance with clause 3);
 - 5) inspect the implementation of the project;
 - 6) retain the data concerning the provision of State aid and de minimis aid with the information and necessary additional documents for ten years from the last decision granting the application;
 - 7) collect and submit to the Ministry of Economic Affairs and Communications data and information on the ongoing implementation of the aid measure and participate in the impact analysis at the end of the aid measure;
 - 8) inform the Ministry of Economic Affairs and Communications of any obstacles to the implementation of the Regulation;
 - 9) when granting aid for investments in the R&D infrastructure specified in clause 8 (1) 5), which is used for

both economic and non-economic activities, establish a supervision and repayment mechanism throughout the lifetime of the R&D infrastructure to ensure that the applicable weight of the aid complies with the conditions of State aid;

10) organise the entry of State aid and de minimis aid in the register of State aid.

§ 28 Repayment of aid

(1) The Estonian Business and Innovation Agency has the discretion to decide on the partial or total recovery of the grant in the following cases:

- 1) the cost on the basis of which the aid has been paid out is not eligible;
- 2) the beneficiary has partially or totally failed to comply with an obligation or a requirement laid down in this Regulation or in the decision granting the aid, thereby affecting the eligibility of the cost on the basis of which the aid was paid out;
- 3) the beneficiary is the subject of liquidation or bankruptcy proceedings.

(2) The beneficiary must repay the amount specified in the recovery decision within 60 calendar days of the date on which the decision takes effect.

(3) The aid to be recovered may be offset against the aid payable within the scope of the same project.

(4) If the beneficiary fails to repay the aid by the due date, the beneficiary will pay default interest at the rate of 0.1 per cent for each day of delay in repayment. The calculation of the interest will be suspended if the amount of interest exceeds the amount of aid to be recovered.

(5) The Estonian Business and Innovation Agency may defer the repayment of the aid at the request of the beneficiary. Subsections 48 (4) and (6) of the Structural Support Act 2014-2020 will apply to the deferral of the repayment of recovered aid.

(6) In order to defer the repayment of the aid, the beneficiary will submit to the aid provider, no later than ten working days after receipt of the decision to recover the aid, an application setting out the reasons for the need for deferral and the desired schedule for the repayment. The beneficiary of the aid will provide, at the request of the aid provider, supporting documents proving its financial situation.

(7) The aid provider will make the decision granting or denying the request for deferral within ten working days of receipt of the request for deferral. In justified cases, the time limit for making a decision may be extended by a reasonable period of time after informing the beneficiary.

(8) The repayment of the aid may be deferred for up to 12 calendar months from the date of the decision granting the request for deferral. Where justified, the Estonian Business and Innovation Agency may, in agreement with the Ministry of Economic Affairs and Communications, set a longer repayment period.

(9) The decision granting or rejecting the request for deferral may be made with the decision to recover the aid.

(10) If the beneficiary fails to pay the instalments in accordance with the deferral schedule, the Estonian Business and Innovation Agency may revoke the decision to defer the repayment of the aid and request the beneficiary to repay the aid within 30 calendar days of the date on which the decision to revoke the deferral decision takes effect.

(11) In the case of recovery of unlawful and misused state aid, the provisions of § 42 of the Competition Act will apply, unless otherwise provided by EU legislation.

(12) The decision to recover the aid may be made within three years of the complete performance of the last obligation of the applicant.

(13) In the case of State aid that is unlawful, misused or incompatible with the common market, including de minimis aid, recovery decisions may be taken within ten years of the date on which the aid was allocated to the beneficiary.

§ 29 Implementation of Regulation

(1) The amendments to subsection 5 of § 9, subsection 4 of § 11 and clause 2 of subsection 2 of § 26, and subsection 51 of § 9 that entered into force in February 2023 are implemented retroactively as of 27 March 2022.

(2) The amendment to clause 4 of subsection 6 of § 18 passed in November 2023 is implemented to projects in the event of which the Estonian Business and Innovation Agency notifies of the start of acceptance of applications after the aforementioned amendment has entered into force.

(3) Amendments adopted in June 2024 to clause 4 7), subsection 11 (2) and clause 18 (6) 3) are applicable to projects for which the application is submitted after the entry into force of these amendments.