



DECISION no. 15
of 2nd of May 2018

Regarding the complaints lodged against the Monitoring Committee Decision no. 72 of 22nd of March 2018, approving the List of approved and rejected projects submitted under the third call for proposals for the Interreg V-A Romania-Bulgaria Programme - deadline 23rd of October 2017

Having regard to the following:

- Monitoring Committee Decision no. 51 of 2nd of August 2017 approving the Complaint Panel for the Eols and full applications submitted under the 3rd call for proposals, priority axes 1-3, Interreg V-A Romania-Bulgaria Programme, step 1 and 2,
- The Complaint Procedure of Interreg V-A Romania-Bulgaria,

the Complaint Panel of Interreg V-A Romania-Bulgaria Programme has adopted this:

DECISION

Article 1. The present document accepts the complaint lodged by Balchik Municipality, Lead beneficiary of the application no. ROBG 422- „Synergy of nature and culture - potential for development of the cross-border region” and registered by CBC ROC with the number 6264/02.04.2018, appealing the Decision of the Monitoring Committee no.72/22.03.2018 regarding the rejection of ROBG 422.

Article 2. The reasons for approval of the complaint are:

The statement that Annex 2. Feasibility Study/ Equivalent technical documentation on behalf of Lead beneficiary is not elaborated according to the national legislation in force, as an incomplete set of Technical Designs is presented for the construction works on the territory of the Balchik Municipality is not correct as according to the attached opinion by the Chief Architect of Balchik, the object “Repair of Balchik seaside Promenade from section Cultural Information Centre “Melnitsata” a to the State Cultural Centre “Dvoretsa”” does not require the issuance of a Building Permit in accordance with Article 151, paragraph 1 of the Spatial Development Act, because the proposed activities represent current repairs and maintenance activities¹.

The replacement of the upper rings and lids of inspection shafts are listed within the part Road Works of the BoQ which are pointed in the Chief Architect’s statement.

¹ For reference from the judicial practice – a Supreme Court Decision № 1264 /28.01.2013 case № 12107/2012 for similar issue – sewerage system on a street is attached in which the following is enacted “According the provisions of § 5 item 43 of the Additional Provisions of Spatial Development Act, the term “Current Repair” is the improvement and the maintenance in fitness of buildings, structures, facilities and installations, as well as internal restructuring at definite conditions. Evidences has been presented at the case, establishing exactly this kind of repair - replacement of pipes, shafts and lids. Therefore, according the provisions of art. 151, paragraph 1 of the Spatial Development Act for such a repair a building permit is not required.”

The definitions for "constructions", "major repair", "current repair" and "reconstruction" or a construction according to §5, item 38, item 42, item 43 and item 44 of the Additional Provisions of the Spatial Development Act (ZUT) are as follows:

"Constructions" are over-ground, semi-underground, underground and under-water buildings, constructions, additional constructions, superstructures, strengthening, rehabilitation works, conservation, restoration, reconstruction under authentic data in the meaning of Art. 74, par. 1 of the Law for the Cultural Heritage and adaptation of immovable cultural valuables, fences, networks and facilities of the technical infrastructure, public works and sport facilities as well as their major repairs, reconstruction and restructuring, with or without change of the designation.

"Major repair" of a construction is partial restoring and/or partial replacement of constructive elements, basic parts, facilities or installations of constructions, as well as the construction-mounting works, with which initially input but worn out materials, constructions and constructive elements are replaced with other kinds or are implemented new kinds of works, with which is restored their exploitation fitness, their exploitation is improved or is extended its operational term.

"Current repair" of a construction is the improvement and the maintenance in fitness of buildings, structures, facilities and installations, as well as internal restructuring at which are not:

a) affected the construction of the building;

b) implemented activities as removal, movement of existing walls and making openings in them when they affect the construction of the building;

c) changed the designation of the premises and the loads in them.

"Reconstruction" of a construction is restoration, replacement of constructive elements, basic parts, facilities and installations and making of new such, with which is increased the load capacity, the stability and the durability of the constructions.

Regarding the second statement from the Water Supply and Sewerage Operator submitted by the beneficiary, this specifies that the project does not affect only the water supply network of the town, this does not apply to the sewerage network but the Operator has coordinated the technical project with no prescriptions regarding the sewerage system.

The provisions of the Applicants Guide regarding the Annex 2 are to be annexed: For Bulgarian beneficiaries: preliminary design (including estimation of bill of quantities and values) or technical design accompanied by the legal agreements and approvals. In this case the statement of the Chief Architects and the statements of the different operators. Moreover, according to the Applicants Guide in case legal agreements and approvals are not submitted together with the Feasibility study/equivalent technical documents, the respective agreements/approvals will be subject of conditions for signing the subsidy contract (in case of proposal for financing).

In conclusion, the technical documentation submitted at application stage complies with the national legislation in force. Therefore, the complaint is justified and approved by the Complaint Panel.

Article 3. The decision of the Complaint Panel is final, binding to all parties and not subject of any further complaint proceedings within the Programme.

Signed by

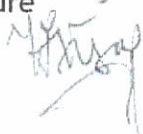
Members of the Complaint Panel

Member 1 - Managing Authority representative, Ministry of Regional Development and Public Administration, Romania

Member 2 - National Authority representative, Ministry of Regional Administration and Public Works, Bulgaria

Member 3 - External expert (from the Evaluation Unit), Ministry of Regional Development and Public Administration, Romania

Signature



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