

Approved by

the decree of the Cabinet of Ministers of Ukraine

No. 497 of 17 June 2020

PROCEDURE

return of inappropriately spent and unused part of the European Union grant provided for the implementation of projects within the framework of the Joint Operational Programme for Cross-Border Cooperation of the European Neighbourhood Instrument 2014-2020

General part

1. These Regulations define the procedure for the reimbursement of improperly spent funds and the unused part of a European Union grant to the principal partner and/or partner(s) having the status of budgetary institutions (hereinafter referred to as grants) for the implementation of projects under the Joint Operational Programme for Cross-Border Cooperation in the European Neighbourhood Instrument 2014-2020 (hereinafter referred to as programmes).

2. In this Regulation, the term "financial adjustment" means the amount of funds by which the financing of a project financed under the programmes will be reduced due to the identification of single or systemic irregularities during its implementation.

Other terms in this Regulation are used in the meaning defined in the order of functioning of the national system of management and control over the implementation of joint operational programmes of cross-border cooperation of the European Neighbourhood Instrument 2014-2020, approved by the Decree of the Cabinet of Ministers of Ukraine dated July 11, 2018 No. 554 "On the Introduction of a National System of Management and Control of Joint Operational Programmes of Cross-Border Cooperation of the European Neighbourhood Instrument 2014-2020" (Official Bulletin, 2018, No61).

Grants refund procedure

3. The Lead Partner / Partner / National Authority is sent a request (application) with the claim to return the transferred part of a grant in accordance with the provisions of program financing agreements in case:

the use of grant funds for purposes other than those intended or in violation of procedures that are used for the implementation of programs and cannot be deducted from the following payments from the grant.

failure to use grant funds during the project implementation period and if their use is not confirmed by project implementation reports.

occurrence of violations through the fault of the lead partner and/or project partner.

4. The lead partner is responsible for returning the grant funds to the Managing Authority in accordance with the provisions of the grant contract. The lead partner may, if necessary, define in the partnership agreement the procedure of interaction between the lead partner and project partner(s) on the return of grant funds.

5. In case the reasons for transfer of the request (application) for return of grant funds by the Managing Authority are caused by the project partner, the lead partner shall send such request (application) to the project partner in accordance with the provisions of the partnership agreement.

6. The partner returns to the lead partner the amount of grant funds specified in the request (application) of the Managing Authority, together with interest, in case of failure to return the grant funds within the period specified by the Managing Authority.
7. In case of non-repayment of grant funds by a partner to the lead partner in accordance with the provisions of the partnership agreement, the lead partner immediately informs the Managing Authority of such fact.
8. Refund of grant funds must be made before the deadline specified in the request (application) of the Managing Authority on return of grant funds.
9. The deadline for refund of grant funds is 45 days from the date of receipt by the lead partner of the request (application) from the Managing Authority for refund of grant funds.
10. The General Partner / partner / National Authority has the right to request the Managing Authority to extend the deadline for the return of grant funds with appropriate justification.
11. The lead partner/partners may be subject to the financial adjustments of the Managing Authority that are required due to individual or systemic irregularities identified during project implementation within the programmes. The grant amount to be refunded due to the financial adjustments cannot be reused in the project that was subject to the financial adjustment.
12. In case of application of financial corrections by the Managing Authority, the amount of funds to be returned to the Managing Authority's account by the lead partner/partner may be increased.
13. Any delay in refunding the grant funds is the basis for charging a late payment penalty. The late payment interest shall be calculated by the Managing Authority in the amount of 3.5 per cent over the rate of the European Central Bank applied in the principal refinance activity in the euro currency for payments made in euro, the first working day of the month on which the deadline for repayment falls.
14. The interest shall be charged for the period from the maturity date determined by the Governing Authority until the date of actual payment.
15. All programme refunds are in euros. Expenditure incurred in a currency other than the euro is translated using the monthly conversion rate of the European Commission.
16. Transactions on refund of grant funds between the partner and the lead partner, conducted on the territory of Ukraine, are performed in the national currency. The lead partner buys the euro in order to return the grant funds and transfers the required amount to the Managing Authority.
17. Risks on exchange rate differences and bank charges related to the return of grant funds to the Managing Authority / lead partner are assigned to the lead partner / partners, respectively.
18. In case of non-repayment by the lead partner/partner of grant funds, the National authority on the territory of which the legal address of the lead partner/partners is located receives a notification from the management authority. In case of receipt of the notification, the National Authority will request the main partner/partner - legal entity (resident) to suspend the project until the National Authority receives the documents confirming the return of funds to the Managing Authority. The National Authority shall inform the Management Authority about the decision to suspend the project implementation.
19. Grant funds to be returned in compliance with the budget legislation may be paid from the funds owned by the lead partner / partner / Ukraine as a member country of the program, does not affect the right of the parties to agree on payment in installments.

20. The refund procedure directly from the Lead Partner/Partner/Ukraine as a participating country may be initiated by the European Commission at any time.

Grant Repayment Mechanism

21. If there is an unused part of the grant in foreign and national currency, the lead partner / partner - budget funds administrator shall make transfers to the account of the management authority / lead partner in accordance with the established procedure.

22. In case there are no funds in the respective accounts of budget funds administrators to cover the liabilities under grant contracts and partnership agreements, the lead partner / partner - budget funds administrator shall redistribute budget expenditures in accordance with the provisions of the Procedure for transfer of budget appointments, redistribution of budget expenditures and provision of loans from the budget, approved by Cabinet of Ministers of Ukraine on January 12, 2011 № 18 (Official Bulletin of Ukraine, 2011, № 2, Art. 114; 2012, № 22, Art. 837).

23. In the case of non-compliance with paragraph 19 of this Order, the funds shall be transferred to the Managing Authority by the main administrator of budgetary funds.

24. Main partners/partners legal entities (residents), which have not ensured the return of funds in the presence of the reasons defined in paragraph 3 of this Order, will be included in the list of debtors, posted on the website of the National Authority, to which the restrictions defined in paragraph 22 of the Order on the functioning of the National system of management and control over the implementation of joint operational programmes of cross-border cooperation of the European Neighbourhood Instrument 2014-2020, approved by the Decree of the Cabinet of Ministers of Ukraine dated July 11, 2018 No. 554.