



**Response regarding the draft conditions for
granting support under measure 3.3
"Voluntary return service" of the Asylum,
Migration and Integration Fund**

Tallinn, 04.02.2025

Dear Ms. Krista Aas,

In reply to your letter No. 14-13.3/42-3 dated 17 September 2024 on the draft conditions for granting support for measure 3.3 "Voluntary return service" of the Asylum, Migration and Integration Fund, we first thank you and the Ministry staff for the additional constructive informal discussions and exchanges regarding the terms which have taken place in the last months. We would also like to thank you for amending the draft on the basis of our previous written and oral feedback.

The International Organization for Migration (IOM) accepts the terms of the draft decree on exceptional basis in the version of the last draft proposal submitted by e-mail on 11 December 2024. The acceptance is based on the recognition of the specific context of current Estonian shared management funding rules and should not be seen as a precedent for future acceptance of terms for which IOM has serious reservations about but nevertheless agrees to in this specific instance. Therefore, we would like to formally restate IOM's reservations with the draft decree and trust that these concerns will be addressed in future funding modalities, including but not limited to the following:

1. Categorization of costs. The 7% institutional overhead, approved by all IOM Member States, including Estonia, through Council Resolution 1265, has been in effect since 1 January 2014 and is not intended to cover costs directly attributable to a project. Instead, it funds IOM's core structure, including headquarters, regional offices, administrative support centers, staff security, and IT systems, which indirectly benefit all projects. All direct project costs such as staff, office and operational expenses attributable to the specific projects must be separately budgeted and cannot be covered by the overhead. In line with IOM's principle of equal treatment among Member States, IOM encourages Estonia to align with the standardized approach to ensure consistency in financial governance and upholding the collective commitments made by all IOM Member States..

Ms Krista Aas
Deputy Secretary General for Assets
Ministry of the Interior, Republic of Estonia
info@siseministerium.ee



2. National and Regional (EU) Legislations. The general references and broad application of these legislations cause ambiguity, since not all provisions therein apply to IOM. Specifying the applicable terms and clearer wording referencing IOM's rules, regulations, directives, policies and procedures would remove such ambiguity.
3. Dispute Resolution. The dispute resolution clause does not specify the arbitration rules that will apply. It is essential for an arbitration clause to specify the rules, to avoid any ambiguity. As an intergovernmental organization and a related organization of the United Nations, IOM follows the UNCITRAL Arbitration Rules. Moreover, IOM deems it important to add that any dispute shall be resolved by negotiations and, if unsuccessful, by mediation in accordance with the UNCITRAL Mediation Rules, to afford opportunities for settlement before invoking arbitration.

Nothing in or relating to this letter or the Decree shall be deemed a waiver, express or implied, of any of the privileges and immunities of the International Organization for Migration.

IOM wishes to thank you for your support and expresses to the Ministry the assurances of its highest consideration.

Kari Käsper
Head of Office