



## **Ad-Hoc Query on objections of unsuccessful grant applicants**

**Requested by Slovak Republic on 20 January 2015**

**Compilation produced on 30 April 2015**

**Responses from Austria, Bulgaria, Cyprus, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (23 in Total)**

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### **1. Background Information**

On December 17, 2014, Responsible Authority for the Asylum, Migration and Integration Fund and Internal security Fund was designated in the Slovak Republic. Designation was granted provisionally based on findings of the audit of compliance with the designation criteria. The audit identified an insufficient process for objections of the unsuccessful grant applicants. Due to the lack of the national legal framework upon which the system of handling objections in the AMIF selection process can be based, the Responsible Authority would welcome exchange of best practice with other SOLID funds and AMIF Responsible Authorities concerning this process.

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**We would like to ask the following questions:**

**1. Within the SOLID funds management and control system (MCS):**

- a) Is there a possibility for an unsuccessful grant applicant to submit an objection to results of the selection process?**
- b) At what stage of the selection process can the objection be submitted?**
- c) What can be the subject of the objection?**
- d) Who deals with the objection and what is the time frame?**
- e) Can the objection affect grant awarding to the applicant?**

**2. Within AMIF MCS:**

- a) Are you considering the process of appeals or submitting of objections to be part of the AMIF MCS?**
- b) If yes, are there changes in the AMIF MCS concerning the process of appeals or submitting of objections in comparison with the information provided above in question no 1.? If yes, please specify.**

We would very much appreciate your responses by **31 January 2015** due to ISF/AMIF committee meeting to be held on 4 February 2015.



**2. Responses<sup>1</sup>**

		Wider Dissemination? <sup>2</sup>	<p><b>1. Within SOLID funds management and control system (MCS):</b></p> <ul style="list-style-type: none"> <li><b>f) Is there a possibility for an unsuccessful grant applicant to submit an objection to results of the selection process?</b></li> <li><b>g) At what stage of the selection process can the objection be submitted?</b></li> <li><b>h) What can be the subject of the objection?</b></li> <li><b>i) Who deals with the objection and what is the time frame?</b></li> <li><b>j) Can the objection affect grant awarding to the applicant?</b></li> </ul> <p><b>2. Within AMIF MCS:</b></p> <ul style="list-style-type: none"> <li><b>a) Are you considering the process of appeals or submitting of objections to be part of the AMIF MCS?</b></li> </ul>
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<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.



<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<b>b) If yes, are there changes in the AMIF MCS concerning the process of appeals or submitting of objections in comparison with the information provided above in question no 1.? If yes, please specify.</b>
	<b>Austria</b>	<b>Yes</b>	<p>1 and 2: The Federal Government awards grants - including AMIF funds - within the framework of private sector administration (within the meaning of Art. 17 Federal Constitution Act), which means that the Federal Government does not act as public authority but as a holder of private rights. As a result, grants are not awarded through an administrative procedure in the narrower sense, i.e. by issuing a decision. Therefore complaints per se or any other kind of objections, which are provided for in normal administrative procedures, are excluded in the case of awarding of grants.</p> <p>Basic principles concerning the Austrian public funding system are specified in the so-called “General framework directives for the granting of federal funds” (ARR 2014). Article 4 of these directives determines that there is no enforceable legal entitlement to the granting of any funding – neither on the merits nor in terms of amount. This means, that there is no legal entitlement to the granting of funding, not even if funding already has been granted for exactly the same purpose or project. Public funding is subject to discretionary decisions.</p> <p>As means of complaint under public law one possibility remains: According to Art. 148a Federal Constitution Act, a complaint against general alleged maladministration in the administration (including also private sector administration) may be lodged with the Ombudsman Board, provided that the complainant is affected by such alleged maladministration and in so far as they do not have recourse to legal remedy. Such a complaint would be investigated by the Ombudsman Board, but until now no such case occurred.</p> <p>In summary, it can be noted that the Austrian legal system in principal does not provide any objection/complaint procedures under public law (concerning public funding).</p> <p>Within the context of an existing funding contract/ grant agreement, <u>in case of dispute, the civil law proceedings</u> are foreseen. Thereby, the recipient and the Republic of Austria face each other both as holders of civil rights.</p> <p>Source: Ministry of the Interior</p>
	<b>Bulgaria</b>	<b>Yes</b>	<p>According to article 4.3.5.1. /Information for applicants/ of the Procedure manual on the management of the European refugee fund 2008-2014, within fourteen days from the issuance of the decision of the Responsible authority /RA/, i.e. the Bulgarian State Agency for Refugees, the responsible officer shall notify in writing the approved procedure/s applicant/s by letters signed by the head of the Responsible authority with a copy of the decision applied to them. At the same time and in the same way the responsible officer shall notify in writing the procedure unsuccessful applicants. Both approved and unapproved organizations may request a review of the Responsible authority’s decision within 7 days of receipt.</p>

Ad-Hoc Query on objections of unsuccessful grant applicants



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			<p>The head of RA reviews the decision within 14 days of the request, as can confirm or cancel the decision. The parties concerned shall be notified in writing about the new decision, which is final, within three (3) days.</p> <p>Upon written request from an applicant or participant in the procedure, SAR shall provide access to the evaluation report for the procedure. Access to such information may be refused if it is contrary to a law or prevents, restricts or distorts the competition. In this case, the responsible officer for the procedure, assisted by a legal adviser/the general legal adviser of the directorate prepares a draft letter with the reasons for refusal to the applicant that requested the information, which, after being consulted with the Director of the International affairs directorate is signed by the head of Responsible authority. The refusal may be appealed under the Administrative Procedure Code.</p>
	Cyprus	Yes	<ol style="list-style-type: none"> <li>1. Within the SOLID funds management and control system (MCS): <ol style="list-style-type: none"> <li>a) Is there a possibility for an unsuccessful grant applicant to submit an objection to results of the selection process? Yes</li> <li>b) At what stage of the selection process can the objection be submitted? After the initial selection of projects</li> <li>c) What can be the subject of the objection? There is no restriction</li> <li>d) Who deals with the objection and what is the time frame? The objections are received by the Responsible Authority and then forwarded to the Appeals Committee. The time available to submit an objection is 5 working days</li> <li>e) Can the objection affect grant awarding to the applicant? If the appeal was successful, it may affect the grant award.</li> </ol> </li> <li>2. Within AMIF MCS: <ol style="list-style-type: none"> <li>a) Are you considering the process of appeals or submitting of objections to be part of the AMIF MCS? Yes</li> <li>b) If yes, are there changes in the AMIF MCS concerning the process of appeals or submitting of objections in comparison with the information provided above in question no 1.? No If yes, please specify.</li> </ol> </li> </ol>
	Czech Republic	Yes	<ol style="list-style-type: none"> <li>1. <ol style="list-style-type: none"> <li>a) Yes.</li> <li>b) The objection can be submitted each time when an applicant receives information on the results of the selection procedure (i.e. after receiving information on the results of the formal evaluation, on the results of the evaluation of the selection committee – the decision about the approval of the project with conditions attached/application rejection.</li> <li>c) Regarding the subject of the objection, there is no limitation. The objection can relate to the conditions set by the selection committee, to the results of the formal assessment or to the rejection of the project.</li> <li>d) The responsible authority deals with the objections concerning the evaluation of the procedure (formal procedure) and the objections concerning the evaluation of the content are passed on to the members of the evaluation committee for further review. MCS does not specify any time frame.</li> <li>e) Yes.</li> </ol> </li> </ol>



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			<p>2. a) Yes.</p> <p>b) The changes will relate especially to the sub-question d). Re-evaluation committee will deal with the objections. Such a committee will not be able to consist of the member who was previously involved in the selection procedure. Also, the time frame will be set for the re-evaluation of the objections. The subject of the re-evaluation will be the assessment of the adherence to the procedures during the selection process (to challenge the expert opinion of the person who has conducted the evaluation will not be possible anymore).</p>
	<b>Finland</b>	<b>Yes</b>	<p>1. a) The process of objections or appeals in the funds is based on the Discretionary Government Transfers Act (Valtionavustuslaki 688/2001). Decisions made by State aid authorities may not be appealed. An interested party dissatisfied with a State aid authority's decision may apply for rectification within 30 days of receiving notification of the decision. Requests for rectification are addressed to the authority that made the decision.</p> <p>Decisions on requests for rectification may be appealed as laid down in the Administrative Judicial Procedure Act (586/1996).</p> <p>b) The applications for rectification can be submitted as stated above in point a). In the Solid funds the funding decision i.e. the administrative decision concerning the funding application made by the responsible authority, is sent to the applicant after the handling of the management group of the fund.</p> <p>c) As stated in the administrative funding decision, the application for rectification must be made in written and indicate the decision to be rectified, the nature of rectification and the grounds for the application of rectification.</p> <p>d) The State aid authority, in this case the responsible authority of the funds, deals with the application for rectification. The application for rectification is to be handled without delay. Appeals to the decision made hereafter are made to administrative court.</p> <p>e) We have had very few cases of demands for rectification during selection processes, but legally the application for rectification to the administrative decision could result to either a rejection of the application for rectification, correction made to the decision or detail in question, or revocation of the administrative decision.</p> <p>2. a) and b) The process of applications for rectifications and possibly appeals to those decisions will be the same in the AMIF, but we have a new national legislation for the new funds and the procedure is laid in it.</p>
	<b>France</b>	<b>Yes</b>	<p>1.a. In the law nothing prevents it.</p>



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			<p>b. To submit an objection, one needs to be informed that his/her project has not been taken on and that he/she has received the notification of rejection.</p> <p>c. Subjects of objection can be made on the basis of rejection:</p> <ul style="list-style-type: none"> <li>- The selection criteria of the call for projects ;</li> <li>- The temporal and geographic eligibility criteria;</li> <li>- The non-respect of the minimum and maximum funding thresholds as indicated under point 8 of the call for projects ;</li> <li>- The non-transmission of the four following administrative documents: dated and signed form and grant application letter, financing plan and annex concerning indicators;</li> <li>- Other subjects: missing documents on cofunding, on costs description, on service providers' competition; the structure's financial weakness, non-strategically relevant projects etc.</li> </ul> <p>d. This is not linked with litigation: it can be a letter, an email... however if the objection is a complaint, it must then be dealt with in classical administrative and judicial channels. To date, there has been one such complaint on the SOLID Funds (cf. CJEU SAMVOA CASE C-599/13).</p> <p>e. As no grant has been granted, there can be no link between the objection and the grant.</p> <p>2. This question has not been answered.</p>
	Germany	Yes	<p>1.</p> <ul style="list-style-type: none"> <li>a. Under German administrative law there is a possibility to submit an objection.</li> <li>b. After receiving the donation or rejection letter the recipient is able to submit the objection. A donation or rejection letter will become definitive if the recipient enters no objection within a month of receipt.</li> <li>c. At this stage objections can relate to reduced or denied grant.</li> <li>d. The Responsible Authority deals with objections. The national regulations do not include specific deadlines.</li> <li>e. The result of the objection can affect grant awarding. Payments of undisputed amounts for funded projects can be made while the objection is open.</li> </ul> <p>2.</p> <ul style="list-style-type: none"> <li>a. Under German administrative law there is a possibility to submit an objection. This is part of the MCS for AMIF as well.</li> <li>b. See answer 1</li> </ul>
	Greece	Yes	<p>1. <b>Within SOLID Funds management</b></p> <p>a) Yes, according to the Guide of Implementation for Annual Programmes in the context of EIF 2007-2013, unsuccessful applicants may submit an objection to the results of the selection process.</p> <p>b) The objection may be submitted to the Responsible Authority within fifteen (15) days after the date of the formal notice of the results. The RA communicates any objections to the Assessment Committee for evaluation.</p>

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			<p>c) The subject of the objection may refer to any part of the assessment procedure as described in the minutes of the Assessment Committee which are communicated to potential final beneficiaries (most objections concern the low marking of the committee on particular parts of the proposal).</p> <p>d) After receiving the objection, the Assessment Committee convenes to reassess the relevant Evaluation Paper of the proposal and issues new minutes of the meeting which are communicated to the RA.</p> <p>e) In case the objection is accepted and the reassessment results in the applicant's higher rating, this may affect grant awarding in case the applicant finally scores higher in the list of potential beneficiaries.</p> <p><b>2. Within AMIF MCS</b></p> <p>a) The process of appeals or submitting of objections will certainly be a part of the AMIF MCS.</p> <p>b) The process has not yet been specified, but it will be in accordance with the national legislation on appeals/objections.</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1.</p> <p>a) The applicant and/or the grantee <u>may submit</u> an objection - in writing - if, in their opinion, the grant application procedure, the award decision, the conclusion of the grant agreement, the disbursement or the reimbursement of the budgetary aid violates the relevant laws, which shall be decided by the Hungarian Minister of Interior (MoI).</p> <p>b) <u>The applicant</u> may only submit an objection before the authority in charge against the grant application procedure or the decision made regarding the deferral of the project proposal, or an award of reduced total cost or an award on conditions based on the violation of relevant laws, <u>within 5 working days of the receipt</u> of the decision. <u>The grantee</u> may only submit an objection against the procedure or the decision regarding the conclusion of the grant agreement, disbursement or reimbursement of the budgetary aid before the authority in charge <u>within 5 working days of the receipt</u> of the document attesting the objected procedural step.</p> <p>c) The objection must include the <u>name</u>, the legal <u>seat</u> of the applicant/grantee, relevant data necessary for the identification of the <u>objected procedure or decision</u>, the definition of the <u>objected measure or default</u>, the <u>factual basis</u> of the objection, the specific reference to the <u>violated law(s)</u> as well as the <u>signature</u> of the representative of the applicant/grantee.</p> <p>d) The objection must be submitted to the Person in charge, who shall forward it to the MoI. The MoI shall adjudged the objection within 30 days of its receipt.</p> <p>e) In case the objection pertains to the application procedure or the decision of the awarding, the grant agreement may not be concluded. Should the objection be well-founded, the MoI shall order the necessary measures to be taken to resolve the situation. Objections that are unfounded, late, unfit and of identical content, or from a person not authorised to object shall be deferred. The person submitting the objection shall be notified of the deferral in writing with due reasoning.</p> <p>Regarding the period of 2014-2020 we do not plan to make significant changes to the governing legal framework.</p>
	<b>Ireland</b>	<b>Yes</b>	<p>1. Within SOLID funds management and control system (MCS):</p> <p>a. Yes, an applicants can appeal the decision following the selection process</p> <p>b. Following a decision on the application for funding.</p> <p>c. The applicant can make an appeal on two grounds:</p>

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			<p>- The outcome of the appraisal was unreasonable based on the information provided to the delegated authority (DA) or</p> <p>- There was a failure in adherence to appraisal procedures or systems.</p> <p>d. A review officer is appointed to undertake the review. The Review Officer will be a member of staff from the DA who was not involved in the original appraisal. A request must be submitted in writing to the DA within 20 working days of the date of the decision letter. There is no timeframe detailed for the final decision on the appeal process.</p> <p>e. The review can result in the original decision being upheld or it can recommend that a new decision or amended decision is made.</p> <p>2. Within AMIF MCS are you considering the process of appeals or submitting of objections to be part of the AMIF MCS? A delegated authority has yet to be designated for the AMIF but it is anticipated that review procedures along similar lines to the above will apply.</p>
	Italy	Yes	<p>1.</p> <p>a) In Italy, an unsuccessful applicant for SOLID grants may appeal against the decision to reject their projects.</p> <p>b) The appeal can be lodged after the ranking list of the submitted projects is published. The ranking list indicates which projects are to receive the grants, which eligible projects are not receive the grants (because the allocated funds have run out) and which projects are non-eligible and therefore rejected (specifying the formal reasons for rejection). Then Departments III and Department I (General and Legal Affairs) of the Ministry of the Interior notify the concerned parties for the purposes of a possible administrative appeal.</p> <p>c) There is no limitation to the subject.</p> <p>d) The Italian legal system provides for 3 types of administrative appeals: i) the “hierarchical administrative appeal” (which is to be submitted to the same authority that took the decision or to other administrative authorities as specified by law; ii) the appeal to the courts or iii) the extraordinary appeal to the Head of State. An appeal can be lodged by all natural and legal entities that deem they have been injured by a measure taken by Public Administration and have an interest in having the measured annulled. The time frame to lodge an appeal is 30 days for an administrative appeal, 60 days for a judicial review and 120 days for an extraordinary appeal to the President of the Republic starting from notification date, or lacking a notification date, from publication date, or from the date in which the interested party learned of the decision.</p> <p>e) No.</p> <p>2.</p> <p>a) It is very likely that the same terms and conditions provided for the other projects and described under 1) above will apply.</p>
	Latvia	Yes	<p>1.</p> <p>a) According to the 2<sup>nd</sup> April, 2009 law “Law on Funds Management Established within General Programme “Management of Solidarity and Migration flows” the managing authority depending on the legal status of the project applicant shall issue an administrative deed or take an administrative decision. If the project applicant is a legal entity or an international organisation, the managing authority’s decision is an administrative act and according the Administrative Procedure Act they have possibility to appeal managing authority’s decision at</p>



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			<p>administrative court. If the project applicant is a direct or indirect State administrative institution, a derived public person or other public authority, the managing authority's decision is an administrative decision. It may be disputed, but it cannot be appealed in court.</p> <p>b) Objection of results of selection process can be submitted within one month after decision of approval or rejection of project application.</p> <p>c) There is no limitation. Mostly applicants appealed score of evaluation criteria.</p> <p>d) The Legal Division dealing with all complaints (if applicable), the management and control system (MCS) is not specifying any role or time frame for objections, but the responsible Ministry will act according The Administrative Procedure Act and The Submission Law which says that all objections will be answered within one month. A procedural term for The Administrative Court is not specified in the Law, it is determined by the court or a judge.</p> <p>e) No.</p> <p>2.</p> <p>a) Yes.</p> <p>b) Yes, according to the draft law "Law on Funds Management Established within Internal Security Fund and Asylum, Migration and Integration Fund" the managing authority and delegated authority depending on the legal status of the project applicant shall issue an administrative deed or take an administrative decision. If the project applicant is a legal entity, the managing authority's and legal entity's decision is an administrative act and according the Administrative Procedure Act they have possibility to appeal managing authority's decision at administrative court. Delegated authority's decision must appeal at managing authority first. If the project applicant is a direct or indirect State administrative institution, a derived public person or other public authority, the managing authority's decision is an administrative decision. It may be disputed, but it cannot be appealed in court.</p>
	<b>Lithuania</b>	<b>Yes</b>	<p>1. Within the SOLID funds management and control system (MCS):</p> <ol style="list-style-type: none"> <li>Yes, there is a possibility for an unsuccessful grant applicant to submit an objection to results of the selection process.</li> <li>The objection can be submitted within 10 days from the day an applicant was informed about the decision.</li> <li>The applicant can appeal particular actions or inactions of the institution.</li> <li>Responsible institution examines the objection within 30 days.</li> <li>Responsible institution may postpone the grant awarding process until the objection is resolved.</li> </ol> <p>2. Within AMIF MCS</p> <ol style="list-style-type: none"> <li>Yes</li> <li>the process of appeals is the same as in SOLID MCS.</li> </ol>
	<b>Luxembourg</b>	<b>Yes</b>	<p>1. Within SOLID MCS:</p> <ol style="list-style-type: none"> <li>Is there a possibility for an unsuccessful grant applicant to submit an objection to results of the selection process? Yes, in case of an application being rejected, the applicant can object to the decision which is an administrative decision. As such, it can be questioned in 2 ways: <ol style="list-style-type: none"> <li>by writing to the minister in charge of the responsible authority of the SOLID fund, asking for further details and</li> </ol> </li> </ol>

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			<p>2.) if the rejected applicant doesn't accept the reasons given by the minister, s/he can file an appeal at the Administrative Court within 3 months from the reception of the first decision.</p> <p>b. At what stage of the selection process can the objection be submitted? Once the decision of the refusal, signed by the minister has been notified to the applicant. This notification gives information about the motives of the refusal.</p> <p>c. What can be the subject of the objection? The grant applicant may object to each reason notified in the refusal.</p> <p>d. Who deals with the objection and what is the time frame? 1.) the minister in charge of the responsible authority of the SOLID fund will answer to the objection within a short time, up to 2 or 3 weeks; 2) the amended law of 21 June 1999 does not foresee any time frame for taking a decision. It will depend on the complexity of the case and if the President of the Administrative Court decides to order supplementary acts (article 12), so it is very difficult to determine an average time frame.</p> <p>e. Can the objection affect grant awarding to the applicant? In case of rejection by the Administrative Court of the first administrative decision, it can either</p> <ul style="list-style-type: none"> <li>• quash the decision in which case the Minister will be obliged to reconsider the application and to decide if the applicant will receive the grants or not</li> <li>• reverse the decision. In this case the funds will be granted.</li> </ul> <p>2. Within AMIF MCS:</p> <p>a. Are you considering the process of appeals or submitting of objections to be part of the AMIF MCS? Yes, the same procedure will be applied in the AMIF.</p> <p>b. If yes, are there changes in the AMIF MCS concerning the process of appeals or submitting of objections in comparison with the information provided above in question no 1.? If yes, please specify. No, there are no changes foreseen.</p>
	<p><b>Malta</b></p>	<p><b>Yes</b></p>	<p>1.</p> <p>a) Yes there is an appeals procedure in the SOLID funds Management and Control System.</p> <p>b) Requests for review are received by the appeals board within 10 working days from the date of the letter/e-mail of rejection by the Project Selection Committee.</p> <p>c) The subject of the objection can be disagreement with the reasons why a project was disqualified or given a low ranking.</p> <p>d) The objection is dealt with by an independent appeals board chaired by the Principal Permanent Secretary (the head of the civil service) or his/her delegate. There are no specified timeframes but usually such objections are dealt with within 2/3 weeks.</p> <p>e) No</p> <p>2.</p>



Ad-Hoc Query on objections of unsuccessful grant applicants

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			<p>a) Yes</p> <p>The Management and Control System for AMIF has not yet been published by the Responsible Authority however, no major changes are expected.</p>
	<b>Netherlands</b>	<b>Yes</b>	<p>The situation in the Netherland is that we are in the process of designation of the Responsible Authority. The audit that was recently executed did not identify the problem as described in the Slovak Republic. The Netherland chose to design a national regulation on a ministerial level for the execution of AMIF end ISF. The regulation is still in draft, but it contains an elaborate paragraph on selection process. For applicants it is clear on what indicators and subjects projects will be ranked and selected. A point system has been designed and will be published as a part of the regulation. In general a project can obtain 100 points. In the regulation a minimum of 60 points is mentioned to exclude unsuccessful grant applicants.</p>
	<b>Poland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. <ol style="list-style-type: none"> <li>a) Procedures in the framework of Polish management and control system of SOLID funds that are under responsibility of the Ministry of the Interior (External Borders Fund, European Return Fund, European Refugee Fund) foresee a possibility to submit appeals during selection process.</li> <li>b) Such a possibility can be used by applicants in awarding body procedure (projects selected by Delegated Authority – DA- via calls for proposals) at the stage of formal assessment. Appeal cannot be submitted after content-related assessment. Appeal has to be submitted to DA in 10 calendar days from receiving notification on proposal's rejection at the formal assessment stage.</li> <li>c) Object of proposal rejection is incompatibility with formal criteria set in an announcement of the call for proposals. Notification sent by DA is duly justified so applicant can refer to particular objection described in the notification.</li> <li>d) DA re-analyzes project proposal basing on appeal and its content concerning formal assessment. DA informs applicant and RA on additional assessment results. If appeal is considered as justified, the application is forwarded to content-related assessment. If appeal is rejected, DA informs the applicant on the possibility to prepare an additional appeal to RA, that shall be submitted in 10 calendar days. RA decision ultimate (if negative – proposal is eventually rejected / if positive – DA conducts additional formal assessment.</li> <li>e) If appeal is considered as justified, project proposal is forwarded to further procedure and it still has a chance to be co-financed after content-related assessment.</li> </ol> </li> <li>2. a) b) New MCS for AMIF fund is under preparation. In general it should follow SOLID MSC solutions, hence no major changes are expected.</li> </ol>
	<b>Slovak Republic</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. <ol style="list-style-type: none"> <li>a) There is a possibility to submit an objection according to the national Act on complaints. However, none of the submitted objections were recognized as a compliant according to the national law because they did not meet the legal requirements of a complaint under the Act.</li> <li>b) Any time after receiving information on the results of the selection process. This can happen when: <ol style="list-style-type: none"> <li>1. the selection process is completed and the grant application was not successful in the independent expert evaluation, or</li> <li>2. the application was successful in the expert evaluation but the application is a duplicate to the one with higher number of received points or the application is the second in a row and there is no available budget.</li> </ol> </li> </ol> </li> </ol>

Ad-Hoc Query on objections of unsuccessful grant applicants


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			<p>c) There is no limitation to the subject. Most often the applicants doubt/challenge independent expert evaluation or any condition set up by the Responsible Authority.</p> <p>d) There is a specialised section of the Ministry of Interior of the Slovak Republic dealing with all complaints, the management and control system (MCS) is not specifying any role or time frame for objections.</p> <p>e) No.</p> <p>2. a) and b): Based on the findings of the audit of compliance we have to reassess the process set during the SOLID Funds. As the evaluation process is carried out by independent experts, we reconsider setting up a system of submitting objections to procedural errors only and not to the very outcome of the evaluation process. There is no legal entitlement to the grant applicants. The evaluation is based on assessment of the compliance of the grant application with the selection criteria. Set up in the Call for proposals and the National programme. Rights and obligations of the application can be considered only when the grant agreement is signed according to the national and EU law. Taking into consideration the EU Regulations on JHA funds, we assume that the process of appeals or submitting objections to the selection process are not required to be part of MCS. However, we would like to know if the other MS are considering setting up such a process as a part of the MCS.</p>
	<b>Slovenia</b>	<b>Yes</b>	<p>Q1.a.) Yes.</p> <p>Q1.b) Within 8 days after the decision on unsuccessful application.</p> <p>Q1.c) The unsuccessful applicant must describe it in its objection.</p> <p>Q1.d) At the first level the Ministry itself has to make a decision within 15 days. There is no possibility to appeal again to the ministry but within 30 days after the last decision they can appeal to the Administrative Court of Republic of Slovenia.</p> <p>Q1.e) No. We sign the grant agreements with successful applicants regardless of the objection given by the unsuccessful applicant.</p> <p>Q2.a) Yes.</p> <p>Q2.b) No. The process of appeal is described in the national rules for budget implementation for all grant agreements.</p>
	<b>Spain</b>	<b>Yes</b>	<p><b>1.</b></p> <p>a. In Spain, under national legislation, applicants for grants taking part in a call for grants are informed of the provisional results, once all the programmes submitted to the call have been assessed and before the decision to offer the grant to the recipients is made final. They are informed of the duly reasoned provisional decision reached, and they are given a period of ten days in which to lodge any objections. Once the objections have been examined, the proposal for a final decision is made.</p> <p>In the final decision issued, the appeals that may be made against it are clearly indicated, if deemed appropriate, as well as the time limit for lodging an appeal and before which body it should be brought, without prejudice to the interested parties being able to exercise any other means of appeal that they consider appropriate.</p>

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			<p>b. At the provisional decision stage, i.e. when a report with the results of the assessment of the applicant entities and programmes is available, the entities may make an appeal, as has already been mentioned.</p> <p>Subsequently, at the final decision announcement stage, they may lodge appeals against that decision before the body which has issued the decision, or before the administrative courts, by making an appeal.</p> <p>If an appeal is made, once the decision taken in response to the appeal has been announced, the entities may apply to the administrative courts by making an appeal, if they deem this to be appropriate.</p> <p>c. There are many reasons.</p> <p>d. At the provisional decision stage, ten working days are given to lodge an appeal after the decision has been announced. The body which evaluates these claims is the one which manages the call for grants.</p> <p>At the final decision stage, either the body providing the grants, that is the body responsible for granting the aid, or the courts, settle the appeal. The time limit for lodging an administrative appeal is one month from the announcement of the decision.</p> <p>e) Yes, if their objections or appeals are upheld.</p> <p>2.</p> <p>a) In the Description of the Management and Control Systems of the AMIF it is stated that "the national legislation applicable to the Management and Control Systems of the AMIF is as follows:" and the laws governing the foregoing, among others, are listed. In the planned procedure manuals, this specific process will be included in the "selection processes and award of projects" section.</p> <p>b) There are no changes with respect to the provisions for SOLID.</p>
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	Sweden	Yes	<p><b>SOLID MCS:</b></p> <ul style="list-style-type: none"> <li>a) No. There is no such possibility according to the SOLID MCS. This has not been stated in the MCS itself, but in the standard documents for rulings etc. which are referred to by the MCS. According to the Swedish law on public administration (by which also the Responsible Authority is bound), it is not formally allowed to object to the results of the selection process. However, an unsuccessful grant applicant is not prohibited to anyway file a complaint to the administrative court. The outcome of such case will normally be a rejection, if it is not discovered that the responsible authority has made any formal mistakes in the selection process.</li> <li>b) According to the Swedish administrative law, the general rule is that you can only object to a formal decision. Normally, the Administrative Court will ask for a reference to the objected decision. However, there is nothing that prohibits an applicant from filing a complaint anytime. It is not likely that such an objection will be successful though.</li> <li>c) The general rule in Swedish administrative law is that an applicant that wish to object to an official ruling should explain and motivate in which way he or she believes that this ruling is wrongful and opposing his or her rights. According to Swedish law, the general rule is that the objection is sent to the public authority making the ruling. This public authority should then review its decision (and change it if it can be made easily). Otherwise the objection should be sent to a higher instance, which normally is the administrative court, if not regulated otherwise.</li> <li>d) The general rule according to Swedish law is that all objections should be handled as soon as possible.</li> <li>e) No.</li> </ul> <p><b>AMIF MCS:</b></p> <ul style="list-style-type: none"> <li>a) According to the Swedish government regulation on the administration of AMIF (2014:1538, which enters into force on the 1 February 2015), art. 33, the general rule will still that it is not allowed to object to rulings made by the responsible authority of AMIF. However, according to art. 33 in the same government regulation, an applicant will be allowed to object to against the following rulings: <ul style="list-style-type: none"> <li>i. on eligible costs,</li> <li>ii. if the Responsible Authority change a previous ruling because its previous ruling on the grant agreement was based on wrongful or misleading information from the applicant or if the applicant did not follow the recommendations in its grant agreement, or</li> </ul> </li> </ul>
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Ad-Hoc Query on objections of unsuccessful grant applicants

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			<p>iii. if the Responsible Authority decides to not allow parts of future grants to the applicant, as payment for earlier debts or interest caused by the applicant according to ii) above. The AMIF MCS should reflect the relevant law. At this stage, it is still not exactly clear how it should be reflected in the MCS.</p> <p>b) No. The general rules in the Swedish act of public administration should still be valid. The AMIF MCS should reflect the relevant law. At this stage, it is still not exactly clear how it should be reflected in the MCS.</p>
	<b>United Kingdom</b>	<b>Yes</b>	<p>1) a)No b)Not applicable c) not applicable d) not applicable e) not applicable 2) a) No b) Not applicable</p>
	<b>Norway</b>	<b>Yes</b>	N/A (Norway is not bound by Regulation No 514/2014.)

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