

Interreg
Euro-MED



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Infoday nazionale 4° avviso Interreg Euro-MED

State aid session

Martedì 23 Aprile 2024, online



State Aid

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updates

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State Aid

Legal basis

[Article 107\(1\)](#) TFEU

[...] any aid granted by a Member State or through State resources [...] which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall [...] be incompatible with the internal market

[...] sono incompatibili con il mercato interno [...] gli aiuti concessi dagli Stati, ovvero mediante risorse statali, sotto qualsiasi forma che, favorendo talune imprese o talune produzioni, falsino o minaccino di falsare la concorrenza

State Aid

Keywords

Economic activity is defined as offering goods or services on a given market.

State aid applies only if a partner carries out activities in the project that can reasonably be assumed to be of economic nature. If the partner carries out non-economic activities in the project, there is no State aid relevance even if this organisation normally carries out activities of an economic nature (outside the Interreg project).

The contrary (economic activities are performed in the project by an organisation that normally does not carry out economic activities) can also occur, thus resulting in State aid relevance.

Undertaking is any entity engaged in an economic activity, regardless of its legal status (it can be a public body, a charity, an NGO, an association or university, as well as a private firm) and regardless of whether it aims to make a profit or not

Interreg Euro-Med approach

State aid relevant activities can be co-financed as project activities only if they are in strict compliance with **Articles 20** (direct aid) and **Article 20a** (indirect aid) of the General Block Exemption Regulation or in compliance with the **De Minimis** Regulation

GBER

Reg 651/2014 amended by Reg
2021/1237 and 2023/1315

De Minimis

Reg (EU) 1407/2013 amended by
Reg 2023/2831

The State aid relevance

When activities are considered state aid relevant

Direct State Aid

The **direct** state aid relevance is detected if the implementation of the activity in the framework of the project gives an economic advantage (a benefit) which a **partner** would not have obtained under normal market conditions

Indirect State Aid

The state aid relevance is **indirectly** detected if the implementation of the activity in the framework of the project gives an economic advantage (a benefit) to **third parties** (final beneficiaries/exploiting) receiving benefits from the project (such as trainings) would not have obtained under normal market conditions.

Direct Aid granted under GBER

Option 1: Art 20 of the GBER (General Block Exemption Regulation)

- GBER includes a block exemption for aid granted in the context of **Interreg** projects
- The aid granted is the Interreg fund of the partner, up to a ceiling of **2,2 million EUR** of total public contribution per partner and per project
- Partners receiving Interreg funds under the GBER scheme **cannot receive any external public co-financing**
- Partners participating under the GBER scheme **cannot report VAT**, if it is refundable under their national tax law

Direct aid granted under De Minimis

Option 2: Art 1(1) of Reg 1407/2013

- The De Minimis includes criteria deemed not to meet all the criteria in Article 107(1) of the Treaty
- The total amount of aid granted by Interreg programmes with **Managing Authority located in France** to a single undertaking shall not exceed **300 000 EUR** over any period of three years

GBER Art 20

Strengths

- Simplification scheme for ETC
- 2,2 M€ ceiling per partner and per project
- Ensuring participation of large audience to ETC

Weaknesses

- No external public co-financing admitted
- Refundable VAT cannot be reported
- Administrative burdens (aid to be declared by Programme)

De Minimis

- No need of declaration to the EC
- Good scheme for small partners not often in ETC
- External public co-financing admitted
- Refundable VAT could be reported

- Low participation of the partners to Programmes with MA located in France
- Financial constraints for partners
- Administrative burdens: last 3 years aid to be declared by partners (self-declaration))
- Limiting the possibility of future collaborations (300 K€ in three years)

Indirect Aid granted under GBER

Art 20a of the GBER

- Project activities might result as an advantage granted to undertakings (final beneficiaries) that would not have received under normal market conditions
- For example, this might be the case of free of charge services, training, or consultancy to companies. In such cases, the aid is granted to third parties who are the final beneficiaries of project activities
- indirect State aid (SA) granted under GBER Article 20a to an undertaking that is the final beneficiary of project activities cannot exceed **22 000 EUR**
- The amount of aid granted to each final beneficiary is to be determined by the concerned partner(s) prior to the implementation of project activities that are affected by indirect aid and it shall be approved by the Managing Authority prior to the Subsidy Contract signature



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The State aid compliance check

Assessment of the approved projects done by the JS

The JS analyses the details of activities, mainly provided in section **C.4 Project work plan** of the Application Form, remembering that the State Aid relevancy analysis is done for each partner.

Main procedure:

1. Evaluation of the **State Aid relevance** of the activities proposed in the Working Plan.
2. JS verifies the coherence between the Working Plan and the answers provided in the State aid criteria self-check of the Application Form by each partner.
3. JS verifies the coherence among the Working Plan (Step 1), the answer provided in the State aid criteria self-check (Step 2) and the budget details, as provided in the Application Form by each partner (Section B - Project partners)
4. Ask for integration during the pre-contracting phase.

Evaluating the State Aid relevance of the Working Plan activities

Activities considered state aid relevant

No

No conditions

Yes

Possible conditions

Evaluating the State Aid relevance of the Working Plan activities

The state aid relevancy could be mitigated/removed

No

State Aid relevance confirmed

Yes

Specific obligations

State Aid relevance confirmed

Two possibilities:



1. GBER Art 20

- Simplification scheme for ETC
- 2,2 M€ ceiling per partner and per project
- Ensuring participation of large audience to ETC

- No external public co-financing admitted
- Refundable VAT not eligible
- Administrative burdens (aid to be declared by Programme)

2. De Minimis

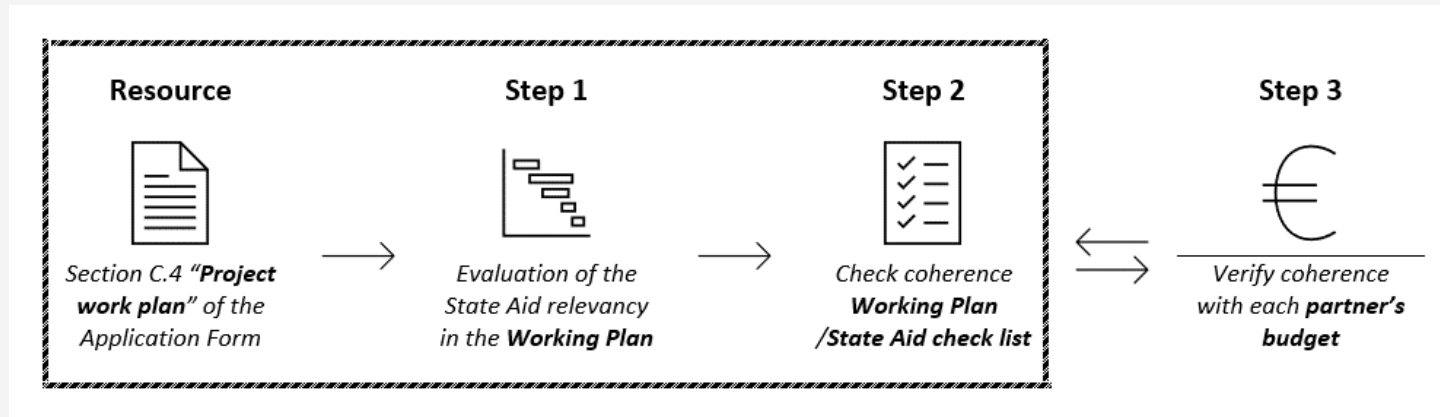
- No need of declaration to the EC
- Good scheme for small partners not often in ETC
- External public co-financing admitted
- Refundable VAT is eligible

- Low participation of the partners to Programmes with MA located in France
- Financial constraints for partners
- Administrative burdens: last 3 years aid to be declared by partners (self-declaration))
- Limiting the possibility of future collaborations

Closing the state aid compliance check

Ask for integration during the pre-contracting phase.

The JS works closely with projects in order to ensure the coherence among the Working Plan, the answers provided in the State aid criteria self-check and the budget details, as provided in the Application Form by each partner





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Energy infrastructure

Defined in the Art 2(130) GBER Regulation [651/2014](#)

- i. **infrastructure for transmission**, as defined in Article 2(3) by Directive 2009/72/EC of 13 July 2009 concerning common rules for internal market in electricity;
- ii. **infrastructure for distribution**, as defined in Article 2(5) by Directive 2009/72/EC;
- iii. **electricity storage**, defined as facilities used for storing electricity on a permanent or temporary basis in above-ground or underground infrastructure or geological sites, provided they are directly connected to high-voltage transmission lines designed for a voltage of 110 kV or more;
- iv. **any equipment** or installation essential for the systems defined in points (i) to (iii) to operate safely, securely and efficiently, including protection, monitoring and control systems at all voltage levels and substations; and
- v. **smart grids**, defined as any equipment, line, cable or installation, both at transmission and low and medium voltage distribution level, aiming at two-way digital communication, real-time or close to real-time, interactive and intelligent monitoring and management of electricity generation, transmission, distribution and consumption within an electricity network in view of developing a network efficiently integrating the behaviour and actions of all users connected to it — generators, consumers and those that do both — in order to ensure an economically efficient, sustainable electricity system with low losses and high quality and security of supply and safety;

Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union ([2016/C 262/01](#)) - Point n° 217

Energy infrastructure includes, in particular, **transmission, distribution and storage** infrastructures for electricity, gas and oil. (Guidelines on State aid for environmental protection and energy 2014-2020 (OJ C 200, 28.6.2014))

Public funding of energy infrastructure favours an economic activity and is likely to have an effect on trade between Member States and is hence in principle subject to State aid rules.

Energy infrastructure is used for the **provision of energy services against payment**, which amounts to an economic activity.

Energy infrastructure is, to a large extent, **built by market actors**, which is evidence of significant market financing, and financed through **user tariffs**.

Evaluating the State Aid relevance of Energy Infrastructure activities

The state aid relevance could be mitigated/removed

No

The activities connected to the energy infrastructure are considered as economic activities

Yes

The activities connected to the energy infrastructure are not considered as economic activities

Mitigating the State Aid relevance of Energy Infrastructure activities

Will the energy infrastructure be used for the provision of energy services against payment?

Will the energy infrastructure be financed through user tariffs?

Will the energy infrastructure be built by market actors?

In case of Yes to the previous question, do you foresee to purchase the goods and services (or other comparable transactions) through competitive, transparent, non-discriminatory and unconditional tenders?



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Legal Framework

Reference	What
Article 107(1) of the Treaty on the Functioning of the European Union	State Aid definition
Annex XVII of the Regulation 1060/2021 (point 20)	Information whether the public support for the operation will constitute State Aid
Interreg Euro-MED Programme Manual (section iii-B)	Interreg Euro-MED Programme approach on State Aid
GBER: Reg 651/2014 amended by Reg 2021/1237 and Reg 2023/1315	GBER regulation and amendments
De Minimis: Reg 1407/2013 amended by Reg 2023/2831	De Minimis regulation and amendments
Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union	Commission provides further clarification on the key concepts relating to the notion of State aid
Guidelines on State aid for environmental protection and energy (2014/C 200/01)	Specific guideline on the notion of State aid environmental protection and energy
DG Competition website of the European Commission	Guideline on the notion of State aid
Interreg euro-MED informative seminar on state Aid	https://youtu.be/kQGLPVK7q6I

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