

Commission Delegated Regulation (EU) 2019/856 of 26 February 2019  
supplementing Directive 2003/87/EC of the European Parliament and of the Council  
with regard to the operation of the Innovation Fund (Text with EEA relevance)

*CHAPTER II*

*Specific provisions applicable to grants*

*Article 5*

**Relevant costs**

1 For the purposes of the fourth sentence of the third subparagraph of Article 10a(8) of Directive 2003/87/EC, the relevant costs shall be the additional costs that are borne by the project proponent as a result of the application of the innovative technology related to the reduction or avoidance of the greenhouse gas emissions. The relevant costs shall be calculated as the difference between the best estimate of the total capital expenditure, the net present value of operating costs and benefits arising during 10 years after the entry into operation of the project compared to the result of the same calculation for a conventional production with the same capacity in terms of effective production of the respective final product.

Where conventional production referred to in the first subparagraph does not exist, the relevant costs shall be the best estimate of the total capital expenditure and the net present value of operating costs and benefits arising during 10 years after the entry into operation of the project.

2 The relevant costs of a small-scale project shall be the total capital expenditure costs of that project.

*Article 6*

**Disbursement of grants**

1 The Innovation Fund support, in the form of a grant, shall be disbursed upon reaching the pre-determined milestones.

2 For all projects, the milestones referred to in paragraph 1 shall be based on the project development cycle and shall be at least the following:

- a financial close;
- b entry into operation.

3 Taking into account the technology deployed and the specific circumstances of the sector or sectors in which it is being deployed, additional specific milestones may be determined in the contractual documents.

4 Up to 40 % of the total amount of the Innovation Fund support, including project development assistance, to a specific project shall be disbursed upon financial close or upon reaching a specific milestone preceding financial close where such a milestone has been determined in accordance with paragraph 3.

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5 To the extent that the total amount of the Innovation Fund support to a specific project has not been disbursed pursuant to paragraph 4, that amount shall be disbursed after the financial close. It may be partially disbursed prior to the entry into operation and in annual instalments after the entry into operation.

6 For the purposes of paragraphs 4 and 5 of this Article, the total amount of the Innovation Fund support provided to a specific project shall include the amount of the Innovation Fund support provided to that project by way of project development assistance in accordance with Article 13.

### *Article 7*

#### **General recovery rules**

1 The Commission shall take appropriate measures to ensure that, where activities financed under this Regulation are implemented, the financial interests of the Innovation Fund are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts unduly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2 Recoveries shall be implemented in accordance with the Financial Regulation.

3 The grounds for recovery as well as the recovery procedures shall be further specified in the contractual documentation.

### *Article 8*

#### **Special recovery rules**

1 The amount of the Innovation Fund support disbursed in accordance with paragraph 5 of Article 6 after the financial close shall be dependent on the avoidance of greenhouse gas emissions verified on the basis of annual reports submitted by the project proponent for a period between 3 to 10 years following the entry into operation. The final annual report submitted by the project proponent shall include the total amount of greenhouse gas emissions avoided during the entire reporting period.

2 Where the total amount of greenhouse gas emissions avoided during the entire reporting period is lower than 75 % of the total amount of greenhouse gas emissions planned to be avoided, the amount paid or to be paid to the project proponent in accordance with paragraph 5 of Article 6 shall be proportionally recovered or reduced.

3 Where the project fails to enter into operation by the pre-determined time or the project proponent fails to demonstrate any real avoidance of greenhouse gas emissions, the amount paid after the financial close in accordance with paragraph 5 of Article 6 shall be fully recovered.

4 Where the situations referred to in paragraphs 2 and 3 occur due to extraordinary circumstances that are beyond the control of the project proponent and the project proponent demonstrates the project's potential to achieve an avoidance of greenhouse gas emissions beyond the reported amount, or where the project proponent demonstrates that the project can achieve significant low-carbon innovation benefits, the Commission may decide not to apply the recovery mechanisms under paragraphs 2 and 3.

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5 The ground for recovery and recovery procedures shall be further specified in the contractual documentation.

6 The rules laid down in paragraphs 3 and 4 of this Article shall be without prejudice to general recovery rules under Article 7.

### Article 9

#### **Calls for proposals**

1 The project proponents shall be invited to apply for the Innovation Fund support through open calls for proposals launched by the Commission.

Before adopting a decision launching a call for proposals, the Commission shall consult the Member States on the draft decision.

2 The Commission decision launching the calls for proposals shall include at least the following:

- a the overall amount of the Innovation Fund support available for the call;
- b the maximum amount of the Innovation Fund support available for project development assistance;
- c the types of solicited projects or sectors;
- d a description of the application procedure and a detailed list of information and documentation to be submitted at each phase of the application procedure;
- e detailed information on the selection procedure, including the methodology for evaluation and ranking;
- f where specific application and selection procedures are applied in accordance with Article 10(4) and Article 12(6) for small-scale projects, the rules on those specific procedures;
- g where the Commission reserves a part of the total amount of the Innovation Fund support available for the call to small-scale projects, the amount of that part;
- h where additional selection criteria aimed at achieving a geographically balanced distribution of the Innovation Fund support are applied in accordance with Article 11(2), those criteria.

### Article 10

#### **Application procedure**

1 The implementing body shall collect the applications and organise the application procedure in two subsequent phases:

- a the expression of interest;
- b the full application.

2 At the expression of interest phase, the project proponent shall be required to submit a description of key project characteristics in line with the requirements laid down in the relevant call for proposals, including the description of the project's effectiveness, degree of innovation, and maturity as specified in points (a), (b) and (c) of Article 11(1).

3 At the full application phase, the project proponent shall be required to submit a detailed description of the project and all supporting documentation, including the knowledge-sharing plan.

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- 4 A simplified application procedure may be applied for small-scale projects.

### *Article 11*

#### **Selection criteria**

1 The selection of projects for the Innovation Fund support shall be based on the following criteria:

- a effectiveness in terms of greenhouse gas emission avoidance potential, where applicable, compared to the benchmarks referred to in Article 10a(2) of Directive 2003/87/EC;
- b degree of innovation of the projects compared to the state of the art;
- c project maturity in terms of planning, business model, financial and legal structure as well as prospect of reaching the financial close within a pre-defined period of time not exceeding four years after the award decision;
- d technical and market potential for widespread application or replication, or for future cost reductions;
- e efficiency in terms of the relevant costs of the project minus any contribution to those costs from the project proponent, divided by the total projected amount of greenhouse gas emissions to be avoided or energy to be produced or stored or CO<sub>2</sub> to be stored in the first 10 years of operation.

2 Additional criteria aimed at achieving a geographically balanced distribution of the Innovation Fund support may also be applied for the purposes of project selection.

### *Article 12*

#### **Selection procedure**

1 Based on the applications received at the expression of interest phase, the implementing body shall assess, for each project, the eligibility in accordance with Article 10a(8) of Directive 2003/87/EC. The implementing body shall then proceed with the selection of eligible projects under paragraphs 2 and 3 of this Article.

2 Based on the applications received at the expression of interest phase, the implementing body shall draw up a list of the projects that meet the selection criteria laid down in points (a), (b) and (c) of Article 11(1) and shall invite the proponents of those projects to submit a full application.

Where the implementing body concluded that a project meets the selection criteria laid down in points (a) and (b) of Article 11(1), but does not meet the criterion laid down in point (c) of Article 11(1), the implementing body shall assess whether that project has the potential to meet all selection criteria if further developed. Where the project has such a potential, the implementing body may award project development assistance to the project concerned or, where the Commission implements that task, propose to the Commission to award project development assistance to the project.

3 Based on the full application received in accordance with paragraph 2 of this Article, the implementing body shall proceed with the project evaluation and ranking based on all selection criteria laid down in Article 11. For the purposes of that evaluation, the implementing body shall compare the projects with the projects in the same sector as well as with projects in other sectors, and shall draw up a list of pre-selected projects.

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4 The list of pre-selected projects referred to in paragraph 3 and, where applicable, the suggestion referred to in the second subparagraph of paragraph 2 shall be communicated to the Commission and shall include at least the following:

- a a confirmation of the compliance with the eligibility and selection criteria;
- b details on project evaluation and ranking;
- c total project costs and relevant costs referred to in Article 5, in euro;
- d the request for the total Innovation Fund support in euro,
- e the projected amount of greenhouse gas emissions to be avoided;
- f the projected amount of energy to be produced or stored;
- g the projected amount of CO<sub>2</sub> to be stored;
- h information on the legal form of the Innovation Fund support requested by the project proponent.

5 On the basis of what was communicated pursuant to paragraph 4 of this Article, the Commission shall, after consulting the Member States in accordance with Article 21(2), adopt the award decision specifying the support to the selected projects and, where appropriate, draw up a reserve list.

6 A specific selection procedure may be applied for small-scale projects.

### *Article 13*

#### **Project development assistance**

1 The Commission shall, after consulting the Member States in accordance with Article 21(2)(c), determine the maximum amount of the Innovation Fund support available for project development assistance.

2 The project development assistance shall be awarded by the Commission or by the implementing body in accordance with Article 12(2) in the form of a grant.

3 The following activities may be funded by way of project development assistance:

- a improvement and development of a project documentation, or of components of the project design, with a view to ensuring the sufficient maturity of the project;
- b assessment of the feasibility of the project, including technical and economic studies;
- c advice on the financial and legal structure of the project;
- d capacity building of the project proponent.

4 For the purposes of project development assistance, the relevant costs shall be all project development related costs. The Innovation Fund may finance up to 100 % of the relevant costs.

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**Changes and effects yet to be applied to :**

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)