

APPENDIX 2B¹

Template Expert's statement on impartiality and no conflict of interest, on confidentiality and on the lack of premises referred to in Article 68a of the Act, for the purpose of completing tasks related to the rights and obligations of the Implementing Authority, arising from project grant agreements as part of Measure 4.4 SGOP.

EXPERT'S STATEMENT

- I. ON IMPARTIALITY AND NO CONFLICT OF INTEREST**
II. ON CONFIDENTIALITY
III. ON SATISFYING THE PREMISES REFERRED TO IN ARTICLE 68a (3) OF THE ACT OF 11 JULY 2014 ON THE PRINCIPLES OF IMPLEMENTATION OF THE COHESION POLICY PROGRAMMES FINANCED UNDER THE 2014-2020 FINANCIAL PERSPECTIVE

REVIEWER:

APPLICATION/PROJECT No.:

APPLICATION/PROJECT TITLE*:.....

APPLICANT/BENEFICIARY *:.....

CONSORTIUM MEMBERS/PARTNERS (where applicable):.....

SUBCONTRACTORS (where applicable)

This Statement (in part I-III) refers to grant application

submitted as part of the Smart Growth Operational Programme 2014-2020

***Delete as appropriate**

I. STATEMENT ON IMPARTIALITY AND NO CONFLICT OF INTEREST

INSTRUCTION: The statement is made under the pain of penal liability for giving false evidence, pursuant to Article 68a (9) of the Act of 11 July 2014 on the principles of implementation of the Cohesion Policy programmes financed under the 2014-2020 Financial Perspective², in connection with Article 233 § 6 of the Act of 6 June 1997 – the Penal Code³.

¹ Refers to experts involved at the stage of implementing measures by the Implementing Authority, arising from project grant agreements as part of Measure 4.4. SGOP (e.g. mid-term reviews, applications for introducing changes to projects, final reports, expert opinions of other type) – fill in if applicable.

² **The Act of 11 July 2013 on the principles of implementation of the cohesion policy programmes financed under the 2014-2020 financial perspective (Journal of Laws of 2017, item 1460, as amended):**

Article 68a (8). The provisions of Article 24 § 1 & 2 of the Act of 14 June 1960 Code of Administrative Procedure shall apply to the expert mutatis mutandis.

Par. 9 The expert submits to the competent institution a statement to the effect that none of the circumstances excluding the possibility of implementing the actions provided for in Par. 1 specified on the basis of Pars. 7 and 8 is applicable. The statement is submitted under the penalties of perjury, of which the submitting person should be informed before submitting the statement.

Par. 1.1 The competent institution may assign experts to take part in the selection of projects for financing.

³ **The Act of 6 June 1997 – the Penal Code (Journal of Laws of 2016, item 1137, as amended):**

Article 233. § 1. Whoever, in giving testimony which is to serve as evidence in court proceedings or other proceedings conducted on the basis of a law, gives false testimony or conceals the truth shall be subject to the penalty of imprisonment for a term between 6 months and 8 years.

§ 1 a. If the perpetrator of the prohibited act referred to in § 1 gives false testimony or conceals the truth because of fear of penal liability threatening himself/herself or his/her next of kin, he/she shall be subject to the penalty of imprisonment for a term between 3 months and 5 years.

§ 2. The prerequisite to this liability is that the person obtaining the testimony, acting within his/her competence, shall have warned the person testifying of the penal liability for false testimony or obtained a relevant pledge from the latter.

§ 3. Whoever, being unaware of the right to refuse testimony or answer to questions, gives false testimony shall not liable to the penalty.

§ 5. The court may apply an extraordinary mitigation of the penalty, or even waive its imposition if:

Aware of the criminal liability for giving false testimony, arising under Article 233 § 1, in connection with Article 233 § 6 of the Penal Code, **I hereby state that:**

- 1) There are no circumstances defined in Article 24 § 1 and 2 of the Act of 14 June 1960 – the Code of Administrative Procedure, which would exclude me from participation in the selection of projects for co-financing;
- 2) There are no circumstances which would raise justified doubts as to my impartiality regarding the entity applying for co-financing, the entity submitting the application under assessment, or the entity implementing the application under a grant agreement;
- 3) There are no circumstances that would lead to the above-mentioned conflict of interests, or compromise my impartiality, including in particular the fact that:
 - a) I am not an applicant⁴, and I have no legal or actual relationship with the applicant, under which the assessment result would impact on my rights and obligations;
 - b) I have not been personally involved in the preparation of the grant application for the project under assessment;
 - c) I have not been in matrimony, or in consanguinity or affinity up to the second degree with, and I have not been related due to adoption, custody or guardianship to:
 - persons preparing the grant application,
 - members of management or supervisory bodies, or other bodies of the entity preparing the grant application, as defined under legal regulations,
 - members of management and supervisory bodies, or other bodies of the Beneficiary, Consortium Members or Sub-contractors of project tasks, as defined under legal regulations,⁵
 - commercial or other representatives of the Beneficiary, Consortium Members or Sub-contractors of project tasks,⁶
 - persons directly involved in project implementation by the Beneficiary, Consortium Members or Sub-contractors of project tasks⁷.
 - d) I do not have, and I have not had for three years preceding this statement, an employment relationship with **the entity submitting the grant application**⁸ under assessment,
 - e) I do not work, and I have not worked for three years preceding this statement, for **the entity submitting the grant application** under assessment, as part of any civil law relationship,

1) the false testimony, opinion or translation concerns circumstances which cannot affect the outcome of the case,

2) the perpetrator voluntarily corrects the false testimony, opinion or translation before even a decision which is not final and valid has been rendered in the case.

§ 6. The provisions of § 1-3 and 5 shall be applied accordingly to a person providing a false statement if a provision of a law provides for the possibility of obtaining a statement under the threat of penal liability.

⁴ The Applicant is also a consortium member

⁵ Refers to experts assessing project changes;

⁶ Refers to experts assessing project changes;

⁷ Refers to experts assessing project changes;

⁸ The entity submitting the grant application, as referred to in this Statement, shall be understood as the Applicant and consortium members (in the case of projects implemented by Consortia).

- f) I do not act, and I have not acted for three years preceding this statement, as a member of the management or supervisory bodies of **the entity submitting the grant application** under assessment,
- g) I do not act, and I have not acted for three years preceding this statement, as a partner, shareholder or stockholder of **the entity submitting the grant application** under assessment, operating as a commercial law company,
- h) I have not been personally involved in the preparation of **any grant application** competing⁹ for co-financing with the application under assessment,
- i) I have not taken part in assessing the grant application forming the subject-matter of any verification connected with a lodged appeal, or re-assessment made in connection with a lodged appeal,¹⁰
- j) I have not been personally involved in the implementation of project tasks,¹¹
- k) I have not taken part in project implementation as a contractor or sub-contractor,¹²
- l) I do not have, and I have not had at any time in the project implementation period, an employment relationship with the Beneficiary, Consortium Members or Sub-contractors of project tasks,¹³
- m) I do not work, and I have not worked at any time in the project implementation period, for the Beneficiary, Consortium Members or Sub-contractors of project tasks, as part of any civil law relationship;¹⁴
- n) I have not acted, at any time in the project implementation period, as:
- a member of management and supervisory bodies, or other bodies of the Beneficiary, Consortium Members or Sub-contractors of project tasks, as defined under legal regulations,
 - a commercial or another representative of the Beneficiary, Consortium Partners or Sub-contractors of project tasks,
 - a partner, shareholder or stockholder of the Beneficiary, Consortium Members or Sub-contractors of project tasks;¹⁵
- o) I undertake not to contact the applicant/sub-contractors of the project tasks, whose application forms the subject-matter of my assessment, except for the situations envisaged under the *Rules and Regulations of the Competition*, and *the Rules and Regulations regarding the Project Assessment Committee's work*;
- p) I undertake to immediately notify the FNP of any attempts to influence my application assessment methods, made by the applicant/representatives of the applicant or by any other persons and entities that are not taking part in the assessment process.

Once I become aware of any circumstances that may raise justified doubts as to my impartiality, in respect of any application or project or appeal presented to me for assessment, I shall

⁹ The term “**application competing for co-financing with the grant application under assessment**,” as used in this statement applies to all the applications submitted for evaluation as part of a given competition, and the applications which, upon verifying formal requirements, have been sent for supplementation and/or adjustment and may be submitted for evaluation as part of the same competition.

¹⁰ Refers to experts involved in verifying the lodged appeal;

¹¹ Refers to experts assessing project changes;

¹² Refers to experts assessing project changes;

¹³ Refers to experts assessing project changes;

¹⁴ Refers to experts assessing project changes;

¹⁵ Refers to experts assessing project changes;

immediately report this fact in writing to the institution organising the competition, and I shall exclude myself from any further participation in the assessment process.

I further state that, to the best of my knowledge and opinion, there are no facts or circumstances, whether previous, current or foreseeable, which would compromise my impartiality as viewed by any parties to the competition organised by the IA or parties implementing the project.

I confirm that whenever any such conflict or lack of impartiality occurs or is identified by me during the performance of my obligations, I shall immediately report this fact to the IA and, once the conflict of interests or lack of impartiality is ascertained, I shall discontinue any activities pursued in that matter.

Penal Code

Article 271. [Certification of untruth] § 1. A public official or other person authorised to issue a document, who certifies an untruth therein, with regard to a circumstance having a legal significance, shall be subject to the penalty of imprisonment for a term of between 3 months and 5 years.

§ 2. In the event that the act is of a lesser significance, the perpetrator shall be subject to a fine or a non-custodial sentence .

§ 3. If the perpetrator commits the act specified in § 1 in order to gain material or personal benefit, he/she shall be subject to the penalty of imprisonment for a term of between 6 months and 8 years.

II. CONFIDENTIALITY STATEMENT

I hereby state that

- 1) I shall perform my duties in an honest, reliable and lawful manner, and to the best of my knowledge;
- 2) I shall not retain copies of any written or electronic information, or documents, related to the projects assessed as part of Measure,
- 3) I undertake to treat as confidential any information and documents disclosed to me, or created or developed by me in the course or as a result of the assessment process. I further undertake that any such information shall only be used for assessment purposes, and it shall not be revealed to any third parties or entities;
- 4) I undertake not to accept any salaried work in connection with any project assessed by me until its implementation is not completed.

III. STATEMENT ON SATISFYING THE PREMISES REFERRED TO IN ARTICLE 68A (3) OF THE ACT OF 11 JULY 2014 ON THE PRINCIPLES OF IMPLEMENTATION OF THE COHESION POLICY PROGRAMMES FINANCED UNDER THE 2014-2020 FINANCIAL PERSPECTIVE

INSTRUCTION: The statement is made under the pain of criminal liability for giving false evidence, pursuant to Article 68a (4) of the Act of 11 July 2014 on the principles of implementation of the Cohesion Policy programmes financed under the 2014-2020 Financial Perspective,¹⁶ in connection with Article 233 § 6 of the Act of 6 June 1997 – the Penal Code.²

¹⁶ **The Act of 11 July 2014 on the principles of implementation of the Cohesion Policy programmes financed under the 2014-2020 Financial Perspective:**

Article 68a, (3). The competent authority shall appoint an expert from among the candidates for experts who:

- 1) enjoy full civil rights;
- 2) have full legal capacity;
- 3) have not been convicted of an intentional crime or an intentional fiscal offence by a legally binding sentence;
- 4) have necessary knowledge, skills, experience or authorisation required in the area covered by the operational programme, adequate for performing the role referred to in Par. 2.

I hereby state that:

- 1) I have the necessary knowledge, skills, experience or authorisation required in the area covered by the Smart Growth Operational Programme;
- 2) I have knowledge about the objectives and methods of implementation of the Smart Growth Operational Programme.

Moreover, aware of the penal liability for giving false testimony, arising under Article 233 § 1, in connection with Article 233 § 6 of the Penal Code, I hereby state that:

- 1) I enjoy full civil rights;
- 2) I have full legal capacity;

I have not been convicted of an intentional crime or an intentional fiscal offence by a legally binding sentence.

I further state that:

- 1) I have familiarised myself with the content of *the Smart Growth Operational Programme 2014-2020* and with *the Detailed Description of the Priority Axes of the Smart Growth Operational Programme 2014-2020*;
- 2) I have familiarised myself with *the Rules and Regulations of the Competition, and the Rules and Regulations regarding the Project Assessment Committee's work*;
- 3) I do not render, and I will not have rendered by the time of completing the assessment of grant applications submitted as part of the competition in which the application under assessment has been submitted, any paid consultancy services for the applicants submitting applications to the institution organising the competition;
- 4) there are no circumstances in the scientific relations towards the applicant, under which the expert (a) has presented opinions or a letter of recommendation for the applicant, knowing that he/she is taking part in that particular competition; (b) has acted as a promoter/supervisor of the applicant at an earlier stage of his/her scientific career, or a leader of the scientific team in which the applicant has worked (for the last 5 years); (c) is/has acted as an implementing body of a common research project for three years; (d) releases or has released publications jointly with the applicant for the last three years; or (e) is in direct scientific competition with the applicant.

THIS STATEMENT IS MADE IN RESPECT OF PARTS I, II, III	
Expert's full name	
Date	
Signature	

4. The candidate for an expert shall submit the statement on satisfying the premises referred to in Par. 3. The statement shall be made under pain of penal liability for giving false evidence, which should be communicated to the expert before he/she makes that statement.