
Decree of 19 February 2005 containing further rules governing the award of grants by the Minister of Foreign Affairs and the Minister for Development Cooperation (Ministry of Foreign Affairs Grants Decree)

We, Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

On the recommendation of Our Minister of Foreign Affairs and Our Minister for Development Cooperation of 22 July 1999, no. DJZ/BR/1257-99;

Having regard to section 3, subsections 1 and 2 of the Foreign Affairs (Grants) Framework Act,

Having heard the Council of State (advisory opinion no. W02.99.0422/II of 11 November 1999);

Having seen further report no. DJZ/BR/0074-05 by Our Minister of Foreign Affairs and Our Minister for Development Cooperation of 11 February 2005;

Have approved and decreed:

Part 1. General

Division 1. Definitions; scope

Article 1

The following definitions shall apply for the purposes of this Decree and the provisions based thereon:

- a. activity grant: a grant awarded for activities designed to achieve previously defined aims and results;
- b. core funding: a grant covering the full costs of a body's activities;

Article 2

A grant may be awarded for activities specified by ministerial order. Further rules concerning matters governed by this Decree may be laid down, and the amounts referred to in this Decree changed, by ministerial order.

Article 3

Unless otherwise stated by ministerial order, the provisions of this decree shall apply to the award of grants by Our Minister.

Division 2. Grant recipients

Article 4

1. Grants shall be awarded solely to legal persons whose aim as stated in their constitutions is in line with the objective of the grant award and who are in a position to:
 - a. ensure adequate financial management and
 - b. guarantee effective and efficient implementation of the activities through experience and expertise in relation to activities of the kind for which a grant is being sought.
2. In exceptional cases a grant may be awarded to natural persons who satisfy the conditions laid down in article 4, paragraph 1 (a) and (b), provided the circumstances in which the activities are to be conducted provide grounds for doing so.

Article 5

A grant may be refused, withdrawn, reduced from the figure specified at the time it was awarded or amended to the disadvantage of the grant recipient in the case and under the conditions set out in Section 3 of the Public Administration (Probity Screening) Act.

Division 3. Policy rules; grant ceiling; distribution

Article 6

1. In the event that Our Minister sets policy rules concerning the award of grants, he will publish them at least two weeks prior to the start of the grant period. Our Minister may specify a grant ceiling.
2. Unless stated otherwise in the publication of policy rules as referred to in paragraph 1, the grant period referred to in paragraph 1 shall coincide with the calendar year.
3. The policy rules shall be published in the Government Gazette or in some other suitable way, subject to notification in the Government Gazette. The grant ceiling shall be published in the Government Gazette.
4. When publishing the grant ceiling, Our Minister may state that the assessment of grant applications shall take account *inter alia* of the spread of expenditure over the grant period and may fix amounts for each category of activity, by target group, region, policy theme, nature of the activity, form of the grant and other factors relevant to the award of grants.

Article 7

1. Our Minister shall consider grant applications in the order in which they are submitted.
2. Our Minister shall give a decision within thirteen weeks of receiving the application. Without prejudice to article 25, paragraph 2 and article 35, paragraph 2, Our Minister may extend

this period by no more than thirteen weeks.

3. Notwithstanding paragraphs 1 and 2, Our Minister may, when publishing his policy rules or the grant ceiling, state that applications shall be decided upon after one or more specific dates, in the interests of comparing applications or spreading expenditure over the grant period. At the same time, Our Minister may state that, in the interests of a more even distribution of the resources available, applications submitted before the date in question shall be classified in accordance with the criteria indicated in the announcement.

Division 4. Assessment

Article 8

1. In assessing grant applications, Our Minister shall consider other applications on which no decision has yet been taken, and shall take into account the extent to which:
 - a. the activities contribute to achieving the objectives of the grant,
 - b. the grant is proportionate to the nature, scale and intended results of the activities,
 - c. the activities could have more than an incidental effect, and
 - d. there is a support base for the activities, evidenced for example by a contribution to the costs by relevant parties.
2. In assessing grant applications, Our Minister may take account of:
 - a. the position of women,
 - b. the impact on the environment,
 - c. the extent to which the applicant respects internationally accepted humanitarian principles, and
 - d. the consequences for internationally recognised civil, political, economic, social and cultural rights.
3. In assessing grant applications, Our Minister may also take account of:
 - a. the spread of expenditure over the grant period;
 - b. the extent to which distributing the available resources among a number of recipients makes for greater efficiency of expenditure and is proportionate to the administrative costs involved in awarding grants,
 - c. the extent to which the activities for which a grant is being sought, taken in conjunction with the full range of activities that are being conducted, meet a need, and
 - d. an even distribution over target groups, regions, policy themes, nature of the activity, form of the grant and other factors relevant to the award of grants.

4. For the purposes of this article Our Minister may, notwithstanding article 7, paragraph 1 and without prejudice to article 7, paragraph 2, postpone a decision on the award of a grant.

Article 9

A grant shall be refused if the application is submitted after the activities have started.

Article 10

Without prejudice to other provisions laid down by or pursuant to the law, Our Minister may refuse a grant if an award would be incompatible with Our Minister's policy on foreign relations and development cooperation, as stated *inter alia* in the explanatory memorandum to the Ministry of Foreign Affairs budget, communications between Our Minister and Parliament, the publication of the Minister's policy rules pursuant to article 6, paragraph 1, or other suitable sources.

Article 11

A grant shall be awarded only if the applicant can argue convincingly that the financial resources at his disposal, including the grant, will be sufficient to implement the proposed activities.

Division 5. Grant period; budget reservation

Article 12

Grants shall be awarded for a period not exceeding the duration of the activities; this period shall be fixed at the time the award is made. At the request of the grant recipient, Our Minister may extend the grant period, without adjusting the grant amount, if the activity for which the grant is awarded cannot be completed within the original period.

Article 13

Any grant award that is chargeable to a budget that has not yet been fixed shall be subject to the condition referred to in section 4.34, subsection 1 of the General Administrative Law Act.

Division 6. Costs that may be subsidised by a grant

Article 14

1. Grants shall be awarded solely to cover costs of the planned activities that are necessary in the light of the objectives and results envisaged, provided it cannot reasonably be expected that such costs can be funded from the applicant's own resources or other sources.

2. No grant shall be awarded to cover shortfalls at the end of the activities.
3. In the grant award, Our Minister may state that he may adjust the grant amount in the light of unforeseen developments which cannot be ascribed to the applicant or reasonably regarded as the latter's risk.

Article 15

The grant award may state that the costs of the activities referred to in article 14, paragraph 1 shall be calculated on the basis of a norm derived from the results achieved by the activities or on another basis stated in the grant award, and that the grant amount shall include a standard sum to cover the applicant's staff and equipment costs.

Division 7. Definitive amount; advance payments

Article 16

The definitive amount of the grant shall be determined after the grant has been awarded.

Article 17

Before determining the definitive amount of the grant, Our Minister may, on the basis of a liquidity forecast for the proposed activities submitted by the applicant, make advance payments not exceeding an amount to be fixed in the grant award.

Article 18

Without prejudice to article 32, paragraph 4, Our Minister shall determine the definitive amount of the grant within thirteen weeks of receiving a request to that end. The Minister may extend this time limit by no more than thirteen weeks.

Division 8. Obligations on the grant recipient

Article 19

1. The grant recipient shall ensure that orderly, efficient accounts are kept, giving an accurate, complete and up-to-date picture of the activities for which the grant was awarded, the extent to which the results envisaged have been achieved and the related revenue and expenditure.
2. The grant recipient shall keep proper evidence of all expenditures relating to activities for which a grant has been awarded and of all revenue which may be taken into account in determining the definitive amount of the grant.

3. Unless stated otherwise in the grant award, the financial year shall be the calendar year.
4. The accounts and the associated records shall be kept for at least ten years.

Article 20

1. The grant recipient shall ensure that the grant is spent efficiently. The grant, including interest received thereon, shall be spent exclusively on the activities for which it was intended according to the grant award.
2. In spending the grant, the recipient shall respect the Kingdom's position under international law.
3. If necessary, the grant recipient shall show that it is prepared to coordinate its activities with the activities of other organisations.

Article 21

1. Our Minister may state in the grant award that the grant recipient shall supply Our Minister with information, at times to be determined in the grant award, on the progress of the activities for which the grant was awarded, the extent to which the results envisaged have been achieved and the related revenue and expenditure.
2. The grant recipient shall inform Our Minister without delay of facts or circumstances which may reasonably be regarded as relevant to the amendment or withdrawal of the grant or to the determination of the definitive amount.

Article 22

The decision awarding the grant may lay down regulations as to the use and disposal of items procured from the grant after the expiry of the grant period or following the implementation of the activities for which the items were purchased. In doing so, Our Minister may state that the items shall be transferred to him or to a third party designated by him free of charge or for a payment to be specified by him.

Article 23

The decision awarding the grant may state that the grant recipient authorises Our Minister, for the purpose of furthering the objectives for which the grant was awarded, to make use freely and without charge of copyright and other intellectual property rights which result from activities financed wholly or partly by the grant.

Article 24

The grant recipient shall mention, in any publications concerning subsidised activities or in correspondence with third parties involved in implementing the activities, the fact that the activities were wholly or partly financed by a grant awarded by Our Minister, unless the nature of the activities, the position held by the recipient or other compelling circumstances dictate otherwise.

Part 2. Activities grants

Article 25

1. An application for an activities grant shall contain the following:
 - a. an activity plan,
 - b. a budget and
 - c. a liquidity forecast for the next twelve months.

2. If the application is submitted more than thirteen weeks before the start of the grant period in which the activities are to begin, Our Minister shall postpone considering the application until thirteen weeks before the start of the grant period. For the purposes of article 7, the date on which the thirteen-week period begins shall be taken as the date of receipt of the application.

Article 26

The activity plan shall contain an overview of the nature, scale and phasing of the activities and the relationship between them in relation to the objectives and results envisaged and the effects expected in the first twelve months of the grant period. Where possible, the objectives, results and effects shall be expressed in measurable quantities. If the activities extend over a period of more than twelve months, the activity plan shall be accompanied by an overview of activities, objectives, results and expected effects for the remainder of the grant period.

Article 27

The budget shall be accompanied by itemised explanatory notes, and shall clarify the expected revenue, including contributions from third parties and expenditures relating to the proposed activities for the coming twelve months of the grant period. If the activities are to extend for more than twelve months, the budget shall be accompanied by financial estimates for the following period.

Article 28

1. If the activities extend for more than twelve months, the grant recipient shall provide, no later than thirteen weeks before the beginning of the thirteenth month, an activity plan, accompanied by a budget and a liquidity forecast, for the following twelve-month period. The grant award may state that Our Minister's consent is required for the activity plan and the budget for each new twelve-month period.
2. Our Minister may state in the grant award that paragraph 1 shall not apply.

Article 29

1. The grant recipient shall ensure that the budget is not overspent.
2. If it is clear that actual expenditure or actual revenue deviates considerably from the budget, the grant recipient shall notify Our Minister to that effect without delay, stating the discrepancies and the causes thereof.
3. Any changes in the activity plan or in the budget shall be submitted in writing to Our Minister for approval in advance. If Our Minister does not raise any objections within 8 weeks of the submission of the changes, they shall be deemed to have been approved.

Article 30

If the activities extend for more than a calendar year, the grant award may state that the definitive amount of the grant may be determined per calendar year.

Article 31

Requests to determine the definitive amount of the grant shall be submitted within six months of the end of the grant period or of completion of the activities or, if article 30 applies, within six months of the end of each calendar year.

Article 32

1. A request to determine the definitive amount of the grant shall be based on an activities report and a financial statement.
2. The activities report must indicate the extent to which and the way in which the activity plan was implemented in the form of an overview of the nature and scale of the activities and the results achieved.
3. The financial statement must show how the grant and any interest accrued on it was spent and must provide the information necessary for the determination of the grant. The financial statement shall be laid out in the same way as the budget.

4. If the grant is for €5,000,000 or more or if so stated in the grant award, section 4.78 of the General Administrative Law Act shall apply *mutatis mutandis*. The audit referred to in section 4.78, subsection 1 shall also examine compliance with the conditions attached to the grant. Notwithstanding section 4.78, subsection 4, the report referred to in section 4.78, subsection 3 may be submitted after the end of the financial year, if Our Minister considers this to be in the interests of an efficient audit. The time limit referred to in article 18 within which the definitive amount of the grant is determined shall not begin until the report has been received.
5. Our Minister may, in the grant award, attach conditions to the conduct of the audit and the content of the auditor's report. The grant recipient shall stipulate that the auditor take account of the conditions referred to in the previous sentence and assist where appropriate in supervision pursuant to section 6 of the Foreign Affairs (Grants) Framework Act.

Article 33

Advance payments over and above the definitive amount of the grant shall be repaid to Our Minister without delay.

Part 3. Core funding

Article 34

1. Core funding may be allocated solely to bodies that focus entirely or predominantly on performing activities for which a grant may be awarded pursuant to section 3, subsection 1 of the Foreign Affairs (Grants) Framework Act.
2. A grant application being made for the first time shall be accompanied by:
 - a. a copy of the most recent version of the articles of association / constitution or the rules of the applicant and
 - b. the most recent annual accounts or a statement of the applicant's financial status.

Article 35

1. Unless stated otherwise in the grant award, Part 4.2.8 of the General Administrative Law Act shall apply.
2. For the purposes of article 7, the date of receipt of applications submitted more than thirteen weeks before the start of the grant period in which the activities are to be performed shall be taken as the date on which the thirteen-week period begins.
3. Articles 26 to 28 shall apply *mutatis mutandis*.

Article 36

Any changes in the activity plan or in the budget shall be submitted in writing to Our Minister for approval in advance. If Our Minister does not raise any objections within 8 weeks of the submission of the changes, they shall be deemed to have been approved.

Article 37

The grant recipient shall charge a fee which shall be sufficient at least to cover costs, for making items available to or performing services for third parties. This obligation shall not apply in respect of third parties forming part of the target group of the grant.

Article 38

1. The audit referred to in section 4.78, subsection 1 of the General Administrative Law Act shall be obligatory if the grant is for €5,000,000 or more, or if so stated in the grant award.
2. The audit shall also examine compliance with the conditions attached to the grant. Our Minister may attach conditions to the conduct of the audit and the content of the auditor's report. The grant recipient shall stipulate that the auditor take account of the conditions referred to in the previous sentence and assist where appropriate in supervision pursuant to section 6 of the Foreign Affairs (Grants) Framework Act.

Part 4. Grants of up to €25,000

Article 39

1. Unless stated otherwise in the grant award, this Part shall apply to grants of less than €25,000.
2. The decision determining the definitive amount of the grant shall not be preceded by a grant award decision.

Article 40

1. For the purposes of this Decree, the word "award" used in relation to grants of up to €25,000 shall mean "definitive award".
2. Articles 5, 13, 14, paragraph 3, articles 16, 17, 18, 25 (c), 28, 29, paragraphs 2 and 3, articles 30 to 33 and 35 to 38 shall not apply to grants of less than €25,000.

Article 41

The grant shall be paid in a single instalment within six weeks of the date of the decision

determining the definitive amount or in a number of instalments to be determined in the grant decision. However, it shall not be paid before the start of the grant period.

Article 42

The grant recipient should submit to Our Minister, within thirteen weeks of completion of the activities or the end of the grant period, an activities report and a financial statement.

Part 5. Concluding provisions

Article 43

Once this Decree has entered into force, articles 2 and 3 shall serve as the basis for the Ministry of Foreign Affairs Grant Regulations.

Article 44

This Decree shall enter into force with effect from 1 January 2006.

Article 45

This Decree shall be cited as: Ministry of Foreign Affairs Grants Decree

We order and command that this Decree and the explanatory memorandum pertaining to it shall be published in the Bulletin of Acts and Decrees.

The Hague, 19 February 2005

Beatrix

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Minister of Foreign Affairs

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Minister for Development Cooperation

Published on the twenty-second of March 2005

Piet Hein Donner
Minister of Justice