

Pursuant to Article 8 (3), and in conjunction with Article 8 paragraph (2) item d) of the Law on State Aid Control (Official Gazette of the Republic of Macedonia No.145/2010), Government of the Republic of Macedonia on its session held on 30.12.2013, issue

REGULATION ON CONDITIONS AND PROCEDURE FOR GRANTING HORIZONTAL AID

I. Scope of Regulation

Article 1

Subject

This Regulation establishes conditions and procedures for granting horizontal aid.

Article 2

Application

Horizontal aid may be granted for research and development and innovation, environmental protection, employment, training, services of general economic interest and small and medium enterprises in any form, including venture capital.

Article 3

Definitions

The terms used in this Law have the following meaning:

(1) 'research organisation' is an entity, such as university or research institute, irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to conduct fundamental research, industrial research or experimental development and to disseminate their results by way of teaching, publication or technology transfer; all profits must be reinvested in these activities and no enterprise can not have preferential access to the results of the research organization.

(2) 'fundamental research' is experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct practical application or use in view;

(3) 'industrial research' is planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components of complex systems, which is necessary for the industrial research, notably for generic technology validation, to the exclusion of prototypes:

(4) 'experimental development' is the acquiring, combining, shaping and using of existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services.

These may also include, for example, other activities aiming at the conceptual definition, planning and documentation of new products, processes and services. The activities may

comprise producing drafts, drawings, plans and other documentation, provided that they are not intended for commercial use. The development of commercially usable prototypes and pilot projects is also included where the prototype is necessarily the final commercial product and where it is too expensive to produce for it to be used only for demonstration and validation purposes. In case of a subsequent commercial use of demonstration or pilot projects, any revenue generated from such use must be deducted from the eligible costs.

The experimental production and testing of products, processes and services are also eligible, provided that these cannot be used or transformed to be used in industrial applications or commercially. Experimental development does not include the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements;

(5) 'process innovation' is the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment and/or software). Minor, routine changes or improvements, are not considered innovations;

(6) 'organisational innovation' is the implementation of a new organisational method in the undertaking's business practices, workplace organisation or external relations. Minor, routine changes or improvements, are not considered innovations;

(7) innovation clusters' are groupings of independent undertakings, operating in a particular sector and region and designed to stimulate innovative activity by promoting intensive interactions, sharing of facilities and exchange of knowledge and expertise and by contributing effectively to technology transfer, networking and information dissemination among the undertakings in the cluster.

(8) 'highly qualified personnel' are researchers, engineers, designers and marketing managers with tertiary education degree and at least 5 years of relevant professional experience. Doctoral training may count as relevant professional experience;

(9) 'secondment' is temporary employment of personnel by a beneficiary during a period of time, after which the personnel has the right to return to its previous employer by law;

(10) environmental protection is any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary's own activities, to reduce the risk of such damage or to lead to more efficient use of natural resources, including energysaving measures and the use of renewable sources of energy);

(11) energy-saving measure is any action which enables undertakings to reduce the amount of energy used in particular in their production cycle;

(12) renewable energy sources are the following renewable non-fossil energy sources: wind, solar, geothermal, wave, tidal, hydropower installations, biomass, landfill gas, sewage treatment plant gas and biogases;

(13) cogeneration is the simultaneous generation in one process of thermal energy and electrical and/or mechanical energy;

(14) contaminated land/site is a site where there is a confirmed presence, caused by man, of dangerous substances of such a level that they pose a significant risk to human health or the environment taking into account current and approved future use of the land.

(15) tangible assets are investments in land which are strictly necessary in order to meet environmental objectives, investments in buildings, plant and equipment intended to reduce

or eliminate pollution and nuisances, and investments to adapt production methods with a view to protecting the environment;

(16) intangible assets are spendings on technology transfer through the acquisition of operating licences or of patented and non-patented know-how where the following conditions are complied with: the intangible asset concerned must be regarded as a depreciable asset, it must be purchased on market terms, it must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years by the aid beneficiary.

(17) "unemployed actively looking for job" is any person who:

- has not been in regular paid employment for the previous 6 months; or
- has not attained an upper secondary educational or vocational qualification or
- is over the age of 50 years; or
- lives as a single adult with one or more dependents; or
- works in a sector or profession where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors in the Republic of Macedonia, and belongs to that underrepresented gender group; or
- is a member of an ethnic minority within the Republic of Macedonia, and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment;

(18) 'severely disadvantaged worker' is any person who has been unemployed for 24 months or more;

(19) 'disabled worker' is any person:

- recognised as disabled under the law of Republic of Macedonia; or
- having a recognised limitation which results from physical, mental or psychological impairment;

(20) 'sheltered employment' is employment in an undertaking where at least 50 % of workers are disabled;

(21) 'wage cost' is the total amount actually payable by the beneficiary of the aid in respect of the employment concerned, comprising: wage, before tax and the compulsory contributions, such as social security Charges.

(22) 'specific training' is training involving tuition / compensation for training, directly and principally applicable to the employee's present or future position in the undertaking and providing qualifications which are not or only to a limited extent transferable to other undertakings or fields of work;

(23) 'general training' is training involving tuition/ compensation for training, which is not applicable only or principally to the employee's present or future position in the undertaking, but which provides qualifications that are largely transferable to other undertakings or fields of work. Training shall be considered 'general' if, for example:

- it is jointly organised by different independent undertakings or where employees of different undertakings may avail themselves of the training;
- it is recognised, certified or validated by public authorities or bodies or by other bodies or institutions on which the Republic of Macedonia or the Community has conferred the necessary powers.

(24) 'equity' is ownership interest in a company, represented by the shares issued to investors;

(25) 'private equity' is private (as opposed to public) equity investment in companies not listed on a stock-market, including venture capital, replacement capital and buy-outs;

(26) 'quasi-equity investment instruments' are instruments whose return for the holder (investor/ lender) is predominantly based on the profits or losses of the underlying target company, are unsecured in the event of default:

(27) 'debt investment instruments' are loans and other funding instruments which provide the lender/investor with a predominant component of fixed minimum remuneration and are at least partly secured;

(28) 'seed capital' is financing provided to study/training, assess and develop an initial concept, preceding the start-up phase;

(29) 'start-up capital' is financing provided to companies, which have not sold their product or service commercially and are not yet generating a profit, for product development and initial marketing;

(30) 'early-stage capital' is seed and start-up capital;

(31) 'expansion capital' is financing provided for the growth and expansion of a company, which may or may not break even or trade profitably, for the purposes of increasing production capacity, turnover or product development or the provision of additional working capital;

(32) 'venture capital' is investment in unquoted companies by investment funds (venture capital funds) that, acting as principals, manage individual, institutional or in-house money and includes early-stage and expansion financing, but not replacement finance and buy-outs;

(33) 'replacement capital' is the purchase of existing shares in a company from another private equity investment organisation or from another shareholder or shareholders.

(34) 'risk capital' is equity and quasi-equity financing to companies during their early-growth stages (seed, start-up and expansion phases), including informal investment by business angels, venture capital and alternative stock markets specialised in SMEs including high-growth companies;

(35) 'follow-on investment' is an additional investment in a company subsequent to an initial investment;

(36) 'buyout' is the purchase of at least a controlling percentage of a company's equity / value from the current shareholders to take over its assets and operations through negotiation or a tender offer;

(37) 'target enterprise or company' is an enterprise or company in which an investor or investment fund is considering investing;

(38) 'business angels' are wealthy private individuals who invest directly in young new and growing unquoted business (seed finance) and provide them with advice, usually in return for an equity stake in the business, but may also provide other long-term finance;

(39) "aid intensity", is gross amount of aid expressed as a percentage of the eligible costs. All figures used shall be taken before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid. Aid payable in several instalments shall be discounted to its value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the amount of aid as soft loan, shall be the reference rate applicable at the time of grant. The aid intensity is calculated per user.

(40) "reference interest rate" is a rate that is determined in accordance with the methodology for determining the reference and discount rates, given in the Communication of the European Commission for revising the methodology for setting up the reference and discount rates no. 2008 / C 14/02 published in the Official Journal of the European Commission no. 14/6 of 19.01.2008.

(41) 'small enterprise' is an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million in denars..

(42) medium-sized enterprise is an enterprise which employs fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million in denars, and/or an annual balance sheet total not exceeding EUR 43 million in denars.

Article 4

Aid cumulation rules

- (1) Maximum aid intensity for research and development and innovation for environmental protection, employment and training stipulated in this Regulation shall apply to all aid whether it is fully funded by the Republic of Macedonia or in part by the European Union.
- (2) Aid for research and development and innovation, for environmental protection, employment and training should not be cumulated with de minimis aid in respect of the same eligible costs in order to avoid the maximum aid intensities defined in this regulation.
- (3) Aid in the form of risk capital could be cumulated with other aid, where the maximum aid intensity is reduced by 20 % for target enterprises during the first three years of the first risk capital investment and up to the total amount received.
- (4) The provision of paragraph (3) of this Article shall not apply to the granting state aid for research and development and innovation.

II. Research and development and innovation

Article 5

State aid for research and development and innovation

- (1) State aid for research and development and innovation shall be compatible if the aid can be expected to lead to additional research and development and innovation.
- (2) State aid for research and development and innovation shall be compatible as aid for:

- Aid for research and development projects;
- Aid for technical feasibility studies;
- Aid for industrial property rights costs for SMEs;
- Aid for young innovative enterprises;
- Aid for process and organisational innovation in services;
- Aid for advisory services and innovation support services;
- Aid for the loan of highly qualified personnel;
- Aid for innovation clusters.

Article 6

Conditions for granting aid for research and development projects

(1) Aid for research and development projects shall be compatible if following conditions are fulfilled:

- 1) Aid refers to one or more of the following categories of research: fundamental, industrial research and experimental development.
- 2) The aid intensity for each user does not exceed:
 - 100% of the eligible costs for fundamental research;
 - 50% of the eligible costs for industrial research and
 - 25% of the eligible costs for experimental development.

The aid amount for each beneficiary involved in a project that is being implemented in collaboration between research organizations and enterprises, shall be determined in accordance with paragraph (2) subparagraph 2 a) of this Article.

In case when aid is granted for research and development projects carried out in collaboration between research organizations and enterprises, the total funding derived from the aid provider and research organizations when it is State aid within the meaning of the Law on State Aid Control, shall not exceed the amount of aid to be applied for each beneficiary enterprise.

(2) The aid intensity of paragraph (1) item 2 of this Article for industrial research and experimental development may increase:

- up to 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises and
- up to 15 percentage points, but not more than the maximum aid intensity of 80%, in case if:

a) the project involves effective collaboration between at least two undertakings which are independent of each other, no single undertaking must bear more than 70 % of the eligible costs of the collaboration project and the project must involve collaboration with at least one SME or be cross-border; or

b) the project involves effective collaboration between an undertaking and a research organisation, and the research organisation bears at least 10 % of the eligible project costs and the research organisation has the right to publish the results of the research projects insofar as they stem from research implemented by that organisation.

c) in case of industrial research, if the results of the project are widely disseminated through technical and scientific conferences or published in scientific or technical journals or in open access repositories, databases where raw research data can be accessed by anyone, or through free or open source software (internet).

For the purposes of paragraph 2, items a) and b) of this Article, subcontracting is not considered effective cooperation.

(3) : Eligible costs are:

- personnel costs (researchers, technicians and other supporting staff to the extent employed on the research project);
- costs of instruments and equipment to the extent and for the period used for the research project.
- costs for building and land, to the extent and for the duration used for the research project.
- cost of contractual research, technical knowledge and patents bought or licensed from outside sources at market prices, where the transaction has been carried out at arm's length and there is no element of collusion involved, as well as costs of consultancy and equivalent services used exclusively for the research activity;
- additional overheads incurred directly as a result of the research project; and
- other operating expenses, including costs of materials, supplies and similar products incurred directly as a result of the research activity.

Article 7

Conditions for granting aid for technical feasibility studies

(1) Aid for technical feasibility studies preparatory to industrial research or experimental development activities shall be compatible if the following conditions are fulfilled:

1) The aid intensity does not exceed:

- for SMEs, 75 % of the eligible costs for studies preparatory to industrial research activities and 50 % of the eligible costs for studies preparatory to experimental development activities,
- for large undertakings, 65 % of the eligible costs for studies preparatory to industrial research activities and 40% of the eligible costs for studies preparatory to experimental development activities.

(2) Eligible costs are costs for studies.

Article 8

Conditions for granting aid for industrial property rights costs for SMEs

(1) Aid to SMEs for the costs associated with obtaining and validating patents and other industrial property rights shall be compatible if the following conditions are fulfilled:

1) The aid intensity does not exceed the research and development projects aid intensity provided in Article 6, paragraph (1) item 2) and paragraph (2) of this Regulation depending on which research first will result in Intellectual Property.

(2) Eligible costs are:

- all the costs prededing to acquisition of the intellectual property right, including costs relating to the preparation, filing and prosecution of the application as well as administrative proceedings before the competent authority for acquisition of rights to intellectual property;

- translation and other costs incurred in order to obtain the granting or validation of the right in other legal jurisdictions; and
- Costs incurred in defending the validity of the right to intellectual property in administrative proceedings before the competent court, even if these costs are incurred after the acquisition of industrial property right.

Article 9

Conditions for granting aid for young innovative enterprises

(1) Aid to young innovative enterprises shall be compatible if the following conditions are fulfilled:

1) the beneficiary is a small enterprise that has been of existence for less than 6 years at the time when the aid is granted and

2) the beneficiary is an innovative enterprise, on the basis that:

- evaluation carried out by an external expert that shows the beneficiary will in the foreseeable future develop products, services or processes which are technologically new or substantially improved compared to the state of the art in its industry in the Republic of Macedonia, and which carry a risk of technological or industrial failure, or

- the research and development expenses of the beneficiary represent at least 15 % of its total operating expenses in at least one of the three years preceding the granting of the aid or in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period.

3) the aid is not higher than EUR 1,5 million in denars.

(2) The beneficiary may receive aid only once during the period in which it qualifies as a young innovative enterprise. This aid may be cumulated with other aid under this chapter of the Regulation, or through aid for research and development and innovation in accordance with the rules for SMSs and the risk capital guidelines.

(3) The beneficiary may receive state aid other than research and development and innovation aid and risk capital aid only 3 years after the granting of the young innovative enterprise aid.

Article 10

Conditions for granting aid for process and organisational innovation in services

(1) Aid for process and organisational innovation in services shall be compatible if the following conditions are fulfilled:

1) the innovation must be formulated as a project with an identified and qualified project manager, as well as identified project costs;

2) organisational innovation must always be related to the use and exploitation of Information and Communication Technologies (ICT) to change the organisation;

3) the result of the aided project must be the development of a standard, of a business model, methodology or concept, which can be systematically reproduced, possibly certified, and possibly certified and patented;

- 4) the process or organisational innovation must be new or substantially improved compared to the state of the art in its industry in the Republic of Macedonia.
 - 5) the process or organisational innovation project must entail a clear degree of risk.
 - 6) maximum aid intensity of aid for process and organisational innovation in services shall be 15 % for large enterprises, 25 % for medium enterprises and 35 % for small enterprises. Large enterprises are only eligible for such aid if they collaborate with SMEs in the aided activity, whereby the collaborating SMEs must incur at least 30 % of the total eligible costs.
- (2) Eligible costs are the same as for aid to R&D projects (Article 6, paragraph (3) of this Regulation). In case of organisational innovation, however, costs of instruments and equipment cover costs of ICT instruments and equipment only.

Article 11

Conditions for granting aid for innovation advisory services and for innovation support services

(1) Aid for innovation advisory services and for innovation support services shall be compatible if the following conditions are fulfilled:

- 1) the beneficiary is an SME;
- 2) the aid does not exceed a maximum of EUR 200 000 per beneficiary within any three year period ;
- 3) the service provider benefits from a national or European certification. If the service provider does not benefit from a national or European certification, the aid may not cover more than 75 % of the eligible costs;
- 4) the beneficiary must use the State aid to buy the services at market price, or if the service provider is a non-for-profit entity, at a price which reflects its full costs plus a reasonable margin.

(2) Eligible costs for innovation advisory services are:

- costs for management consulting; technological assistance; technology transfer services; training; consultancy for acquisition, protection and trade in Intellectual Property Rights and for licensing agreements; consultancy on the use of standards

(3) Eligible costs for innovation support services are:

- costs for office space; data banks; technical libraries; market research; use of laboratory; quality labelling, testing and certification;

(4) If the service provider is a not-for-profit entity, the aid may be given in the form of a reduced price, as the difference between the price paid and the market price, or a price which reflects full costs plus a reasonable margin.

Article 12

Conditions for granting aid for the loan of highly qualified personnel

(1) Aid for the loan of highly qualified personnel seconded from a research organisation or a large enterprise to an SME shall be compatible if the following conditions are fulfilled:

- 1) The seconded personnel must not be replacing other personnel, but must be employed in a newly created function within the beneficiary undertaking and must have been employed for at least two years in the research organisation or the large enterprise, which is sending the personnel on secondment. The seconded personnel must work on research and development and innovation activities within the SME receiving the aid.
- 2) The maximum aid intensity shall be 50 % of the eligible costs, for a maximum of 3 years per undertaking and per person borrowed.

(2) Eligible costs are all personnel costs for borrowing and employing highly qualified personnel, including the costs of using a recruitment agency, as well as a mobility allowance for the seconded personnel.

(3) This provision from paragraph 1) does not allow covering consultancy costs (payment of the service rendered by the expert, without employing the expert in the undertaking).

Article 13

Conditions for granting aid for innovation clusters

(1) Investment aid may be granted for the setting up, expansion and animation of innovation clusters exclusively to the legal entity operating the innovation cluster. This entity shall be in charge of managing the participation and access to the cluster's premises, facilities and activities. Access to the cluster's premises, facilities and activities must not be restricted and the fees charged for using the cluster's facilities and for participating in the cluster's activities should reflect their costs.

(2) Such aid may be granted for the following facilities:
- facilities for training and research centre;
- open-access research infrastructures: laboratory, testing facility;
- broadband network infrastructures.

(3) Aid intensity shall not exceed 50% of eligible costs.

(4) Maximum aid intensity under paragraph (3) of this Article may be increased by 20 percentage points for aid granted to a small enterprise and by 10 percentage points for aid granted to a medium-sized enterprise.

(5) The eligible costs shall be the costs relating to investment in land, buildings, machinery and equipment.

(6) Operating aid for cluster animation may be granted to the legal entity operating the innovation cluster.

(7) Operating aid shall be compatible for a limited duration of five years where the aid is degressive, starting from 100 % in the first year up to 0 % by the end of the fifth year. In the case of non-degressive aid, its duration is limited to five years and its intensity must not exceed 50 % of the eligible costs.

(8) The eligible costs shall be the personnel and administrative costs relating to the following activities:

- marketing of the cluster to recruit new companies to take part in the cluster,
- management of the cluster's open-access facilities,
- organisation of training programmes, workshops and conferences to support knowledge sharing and networking between the members of the cluster.

Article 14

Procedure for granting aid for research and development and innovation

- (1) Aid for research and development and innovation shall be compatible only if an application from the beneficiary has been submitted prior project start.
- (2) Costs that may be considered necessary to cover the routine activities of the company are not eligible for aid for research and development and innovation.
- (3) All state aid providers must demonstrate that the aid will have a stimulating effect, that will lead to changes in behavior of users, so it will increase the level of activities in research and development and innovation (increase the size, scope, total amount spent or speed).
- (4) the incentive effect is automatically met for the following aid measures:
 - project aid and feasibility studies where the aid beneficiary is an SME and where the aid amount is below EUR 7,5 million in denars for a project per SME
 - aid for industrial property rights costs for SMEs,
 - aid for young innovative enterprises,
 - aid for innovation advisory services and innovation support services,
 - aid for the loan of highly qualified personnel.
- (5) In cases where the indicators set out in paragraph (3) shall not be considered sufficient demonstration of the incentive effect, the Commission for Protection of Competition undertake a detailed assessment. Commission for Protection of Competition will perform detailed assessment where the aid amount exceeds:
 - a) for project aid and feasibility studies:
 - if the project is predominantly fundamental research EUR 20 million in denars per undertaking, per project/feasibility study;
 - if the project is predominantly industrial research, EUR 10 million per undertaking, per project/feasibility Study
 - for all other projects, EUR 7,5 million in denars per undertaking, per project/feasibility study.
 - b) for process or organisational innovation in services activities, EUR 5 million in denars per project per undertaking;
 - c) for innovation clusters (per cluster), EUR 5 million in denars.

III. ENVIRONMENTAL PROTECTION

Article 15

Aid for environmental protection

- (1) State aid for environmental protection shall be compatible as aid for:
 - a) undertakings which go beyond National standards or which increase the level of environmental protection in the absence of binding standards (investment aid),
 - b) Aid for the acquisition of new transport vehicles which go beyond National standards or which increase the level of environmental protection in the absence of binding standards,
 - c) Aid for early adaptation to future binding standards,
 - d) Aid for energy saving,
 - e) Aid for renewable energy sources,
 - f) Aid for cogeneration and aid for district heating (DH),
 - g) Aid for environmental studies,
 - h) Aid for waste management,

- i) Aid for the remediation of contaminated sites,
- j) Aid for the relocation of undertakings,
- k) Aid in the form of reductions of or exemptions from environmental taxes.

Article 16

Conditions for granting investment aid for environmental protection

- (1) Investment aid for environmental protection shall be compatible if the following conditions are fulfilled:
- 1) The investment enables the beneficiary to increase the level of environmental protection resulting from the following activities of the beneficiary:
 - a) going beyond the applicable binding standards, or
 - b) absence of binding standards.

Aid provided in point 1) of this paragraph may not be granted where improvements bring undertakings into compliance with binding standards already adopted and shall enter into force no later than one year from the completion and implementation of investment.

- 2) The aid intensity must not exceed 50 % of the eligible investment cost.
 - 3) The maximum aid intensity of investment specified in paragraph (1) item 2) of this Article may be increased as follows:
 - a) Where the investment aid is granted in a genuinely competitive bidding process, the aid intensity may amount to up to 100 % of the eligible investment cost,
 - b) Where the investment concerns the acquisition of an eco-innovation asset or the launching of an eco-innovation project, the aid intensity may be increased by 10 percentage points,
 - c) by 10 percentage points for medium-sized enterprises or
 - d) by 20 percentage points for small enterprises.
- (2) Eligible investment costs for investment from paragraph (1) point 1 from this Article shall mean the extra investment costs (in tangible or intangible assets) necessary to achieve a higher level of environmental protection than required by the current standards. The eligible costs are calculated as the net difference of any operating benefits and operating costs related to additional investments in environmental protection and arising during the first five years of the investment.
- (3) The eligible investment costs for investment under paragraph (1) item 1) b) of this Article, are investment costs (in tangible or intangible assets) necessary to achieve a higher level of environmental protection than the level that the company would have achieved without aid for environmental protection.

Article 17

Conditions for granting aid for the acquisition of new transport vehicles which go beyond binding standards or which increase the level of environmental protection in the absence of binding standards

- (1) The general rules set out in Article 16 from this Regulation apply to aid for undertakings improving on binding standards or increasing the level of environmental protection in the absence of binding standards in the transport sector.
- (2) Aid for acquisition of new transport vehicles for road, railway, inland waterway and maritime transport complying with adopted binding standards is permissible, when such

acquisition occurs before their entry into force and where the new binding standards, once mandatory, will not apply retroactively to already purchased vehicles.

(3) Aid shall be compatible if the existing means of transport are upgraded to environmental standards that were not yet in force at the date of entry into operation of those means of transport or if the means of transport are not subject to any environmental standards.

Article 18

Conditions for granting aid for early adaptation to future binding standards

(1) Aid for complying with new binding standards which increase the level of environmental protection and are not yet in force will be considered compatible only if the following conditions are fulfilled:

1) binding standards have been adopted and

2) the investment is implemented and finalised at least one year before the entry into force of the binding standard.

3) The maximum aid intensities are 25 % for small enterprises, 20 % for medium-sized enterprises and 15 % for large enterprises if the implementation and finalisation take place more than three years before the mandatory date of transposition or date of entry into force.

4) The aid intensity is 20 % for small enterprises, 15 % for medium-sized enterprises and 10% for large enterprises if the implementation and finalisation take place between one and three years before the mandatory date of transposition or date of entry into force.

(2) Eligible costs must be limited to the extra investment costs (in tangible or intangible assets) necessary to achieve the level of environmental protection required by the binding standard compared to the existing level of environmental protection required prior to the entry into force of this standard.

(3) Eligible costs are calculated as a net difference of any operating cost and operating benefits related to the extra investment arising during the first five years of the life of this investment.

Article 19

Conditions for granting investment aid for energy saving

(1) Investment aid for energy saving enabling undertakings to achieve energy savings will be considered compatible, if the following conditions are fulfilled:

1) The aid intensity must not exceed 60 % of the eligible investment costs.

2) the aid intensity from the point 1) from this paragraph may be increased:

a) by 20 percentage points for small enterprises,

b) by 10 percentage points for medium-sized enterprises, or

c) Where the investment aid is granted in a genuinely competitive bidding process, up to 100% of the eligible investment costs

(2) Eligible costs must be limited to the extra investment costs (in tangible or intangible assets), necessary to achieve energy savings beyond the level required by the binding standards.

(3) eligible costs are calculated as net difference of any operating costs and operating benefits related to the extra investment for energy saving and arising during the first three years of the life of this investment in the case of SMEs, the first four years in the case of large undertakings that are not part of the EU CO₂ Emission Trading System and the first five years in the case of large undertakings that are part of the EU CO₂

Article 20

Conditions for granting an investment aid for high-efficiency cogeneration

(1) Environmental investment aid for high-efficiency cogeneration will be considered compatible only if the high-efficiency combined standards are fulfilled, and:

- a) a new cogeneration unit will overall make primary energy savings compared to separate production,
- b) improvement of an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit will result in primary energy savings compared to the original situation.

(2) The aid intensity must not exceed 60 % of the eligible investment costs.

(3) Maximum aid intensity may be increased:

- a) Where the investment aid is granted in a genuinely competitive bidding process, up to 100% of the eligible investment costs,
- b) by 10 percentage points for medium-sized enterprises or
- c) by 20 percentage points for small enterprises.

(4) Eligible costs must be limited to the extra investment costs (in tangible or intangible assets), necessary to realise a high-efficiency cogeneration plant as compared to the reference investment.

(5) Eligible costs are calculated as net difference of any operating benefits and costs related to the extra investment for related to the extra investment and arising during the first five years of the life of this investment.

Article 21

Conditions for granting investment aid for renewable energy sources

(1) Investment Aid for renewable energy sources shall be compatible only if the following conditions are fulfilled:

- 1) there is no mandatory binding standards concerning the share of energy from renewable sources for individual undertakings.
- 2) for the production of biofuels shall be allowed only with regard to sustainable biofuels.
- 3) the aid intensity must not exceed 60 % of the eligible investment costs.
- 4) The aid intensity from the point 3) from this article may be increased by:
 - a) by 20 percentage points for small enterprises,
 - b) by 10 percentage points for medium-sized enterprises and
 - c) Where the investment aid is granted in a genuinely competitive bidding process, up to 100% of the eligible investment costs.

(2) Eligible investment costs must be limited to the extra investment costs (in tangible or

intangible assets) borne by the beneficiary compared with a conventional power plant or with a conventional heating system with the same capacity in terms of the effective production of energy.

(3) Eligible costs are calculated as net difference of any operating benefits and costs related to the extra investment for related to the extra investment for renewable sources of energy and arising during the first five years of the life of this investment.

Article 22

Conditions for granting aid for environmental studies

(1) Aid to companies for studies directly linked to investments for the purposes of achieving standards under the conditions set out in article 18 from this Regulation, of achieving energy saving under the conditions set out in article 19 from this Regulation, of producing renewable energy under the conditions set out in article 21 from this Regulation, will be considered compatible if the following conditions are fulfilled:

- 1) The aid intensity must not exceed 50 % of the costs of the study.
- 2) Where the study is undertaken on behalf of an SME, the aid intensity may be increased by 10 percentage points for medium-sized enterprises.

(2) Eligible costs are costs for studies.

(3) Aid from the paragraph (1) from this Regulation will also be granted in cases where, following the findings of a preparatory study, the investment under investigation is not undertaken.

Article 23

Conditions for granting aid for energy-efficient district heating

(1) Environmental investment aid in energy-efficient district heating installations will be considered compatible if the following conditions are fulfilled:

- 1) it leads to primary energy savings or the investment is meant for the use and distribution of waste heat for district heating purposes.
- 2) The aid intensity must not exceed 50 % of the eligible investment costs.
- 3) the aid intensity may be increased:
 - a) by 10 percentage points for medium-sized enterprises
 - b) by 20 percentage points for small enterprises.
- c) Where the investment aid is granted in a genuinely competitive bidding process, up to 100 % of the eligible investment costs.

(2) Eligible costs must be limited to the extra investment costs (in tangible or intangible assets) necessary to realise an investment leading to energyefficient district heating as compared to the reference investment.

(3) Eligible costs are calculated as net difference of any operating costs and operating benefits related to the extra investment and arising during the first five years of the life of this investment.

Article 24

Conditions for granting Investment aid for waste management

(1) Environmental investment aid for the management of waste of other undertakings, including activities of re-utilisation, recycling and recovery, will be considered compatible with the hierarchical classification of the principles of waste management and if all of the following conditions are fulfilled:

- 1) the investment is aimed at reducing pollution generated by other undertakings ('polluters') and does not extend to pollution generated by the beneficiary of the aid;
- 2) the aid does not indirectly relieve the polluters from a burden that should be borne by them under the Legislation of the Republic of Macedonia, or from a burden that should be considered a normal company cost for the polluters,
- 3) the investment goes beyond the a process in which the use of a waste product to manufacture an end product is economically profitable normal practice, or uses conventional technologies in an innovative manner;
- 4) the materials treated would otherwise be disposed of, or be treated in a less environmentally friendly manner;
- 5) the investment shall increase demand for the materials to be recycled without increasing collection of those materials.
- 6) The aid intensity must not exceed 50 % of the eligible investment costs.
- 7) The aid intensity may be increased:
 - a) by 10 percentage points for medium-sized enterprises
 - b) by 20 percentage points for small enterprises.

(2) Eligible costs must be limited to the additional investment costs (in tangible or intangible assets) necessary to realise an investment leading to waste management and borne by the beneficiary compared to the reference investment, that is to say, a conventional production not involving waste management with the same capacity. The cost of such reference investment must be deducted from the eligible cost.

(3) Eligible costs are calculated as net difference of any operating benefits and operating costs related to the extra investment related to the extra investment for waste management and arising during the first five years of the life of this investment.

Article 25

Conditions for granting investment aid for the remediation of contaminated sites

(1) Investment aid to undertakings repairing environmental damage by remediating contaminated sites will be considered compatible if the following conditions are fulfilled:

- 1) aid leads to an improvement of environmental protection.
- 2) Aid for the remediation of contaminated sites may amount to up to 100 % of the eligible costs.

(2) The eligible costs are equal to the cost of the remediation work less the increase in the value of the land. All expenditure incurred by an undertaking in remediating its site, whether or not such expenditure can be shown as a fixed asset on its balance sheet, ranks as eligible investment in the case of the remediation of contaminated sites

(3) The environmental damage concerned covers damage to the quality of the soil or of surface water or groundwater.

(4) Where the polluter is clearly identified, that person must finance the remediation in accordance with the 'polluter pays' principle, and no State aid may be granted.

(5) Where the polluter is not identified or cannot be made to bear the costs, the person responsible for the work may receive aid.

Article 26

Conditions for granting investment aid for the relocation of undertakings

(1) Investment aid for relocation of undertakings to new sites for environmental protection reasons will be considered compatible if the following conditions are met:

1) the change of location must be dictated by environmental protection or prevention grounds and must have been ordered by the administrative or judicial decision of a competent public authority or agreed between the undertaking and the competent public authority;

2) the undertaking must comply with the strictest environmental standards applicable in the new region where it is located.

3) The aid intensity must not exceed 50 % of the eligible investment costs.

4) The aid intensity from the point 3) of this paragraph may be increased:

a) up to 10 percentage points for medium-sized enterprises or

b) up to 20 percentage points for small enterprises.

(2) The eligible costs are equal to the yield from the sale or renting of the plant or land abandoned, the compensation paid in the event of expropriation, any other gains connected with the transfer of the plant, notably gains resulting from an improvement, on the occasion of the transfer, in the technology used and accounting gains associated with better use of the plant investments relating to any capacity increase from one side, and the costs connected with the purchase of land or the construction or purchase of new plant of the same capacity as the plant abandoned and any penalties imposed on the undertaking for having terminated the contract for the renting of land or buildings, if the administrative or judicial decision ordering the change of location results in the early termination of this contract.

Article 27

Conditions for granting aid in the form of reductions of or exemptions from environmental taxes

(1) Aid in the form of reductions or exemptions from environmental taxes will be considered compatible if it contributes at least indirectly to an improvement of the level of environmental protection and that the tax reductions and exemptions do not undermine the general objective pursued.

(2) Aid in the form of tax reductions and exemptions is considered to be compatible for a period of 10 years provided the beneficiaries pay at least the minimum tax level.

(3) Aid in the form of reductions of or exemptions from environmental taxes other than those referred to in paragraph (2) of this Article, is considered to be compatible for a period of 10 years.

(4) When analysing, the Commission for Protection of Competition will analyse in particular the necessity and proportionality of the aid and its effects at the level of the economic sectors concerned.

Article 28

Procedure for granting aid for environmental protection

- (1) Aid for environmental protection may be granted only if an application by the beneficiary is submitted to provider before project starts.
- (2) State aid must always have an incentive effect, that is to say it must result in the recipient changing its behaviour to increase the level of environmental protection.

IV. Employment

Article 29

Aid for employment

- (1) Aid for the employment of disabled workers and severely disadvantaged worker, shall be compatible as:
 - a) Aid for the recruitment of disadvantaged workers in the form of wage subsidies;
 - b) Aid for the employment of disabled workers in the form of wage subsidies
 - c) Aid for compensating the additional costs of employing disabled workers

Article 30

Conditions for granting aid for the recruitment of disadvantaged workers in the form of wage subsidies

- (1) Aid for the recruitment of disadvantaged workers in the form of wage subsidies shall be compatible if the following conditions are met:
 - 1) The aid intensity shall not exceed 50 % of the eligible costs.
 - 2) Eligible costs shall be the wage costs over a maximum period of 12 months following recruitment.
 - 3) Aid shall lead to a net increase, compared with the average over the previous twelve months, in the number of employees in the undertaking concerned. The post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.
- (2) where the aid from the paragraph 1) from this article is granted to the unemployed person, eligible costs shall be the wage costs over a maximum period of 24 months following recruitment.

Article 31

Conditions for granting aid for the employment of disabled workers in the form of wage subsidies

- (1) Aid for the employment of disabled workers in the form of wage subsidies, shall be compatible if the following conditions are met:
 - 1) The aid intensity shall not exceed 75 % of the eligible costs.

2) Eligible costs shall be the wage costs over any given period during which the disabled worker is being employed.

3) Where the recruitment leads to a net increase, compared with the average over the previous twelve months. The number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.

Article 32

Conditions for granting aid for compensating the additional costs of employing disabled workers

(1) Aid for compensating the additional costs of employing disabled workers shall be compatible if the following conditions are met:

1) The aid intensity shall not exceed 100 % of the eligible costs.

2) The eligible costs shall be the following:

a) costs of adapting premises;

b) costs of employing staff for time spent solely on the assistance of the disabled workers;

c) costs of adapting or acquiring equipment, or acquiring and validating software for use by disabled workers, including adapted or assistive technology facilities, which are additional to those which the beneficiary would have incurred if employing workers who are not disabled;

d) where the beneficiary provides sheltered employment, the costs of constructing, installing or expanding the establishment concerned, and any costs of administration and transport which result directly from the employment of disabled workers.

(2) Eligible costs shall be costs other than wage costs covered, which are additional to those which the undertaking would have incurred if employing workers who are not disabled, over the period during which the worker concerned is being employed.

Article 33

Procedure for granting employment aid

(1) Aid for the employment of disabled workers and severely disadvantaged worker shall be compatible only if an application by the beneficiary is submitted to aid providers before project starts.

(2) All state aid providers must demonstrate that aid will have an incentive effect , ie in the case of aid in the form of wage subsidies, would lead to a net increase in the number of unemployed and disabled persons from the concerned undertaking, compared to the average in the previous twelve months. **Newly unemployed** or disabled workers , should only fill vacancies or newly created posts, vacant as a result of voluntary departure, disability, retirement, voluntary reduction of working hours, statutory dismissal for misconduct, or expansion activity, but not as a result of redundancy .

- (3) Except in the case of layoffs legal misconduct, unemployed are entitled to permanent employment for a minimum period in accordance with Macedonian legislation or under any collective agreement which governs their employment contract. If the period of employment is shorter than 12 months or up to 24 months, the aid shall be reduced in proportion respectively.

V. Training

Article 34

Training aid

Training aid shall be compatible for:

- a) specific training.
- b) general training.

Article 35

Conditions for granting training aid

- (1) Granting of Training aid shall be compatible if the following conditions are met:
- 1) it results in a change in behavior by the beneficiary, providing more and / or better training than without it.
 - 2) The aid intensity shall not exceed:
 - a) 25 % of the eligible costs for specific training;
 - b) 60 % of the eligible costs for general training.
 - 3) the aid intensity may be increased, up to a maximum aid intensity of 80 % of the eligible costs, as follows:
 - a) by 10 percentage points if the training is given to disabled or disadvantaged workers;
 - b) by 10 percentage points if the aid is awarded to medium-sized enterprises and by 20 percentage points if the aid is awarded to small enterprises.
 - 4) In cases where the aid project involves both specific and general training components which cannot be separated for the calculation of the aid intensity, and in cases where the specific or general character of the training aid project cannot be established, the aid intensities applicable to specific training shall apply.
- (2) The eligible costs of a training aid shall be:
- a) trainers' personnel costs;
 - b) trainers' and trainees' travel expenses, including accommodation;
 - c) other current expenses such as materials and supplies directly related to the project;
 - d) depreciation of tools and equipment, to the extent that they are used exclusively for the training project;
 - e) cost of guidance and counselling services with regard to the training project;
 - f) trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) up to the amount of the total of the other eligible costs referred to in points (a) to (f). As regards the trainees' personnel costs, only the hours during which the trainees actually participate in the training, after deduction of any productive hours, may be taken into account.

Article 36

Procedure for granting training aid

- (1) Training aid shall be considered compatible only if, before work on the project or activity has started, the beneficiary has submitted an application for the aid to the providers.
- (2) Providers must be able to present that aid granted have an incentive effect, i.e it leads to increasing of the size, quality, scope or targeted training project participants in comparison with the same kind of training without state aid.

VI. Services of general economic interest - SGEI

Article 37

Aid for SGEI

- (1) This aid applies to State aid in the form of public service compensation, granted to undertakings entrusted with the operation of services of general economic interest.
- (2) Granting State aid in the form of public service compensation, granted to undertakings entrusted with the operation of services of general economic interest shall be compatible without obligation for notification the CPC, if falls within one of the following categories:
 - a) compensation not exceeding an annual amount of EUR 15 million in denars for the provision of services of general economic interest in areas other than transport and transport infrastructure;
 - b) compensation for the provision of services of general economic interest by hospitals providing medical care, including, where applicable, emergency services; the pursuit of ancillary activities directly related to the main activities, notably in the field of research;
 - c) compensation for the provision of services of general economic interest meeting social needs as regards health and long term care, childcare, access to and reintegration into the labour market, social housing and the care and social inclusion of vulnerable groups;
 - d) compensation for the provision of services of general economic interest as regards air or maritime links to islands on which the average annual traffic during the 2 financial years preceding that in which the service of general economic interest was assigned does not exceed 200 000 passengers, in the case of airports, and 300 000 passengers, in the case of ports.
- (3) The provision of paragraph (2) of this Article will only applies where the period for which the undertaking is entrusted with the operation of the service of general economic interest does not exceed 10 years. Where the period of entrustment exceeds 10 years, the provision of paragraph (2) of this Article only applies to the extent that a significant investment is required from the service provider that needs to be amortised over a longer period.
- (4) If during the duration of the entrustment the conditions for the application of the provision of paragraph (2) of this Article, cease to be met, the aid shall be notified to CPC.

- (5) The provisions of paragraph (2) of this Article, does not apply to State aid in the form of public service compensation granted to undertakings in the field of land transport.

Article 38

Conditions for granting SGEI aid

- (1) When granting SGEI aid the following conditions shall be met
- a) the recipient undertaking must actually have public service obligations to discharge, and the obligations must be clearly defined with one or more Acts.
 - b) the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner.
 - c) the compensation must not exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit.
 - d) the undertaking that is to discharge public service obligations, in a specific case, is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs that a typical undertaking, well-run and adequately provided with the relevant means, would have incurred. Aid would be permissible only if the competent authority, during entrusting the service company is in compliance or committed to comply with public procurement applicable rules.

Article 39

The parameters on which the compensation is calculated for discharging services of general economic interest

- (1) The parameters on which the compensation is calculated for the performance of services of general economic interest, shall not exceed what is necessary to cover the net cost incurred in discharging the public service obligations, including a reasonable profit.
- (2) The net cost may be calculated as the difference between costs incurred in operating the service of general economic interest, taking also into consideration investment cost associated to SGEI from one side, and the entire revenue earned from the service of general economic interest, from only discharging SGEI. Alternatively, it may be calculated as the difference between the net cost for the undertaking of operating with the public service obligation and the net cost or profit of the same undertaking operating without the public service obligation.
- (3) The costs to be taken into consideration shall comprise all the costs incurred in operating the service of general economic interest. They shall be calculated on the basis of generally accepted cost accounting principles, as follows:
- a) where the activities of the undertaking in question are confined to the service of general economic interest, all its costs may be taken into consideration;

b) where the undertaking also carries out activities falling outside the scope of the service of general economic interest, only the costs related to the service of general economic interest shall be taken into consideration;

c) the costs allocated to the service of general economic interest may cover all the direct costs incurred in operating the service of general economic interest and an appropriate contribution to costs common to both the service of general economic interest and other activities;

d) the costs linked with investments, notably concerning infrastructure, may be taken into account when necessary for the operation of the service of general economic interest.

(4) 'Reasonable profit' means the rate of return on capital that would be required by a typical undertaking considering whether or not to provide the service of general economic interest for the whole period of entrustment, taking into account the level of risk. The 'rate of return on capital' means the internal rate of return that the undertaking makes on its invested capital over the duration of the period of entrustment.

(5) Where it is justified for determining reasonable profit, beside the rate of return on capital profit level indicators may be used, such as the average return on capital, during the period for which confides the performance of services of general economic interest, return on capital engaged, refund or return on sales.

Article 40

Avoiding overcompensation

The amount of compensation shall not exceed what is necessary to cover the net cost incurred in discharging the public service obligations, including a reasonable profit.

VII. Risk capital

Article 41

Risk capital aid

(1) Risk capital aid that encourages market investors to provide risk capital to the target enterprises, include the following:

a) constitution of investment funds ('venture capital funds') in which the State is a partner, investor or participant, even if on less advantageous terms than other investors;

b) guarantees to risk capital investors or to venture capital funds against a proportion of investment losses, or guarantees given in respect of loans to investors/funds for investment in risk capital, provided the public cover for the potential underlying losses does not exceed 50 % of the nominal amount of the investment guaranteed;

c) other financial instruments in favour of risk capital investors or venture capital funds to provide extra capital for investment;

d) fiscal incentives to investment funds and/or their managers, or to investors to undertake risk capital investment.

Article 42

Conditions for granting Aid in the form of risk capital

- (1) Granting Risk capital aid shall be compatible if the following conditions are met:
- 1) Aid should be motivated to increase the profits of enterprises, that have the potential for substantial profits and constant support to enterprises for that purpose.
 - 2) The tranches of investment to be made by the investment fund shall not exceed EUR 1,5 million in denars per target undertaking over any period of twelve months.
 - 3) For SMEs, the risk capital measure shall be restricted to providing seed capital, start-up capital and/or expansion capital.
 - 4) The investment fund shall provide at least 70 % of its total budget invested into target SMEs in the form of equity or quasiequity.
 - 5) At least 50 % of the funding of the investment funds shall be provided by private investors. In the case of investment funds targeting exclusively SMEs located in assisted areas, at least 30 % of the funding shall be provided by private investors.
 - 6) the investment aid in targeted enterprises must be profitable and managed on a commercial basis
 - 7) Risk capital aid should be sector specific focus on innovative technologies or sectors (such as health care, information technology, biotechnology).
 - 8) Risk capital aid shall not be granted for rescue and restructuring of undertakings as well as to undertakings in the industry of coal and steel.
 - 9) Risk capital aid shall refer to a particular market failure, where there is enough evidence for such existence.
 - 10) Risk capital aid should lead to a net increase in the availability of risk / venture capital to SMEs, particularly in investment expansion by private investors.

VIII. Final provision

Article 43

With the entry into force of this Regulation shall supersede the Regulation on the procedure for granting horizontal aid (Official Gazette br.157/2007).

Article 44

This Regulation shall enter into force on the eighth day after its publication in the "Official Gazette of Macedonia".