

Webinar Call 6 – State –Aid Welcome!

Webinar for applicants 9 July 2020



Agenda

- Welcome
- Definitions
- The 5 questions for the state-aid analysis
- Legal instruments for state-aid: GBER & de minimis
- Useful tips for the AF
- Q&A



Scope of the meeting

- Manage partners expectations in connection to the funding rates possible in the framework of Call 6
- Understand the maximum funding thresholds possible in the context of the legal framework in force at this moment
- Raise awareness about the state-aid issues, the different forms and procedures linked to this topic for Call 6



**State-aid – The Legal Framework –
What is it all about?**

Where it all begins...

Article 107(1) of the Treaty on the Functioning of the European Union (TFEU):

'any aid granted by a Member State or through **State resources** in any form whatsoever which distorts or threatens to **distort competition** by favouring certain **undertakings** or **the production of certain goods** [...], in so far as it **affects trade** between Member States'

Definitions 1

- **State resources: all resources coming from the public sector**, including resources of intra-state entities (ERDF and regional)
- **Undertaking:** entity carrying out an economic activity, **regardless of its legal status** and whether it aims to make profit.

Definitions 2

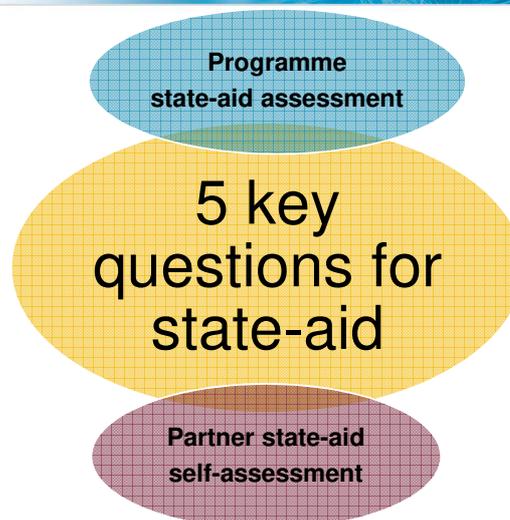
- **Economic activity:** any activity involving the offer of goods or services on a given market:
 - Clear description within the activities and deliverables in order to understand if they are market related
- **Non-economic activity:** Non-economic activities are understood as activities that can only be carried out by the state, such as the provision of public goods for which there is no market (e.g. public education, army, police, ...)
 - Specific to ETC: use of local impact

Definitions 3

- **Selective advantage:** any economic benefit the undertaking would not normally gain under normal market conditions:
 - If the outputs and deliverables include a clear indication as to social benefits, or a larger benefit for specific cases that imply use for non profit, this is also cancelled.
- The procurement procedure has to be open (to allow all interested and qualified bidders to participate in the process), transparent, sufficiently largely publicized, non-discriminatory and unconditional. When a tender procedure complies with these principles, it can be presumed that the transactions are in line with normal market conditions.

General Principle for the State-aid Assessments

- The same 5 questions are assessed on both sides: programme & partners
- The quality of the partner state-aid self-assessment does not impact the decision on the selection of the project



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The 5 Key-Questions

1. Is the measure financed from **state resources** or it is imputable to the state?
2. Is the beneficiary an **undertaking**, i.e. engaged in an **economic activity**?
3. Does the measure confer **an advantage to the beneficiary**?
 - Is this advantage envisaged as thus at project level?
E.g.: studies for the large public; activities focused on knowledge understanding and dissemination)
4. Is the measure **selective**?
5. Does the measure **affect the trade and competition** between the Member States – within the internal market?

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Support questions for Economic vs. Non-Economic Activities - 1

- **In the context of the project, does your organisation undertake any activities and/or develop/offer goods/services for which a market exists ?**
- **In the context of the project, does your organisation implement activities or provide goods/services that could be carried out or provided by an operator to make profit(even if this is not the intention of your institution)?**

Support questions for Economic vs. Non-Economic Activities - 2

- **In the context of the project, does your organisation plan to carry out the economic activities on its own i.e. not to select external service provider via public procurement procedure?**
- **Does your organisation plan to disseminate the goods/services achieved within the project on an exclusive and discriminatory basis; for example through restricted access to databases, publications or software?**

The Local Impact of Project Activities

In order to be able to fulfil the conditions related to local impact – which is generally the situation most desirable and most common for ETC project:

- (a) the aid does not lead to demand or investments being attracted to the region concerned and does not create obstacles to the establishment of undertakings from other Member States;
- (b) the goods or services produced by the beneficiary are purely local or have a geographically limited attraction zone;
- (c) there is at most a marginal effect on the markets and on consumers in neighboring Member States.

The 5 Key Questions: Conclusions

**If ALL questions are answered with YES:
STATE AID**

- *In most cases, **the question which makes the difference** between state aid and non state aid relevant is the one regarding **the undertaking status**.*
- *SMEs must be autonomous: User guide to the SME definition*
- https://ec.europa.eu/growth/content/revised-user-guide-sme-definition-0_en
- *Attention focused on selecting the type of legal entity in eMS*

State-aid self-assessment

- **The 5 questions are on a template provided by the programme –state-aid self-assessment**
- **This template is mandatory for step 2 of the application form**
- **The template is to be filled in by every project partner**
- **The questions have to be answered per work package**
- **When answering the questions contextualize them to the work described in the application form!**

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Q&A

If State-aid relevant – What next?



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Types of Aid

Direct State-Aid

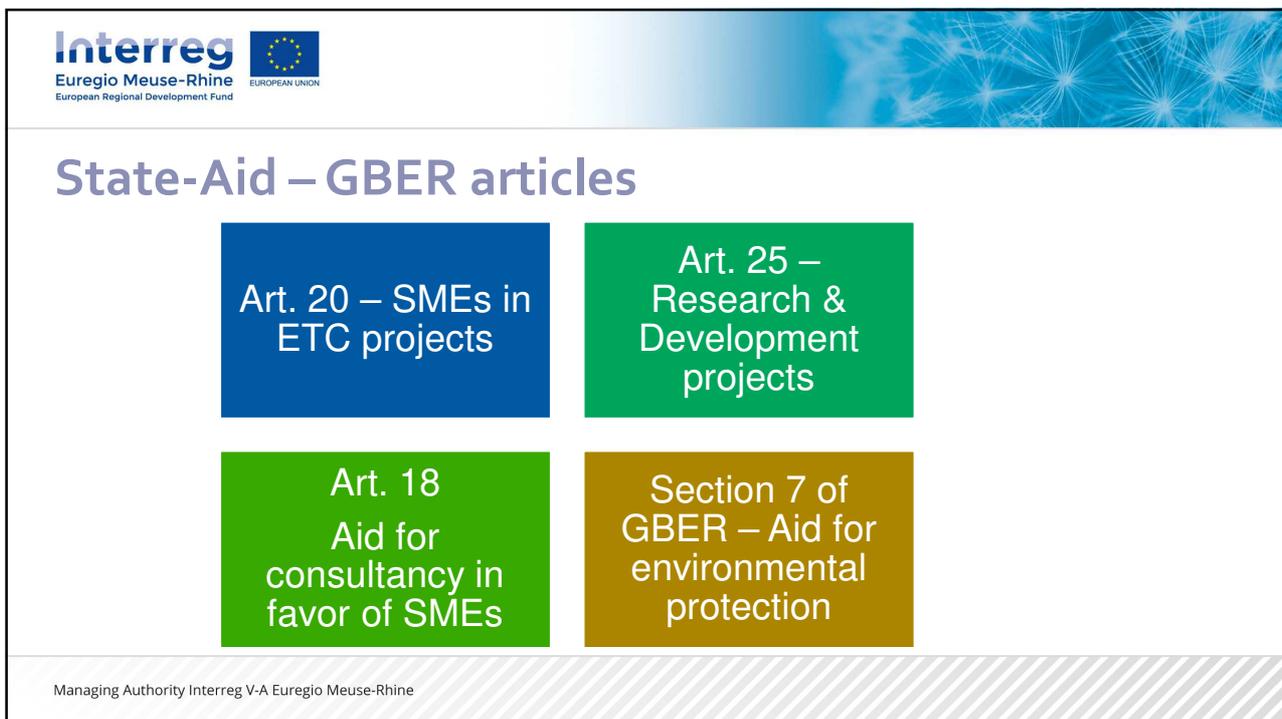
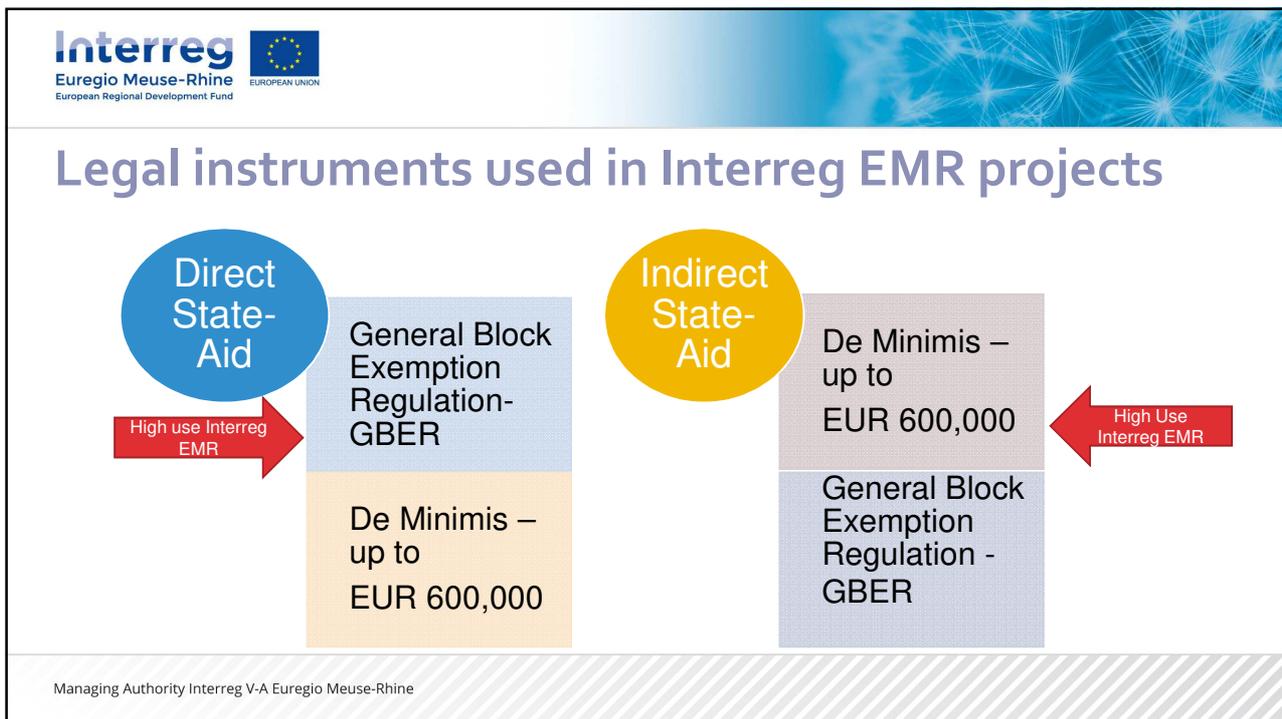
Partners directly involved in the project – own budget defined in eMS

All those listed in the application form as full-partners

Indirect State-Aid

Third parties that benefit from the project activities, but are not named in the eMS

- Beneficiaries (SMEs) of the voucher schemes organized by projects
- Participants (SMEs) at specific seminars & trainings organized by projects



GBER – Art. 20 Aid for cooperation costs incurred by SMEs in European Territorial Cooperation projects

- **Wide coverage**
- **Funding rate max. 50% - only covers the ERDF**
- **No regional co-funding possible**
- **Large enterprises cannot be funded under this article**

Direct
State-
Aid

GBER – Art. 25 Aid for Research & Development projects

- Suitable for SMEs involved in R&D projects
- Funding rate varies
- The higher the Technology Readiness Level, the lower the funding rate
- Applicable to both large enterprises & SMEs

Direct
State-
Aid

GBER – Art. 25 Aid for research & Development projects

Direct
State-
Aid

Fundamental research

- work undertaken primarily to **acquire new knowledge** of the underlying foundations of phenomena and observable facts, **without any direct commercial application or use in view**

GBER – Art. 25 Aid for research & Development projects

Direct
State-
Aid

Industrial Research

- the planned research or critical investigation aimed at the **acquisition of new knowledge and skills for developing new products, processes or services** or for bringing about a **significant improvement in existing products, processes or services**.

e.g: creation of components parts of complex systems, construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably **for generic technology validation**

GBER – Art. 25 Aid for research & Development projects

Experimental Development

Direct
State-
Aid

- acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at **the conceptual definition, planning and documentation of new products, processes or services;**

- *prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions*

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GBER – Art. 25 Aid for Research & Development projects

	Fundamental Research	Industrial Research	Experimental Development
Funding rate – starting point/ Large enterprise	100%	50%	25%
Small enterprise	-	+20%	+20%
Medium Enterprise	-	+10%	+10%
Effective collaboration / Wide dissemination	-	+15%	+15%

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GBER – Section 7 Aid for Environmental Protection

For projects aiming at energy efficiency measures – Priority Axis 2 , art. 38, 40, 41 and 43 of the GBER – section 7 should be explored

- Particular attention to be paid to *art. 38 - Investment aid for energy efficiency measures*
- More complicated calculations needed
- Varying funding rates
- If the funding rates are around 50% - art. 20 could be considered instead

Direct
State-
Aid

GBER – Art.18 Aid for consultancy in favour of SMEs

For projects in which voucher schemes aimed at specialized consultancy to SMEs are foreseen, art. 18 of GBER could also be used

- The SMEs are 3rd parties that are not known at the moment the application form is written
- The consultancy offered is not related to usual operating costs, such as routine tax consultancy services, regular legal services or advertising
- **Max. funding rate – 50% - only covers the ERDF**
- **No regional co-financing possible**

Indirect
State-
Aid

De Minimis

The de minimis rule was introduced in order to exempt small aid amounts. It sets a ceiling below which aid is deemed not to fall within the scope of Article 107(1) TFEU and is therefore exempt from the notification.

- The ceiling is EUR 200,000 per Member State over a period of 3 years
- Interreg EMR – 3 Member States → EUR 600,000 de minimis
- De minimis complies with the proportionality principle
- Applicable to large enterprises & SMEs
- **Special form needed to be filled in** – available on programme website

Direct
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Aid

Indirect
State-
Aid

De Minimis

Max. EUR 600,000	Belgium	Germany	The Netherlands
ERDF	EUR 100,000	EUR 100,000	EUR 100,000
Co-financing	EUR 100,000	EUR 100,000	EUR 100,000
Own - contribution	?	?	?

Direct
State-
Aid

Indirect
State-
Aid

- The ERDF is 50%
- The thresholds for co-financing are the **theoretical max. values**, as regions can decide on lower or no funding rates
- A compensation from own contribution is needed!

Indirect State-Aid - Summary

GBER

- Art. 18
- Funding rate max. 50%

Lower administrative burden – less paperwork to collect from 3rd parties

De Minimis

- Funding rate higher than 50%
- More complex system in place

- Collect the de minimis declarations from 3rd parties
- Issue special declarations at the end stating the amount of de minimis actually granted to each 3rd party

State-aid – Call 6 Tips

CONCLUSION

Summarizing Overview

- **Step 1: use the 5 questions to establish if a project partner is state aid relevant**
- **Step 2: if not all 5 questions are answered by YES, then it is not state aid**
- **Step 3: if all 5 questions are answered by YES, then it is state aid**
- **Step 4: if state aid is identified, use the options presented**

Final tips on state aid and the application form 1

- After having decided on the **topic to be addressed**, in line with Call 6, take a closer look to whether it qualifies as an **economic activity**, using the support questions presented in these slides
- If the answer is yes, take a closer look at the **category of state aid to be used**, as indicated in these slides
- Important: **indicate clearly the legal status**, with due attention to the SME in difficulty not allowed to receive state aid and to large enterprises with very limited options as to state aid

Final tips on state aid and the application form 2

- Local impact can represent an option, in which case clear descriptions need to be provided in the AF to document this
- Define clearly the deliverables in the light of the possible economic or non economic influence
- **Provide in-depth justifications, within the context sections, in order to understand aspects on competition and market distortion**
- **Make use of the large promotion and dissemination of knowledge**

Final tips on state aid and the application form 3

- Consider the **uptake of findings and results by public or by responsible public authorities**, in order to eliminate possible advantage
- In case the AF includes valorization WPs, take due note to describe whether it is for **market related** aspects or it is merely a **knowledge accumulation for larger use**
- **Indirect advantage granted to third parties – describe it clearly**

Final tips on state aid and the application form 3

- In case of **training related activities** :
 - Always advisable to secure a dissemination of the summary
 - Always make sure that there is a broad coverage in relation to participants
 - Public education and education associated to this is not state aid relevant
- In case activities **address individuals**, they are not state aid relevant
- *Universities:*
 - *Their activity is analyzed in the light of state aid relevance,*
 - *They can make use of the 80 – 20% declaration (ancillary activities)*

Overview of State-aid Forms Needed

Forms needed for Step 2 of the Application form – one form per partner – MANDATORY!	Forms needed only if the project is selected for funding and only if requested by MA/JS
State-aid self-assessment questionnaire – an updated template will be available on the programme website	De Minimis Declaration - if applicable
Legal status – not in difficulty - will be available on the programme website	20-80% Declaration – if applicable



Questions?

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More information?

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 Facebook: <https://www.facebook.com/InterregEMR>

 Youtube: Interreg EMR <https://tinyurl.com/yauwk2mc>

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Follow-up

- ✓ Presentations will be available online
- ✓ Fill in our evaluation questionnaire
- ✓ When addressing questions about state-aid mention it in the title of the e-mail!

Questions or suggestions?

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Thank you for your attention!



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