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The selection made by the ESPON Monitoring Committee of the best proposals from the ESPON Calls for Proposals from 16 September to 11 November 2009 resulted in two appeals from potential beneficiaries. The ESPON 2013 Programme gives this possibility in accordance with the Programme Manual, chapter 8.12.

### **I. Appeal raised related to proposal for Applied Research project**

A potential beneficiary appealed by letter of 15 March 2010 the decision taken by the ESPON Monitoring Committee (MC) on 16-17 February 2010 concerning a proposal submitted for the ESPON Applied Research Project under Priority 1 “European perspective on specific types of territories”.

The appeal submitted to the ESPON Managing Authority (MA) included two elements:

(1) *Claim of violation of procedure because of two reasons:*

- *The text used in the MA rejection letter indicates that the team is not really an expert in the field as part of the argumentation for refusal.*
- *The text insinuates that the submitted proposal has been copy-pasted which is seen as an unproved judgement not included in the ESPON evaluation procedure.*

*The appellant claimed on that basis the following: “Given the statements utterly unfounded used in the refusal letter, also constituting a violation of procedure, we ask the MA and the CU to review the evaluation by an independent panel of evaluators and to suspend the decision”.*

(2) *The appellant claimed in addition that non-respect of European transparency rules is the case as:*

- *No access to the detailed results of the evaluation is possible.*
- *The procedure included in the ESPON Programme Manual is providing only a brief explanation related to the assessment results.*
- *EU Transparency rules as included in the Interreg Manual (from the Interact programme) and in the EC Regulation for European Institutions, interpreted by the Ombudsman, include all public contracts part of the budget of the EC.*

*The appellant claimed on that basis the following: “Since the sentences used in the refusal letter need to be better explained and proved, we ask the CU and the MA to allow us to access to an evaluation report and the scoring as recommended in European Regulation about transparency, the Interreg Manual and the European Ombudsman cases cited”.*

The ESPON Managing Authority processed the appeal according to the Programme Manual, chapter 8.12, decided by the Monitoring Committee, and part of the Management and Control System approved by the Commission for the ESPON 2013

Programme, which offers the possibility to appeal to the formal procedure conducted in relation to the evaluation leading to the proposal not being selected for contracting.

According to the procedures described in the Programme Manual, the ESPON Coordination Unit (CU) reassessed the procedures followed in the evaluation of the proposal of the appellant, and, on 2 April 2010, the ESPON MC took the following decisions in relation to the appeal raised:

1. The MC agrees with the appellant in their assessment of a very unfortunate and unbalanced wording in the refusal letter. The MA and MC deeply regret the wording of the refusal letter which in the form presented can seem utterly unfounded. The wording should in a balanced and non-insinuating way have expressed the remarks of the evaluators from the anonymous part of the evaluation (not knowing the partners involved) and from the consensus discussion. The proposal submitted by the appellant first of all was of sufficient quality to be included in the evaluation session which was supported by the fact that all evaluation criteria were scored by all evaluators with more than the minimum score necessary. Moreover, the proposal was considered of high quality and in relation to the proposals submitted for the project as it was in the final discussion between the two best proposals for the project.
2. The check of formal procedures of the evaluation itself clearly indicated no violation of any rules in the evaluation. Consequently the outcome of selection is not affected, only the reporting of the outcome. Therefore, a suspension of the decision is not indicated, but a fundamental revision of the refusal letter. The MC shares the view of the appellant that the sentences used in the refusal letter need to be better explained and that, on the basis of the remarks given by the evaluators, a more thorough summary of the results of the evaluation of the appellant's proposal should be provided in the form of an evaluation summary report.
3. The MC has so far taken the position that documents related to the evaluation of proposals for funding need to be considered and treated as internal documents in order to ensure the anonymity of evaluators. These details from the evaluation are so far only seen as relevant for the MC decision at the Monitoring Committee. The MC is however committed to ensuring transparency for rejected proposals submitted within the ESPON 2013 Programme, and will make an effort reviewing the currently existing and positively audited rules of the evaluation process and appeal procedure in the light of the common practice of other Interreg Programmes and general EU Transparency Rules. The MC will on this basis consider necessary adaptations.

The ESPON MA informed with letter of 13 April 2010 the appellant about the decisions of the ESPON MC and provided an evaluation summary report of the evaluation of the submitted proposal.

## **II. Appeal raised related to proposal for Transnational Networking Activity project**

A potential beneficiary appealed by letter of 18 March 2010 the decision taken by the ESPON Monitoring Committee (MC) on 16-17 February 2010 concerning their proposal submitted under Priority 4 as Transnational Networking Activity.

The appeal included the following:

*The appellant appealed the decision of the MC taken on 16-17 February 2010 concerning the non-eligibility based on eligibility criteria 3 and 4 of Transnational Networking Activities, in particular the inclusion of “actions that provide feedback on blunders, misinterpretations, and mishaps in draft final reports of ESPON Projects under Priority 1.” The claim is that there is no real and substantial reason for non-eligibility”.*

*The appellant claimed that these activities are included in the proposed activities related to transformation of draft ESPON reports into educational material. Moreover, the transfer of ESPON results into educational material will involve an overall editor ensuring quality control and permanent editing, including review of two committees previewed set up for the submitted project.*

*The appellant claimed that the argument of blunder checks not being included in the proposal is baseless and unfounded. Reference is made to the Programme Manual and the possibility for the MC to (in some cases) include conditions, recommendations, and suggestions as part of their decision on proposals for contracting.*

The ESPON Managing Authority (MA) processed the appeal according to the Programme Manual, chapter 8.12, decided by the Monitoring Committee, and part of the Management and Control System approved by the Commission for the ESPON 2013 Programme, which offers the possibility to appeal to the formal procedure conducted in relation to the evaluation leading to the proposal not being selected for contracting.

The ESPON Managing Authority has according to the procedures described in the Programme Manual asked the ESPON Coordination Unit to reassess the procedures followed in the eligibility check of the proposal.

The ESPON Monitoring Committee on 2 April 2010 took the following decisions related to the appeal raised:

1. The reassessment of the procedure around the eligibility check showed that the procedure followed was fully complying with the procedure decided and described in the Programme Manual and in the Application Pack issued for the Call for Proposals.

The eligibility check of proposals for Transnational Networking Activities was conducted by the CU on behalf of the Managing Authority in accordance with the Programme Manual (chapter 5.4.2). The eligibility check was based on the 6 criteria set up for this check which were included in the Application Pack published for the Call for Proposals.

Two of these criteria were linked to the compulsory elements in the Transnational Networking Activities decided by the Monitoring Committee: Eligibility criterion 3

stating that “the content of the proposal includes all the compulsory elements required” and Eligibility criterion 4 underlining the necessity that “the proposal complies with the requirements set by the ESPON 2013 Programme (as detailed in Chapter 5.3.2 of the Programme Manual)”.

The result of the eligibility check concluded that the submitted project proposal did not include actions that provided feedback on blunders, misinterpretations and mishaps on Draft Final Reports of ESPON Projects under Priority 1, as requested by the MC as compulsory element. It was noticed that the preparation of educational material included editing and quality control. However, the proposal did not clearly include systematic feedback on national blunders from all ECP partners on Draft Final Reports from Applied Research projects. On that basis the proposal failed to comply with the two criteria for eligibility and was later deemed non-eligible by the Monitoring Committee on 16-17 February 2010.

2. The supporting documents of the Call for Proposals are very clear on the blunder check requirement. The requirements of the call would be fully respected through explicit mentioning of checks by each individual ECP involved in the proposal for blunders, misinterpretations, mistakes etc. in Draft Final Reports under Priority 1.

Based on the reconfirmation, that the proposal with its wording does not comply with the compulsory element related to feedback on blunders, misinterpretations and mishaps in ESPON Draft Final Reports under Priority 1, the MC came to the conclusion that the proposal failed to clearly demonstrate its compliance with the compulsory elements for the call. No procedures have been violated in relation to the eligibility check of the proposal.

3. In principle, the MC can ask for (in some cases) the inclusion of certain conditions, recommendations, suggestions as part of the contracting of selected proposals. However, this option only relates to proposals that have passed the eligibility check and where the second step of the evaluation of the content of a proposal calls for a limited scope of adaptations. Therefore, as blunder checks belong to the eligibility conditions, the MC came to the conclusion, that the inclusion of blunder checks as part of a selection and subsequent contracting cannot be activated in this case of the proposal submitted by the appellant.