



EUROPEAN COMMISSION

DIRECTORATE-GENERAL
REGIONAL POLICY

Denmark, Estonia, Finland, Latvia, Lithuania, Poland, Sweden
The Director

Brussels, 29.10.2009*010168
H2/AD D(2009) 890434

Mr Andžs Ūbelis
Deputy Secretary of State
Ministry of Finance
1 Smilšu iela
LV-1919 Riga
Latvia

Subject: Reimbursement of expenditure for not yet approved Major Projects

Ref.: 2007LV161PO001
2007LV161PO002

Dear Mr Ūbelis,

I would like to draw your attention to the following. Since the entry into force of Council Regulation (EC) No 284/2009 of 7 April 2009 amending Regulation (EC) No 1083/2006, interim payment applications can include expenditure related to major projects not yet approved by the Commission under Article 41 of Regulation (EC) No 1083/2006. As part of the recovery package, this measure is intended to speed up the flow of Cohesion policy funds to the Member States, and I would like to urge you to make the best possible use of it.

However, major projects still have to be approved by the Commission under Article 41(2) of Regulation (EC) No 1083/2006 in order for their expenditure to be definitively eligible for reimbursement. Indeed, according to Article 78, paragraph 4, of Regulation (EC) No 1083/2006 as modified: "*when, in application of Article 41(3), the Commission refuses to make a financial contribution to a major project, the expenditure declaration following the adoption of the Commission decision must be rectified accordingly*".

When a major project, whether it has been approved or not, is affected by an infringement procedure under article 226 of the Treaty which has advanced to the stage of a reasoned opinion, the Commission will not be entitled to reimburse expenditure declared in relation to it (cf. Article 86(1)(d) of Regulation (EC) No 1083/2006). This provision applies to any interim payment, regardless of whether the operation(s) affected by the reasoned opinion constitute(s) or include(s) a major project. In such cases the competent national authority will be invited to take the necessary steps to remedy the situation, such as withdrawing the expenditure of the operation(s) affected by the reasoned opinion or finding an agreement with the Commission on the substance of the infringement procedure.

Conversely, as long as no reasoned opinion affects the major project, or for that matter any other operation which expenditure is included in a given application for payment, the Commission will reimburse the said expenditure if other conditions for payment foreseen in Article 86(1) of Regulation (EC) No 1083/2006 are fulfilled. However, the Commission can decide to interrupt the payment deadline, if the conditions of Article 91 of Regulation (EC) No 1083/2006 are met.

If eventually the infringement procedure would lead the Commission to adopt a decision refusing the major project, Article 78, paragraph 4, of the general regulation as modified applies, meaning that all expenditure on the refused major project is ineligible and has to be deducted from the subsequent statement of expenditure.

I would be obliged if you could bring the above to the attention of the services in your country, which are involved in the management of major projects.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Charlina Vitcheva', with a stylized, cursive script.

Charlina Vitcheva

Copies: Ms Inese Šteina (Ministry of Finance of Latvia),
Mr Kaspars Āboliņš (State Treasury)