

ANNEX 9. State aid in projects – assessment grid

The assessment of the presence of State aid in projects is carried out by external experts. Individual project activities are subject to evaluation. In the Interreg NEXT Poland – Ukraine 2021-2027 Programme State aid and de minimis aid is awarded to both Polish and Ukrainian Project Partners on the basis of:

- Commission Regulation (EU) No 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union in respect to de minimis aid;
- Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market (the so-called General Block Exemption Regulation);
- Regulation of the Minister of Development Funds and Regional Policy of the Republic of Poland on awarding de minimis aid and State aid under Interreg programmes for 2021-2027 dated 11 of December 2022 (Journal of Laws (DZ.U.) from 2022, position 2755 with amendments Journal of Laws from 2023, position 2202).

The purpose of the assessment is to analyse the projects and their tasks and to answer the question of whether there are any activities in the projects which might be State aid relevant. In case of a positive result of the analysis, the expert assesses under which scheme of State aid and/or de minimis aid (if possible) the aid may be awarded.

The assessment sheets consist of four parts:

- checklist for compliance of the project with the aid conditions (Part 1);
- checklists for general and specific conditions for de minimis aid and block exemptions (Part 2);
- checklist for indirect aid (Part 3);
- assessment summary (Part 4).

In each assessment, the expert verifies if the provision of de minimis aid/State aid will occur:

- in the direct form, i.e. directly granted by the MA to the project partner(s),

- in the indirect form, i.e. aid granted by the project partner(s) to other entities in the project e.g. in a form of a free of charge workshop, study visit training, publicity etc.

When assessing the presence of State aid, the expert answers the following questions:

1. Are the applicants (one or more project partners) considered to be undertakings (within the meaning of EU law) that carry out economic activities within the framework of activities specified in the project application?
2. If the funding is awarded, will the project partner obtain an advantage that it would not have obtained under market conditions?
3. Is the provided support selective?
4. May the funding granted affect or threaten to affect (also potentially) competition and trade between Member States?

The above-mentioned questions may be found in the first part of the assessment sheet - “Compliance with the terms and conditions of the aid”. The part is to be filled in by the expert for each project partner if the partner is listed as an applicant for funding of expenses in the application form.

If the answer is 'yes' to all of the above questions, the activities/expenditure/project indicated will be eligible for State aid. Experts conducting the assessment:

- provide comprehensive justification for the assessment in relation to the project and the project tasks,
- indicate the conditions necessary for the implementation of the measures covered by state aid/de minimis aid,
- assess the activities in the project considering the most appropriate state aid scheme and compliance with the de minimis regulation.

At the first stage of project assessment, the expert determines the occurrence of aid throughout the project for each of the activities therein and each of the partners.

The experts carry out an evaluation of projects based on the subsequent parts of the checklist. If the tasks resemble aid-type tasks, the expert, after completing the section “Compliance with the terms and conditions of the aid”, proceeds to Part 2, which sets out the general and specific conditions for de minimis aid and block exemptions (GBER). Both de minimis and the block exemption part should also be completed. The expert shall indicate in the summary if both forms of aid are feasible to be granted by the MA taking into consideration the value of the partner’s budget. This is the MA/JS that finally decides upon the clarification with the project partner which form of aid is granted in the subsidy contract.

The experts check whether there is a risk of indirect aid in the project and fill in Part 3. In the event of a positive response, the experts provide detailed information under what conditions aid may be granted to final recipients (form of aid) by project partners and set out conditions to eliminate the risk of indirect aid.

If a given type of aid applies to more than one partner in a project, the expert duplicates the appropriate checklist sheet and completes it separately for each partner. If several activities are covered by the same form of aid, they should be listed in the justification to the answer to each question in dedicated part.

During the assessment, if state aid/de minimis aid is identified, the experts issue recommendations which the MA/JS will take into consideration in order to develop the conditions needed for project approval and/or attached to the subsidy contract. In their recommendations, experts should point out:

- if it is possible to eliminate the risk of State aid in the project through additional clarification, modifications or changes to the tasks;
- what conditions must be met to avoid indirect aid in the project;
- what aid scheme allowed in the program can be granted in the project and why (state aid based on specific article / de minimis aid).

The expert conducts the assessment process on the basis of the information provided in:

- the application for funding and annexes thereto,
- information from other external sources, i.e. project partners' websites or publicly available databases, e.g. SUDOP in Poland.

At the request of the experts, the JS asks the lead partner for additional information necessary for the assessment (concerning the lead partner or the project partners). This is the case when the information provided in the application for funding (or from publicly available sources) does not allow a full assessment of the project activities in terms of the risk of State aid.

The result of the assessment carried out by the expert is a clear statement as to whether the project or part thereof involves State aid or de minimis aid (also if there is indirect aid). The assessing expert indicates with respect to which partner and in which tasks State aid/de minimis aid is involved.

**Part 1****1. Compliance with aid terms and conditions¹**

Project number	
Project title	
Lead partner	
Evaluated partner	

¹ Please do not create a separate table for each activity or work package. In case you find only some of the work packages or activities state aid-relevant, please write this either in justification to answers to questions and the summary in part 4. This comment applies to all parts of the document.

Public aid test (Article 107(1) of TFEU)				
No.	Condition	Yes	No	Justification ²
1.	Is the project partner (the applicant for funding) an undertaking (an entity carrying out an economic activity, regardless of its legal status and funding method. “Economic activity” is any activity that consists in offering goods and services on the market)?			Please provide grounds for your assessment for each action and the partner implementing such action.
2.	Will the project provide the applicant with any advantage (any economic benefit that the undertaking would not have obtained under normal market conditions)?			Please provide grounds for your assessment for each action and the partner implementing such action.
3.	Is the provided support selective (selective support will not be the support from which all stakeholders may benefit equally)?			Please provide grounds for your assessment for each action and the partner implementing such action.

² Please provide detailed justification of your assessment (avoid one sentence responses) and give an explanation e.g.:

- why the partner is considered to be an undertaking in the light of EU state aid/de minimis rules, name any project activities that might be related to the economic activity of the partner.
- how the potential economic activity of the partner through project implementation might influence the market and competition locally and transnationally e.g. is there a market for the goods or services delivered by the project partner that influence the activity of other undertakings on the national and transnational market.

The justification must be related to the assessed activities and specifics of the partner.

4.	Is there a possibility that competition will be actually or potentially affected (the competition will be affected if the funding improves/may improve the competitive position of the applicant)?			Please provide grounds for your assessment for each action and the partner implementing such action.
5.	If so, is there an effect on trade between Member States (an effect on trade may normally be assumed when all the other criteria listed are met; in exceptional cases, there may be no effect on trade in the case of funding local activities only)?			Please provide grounds for your assessment for each action and the partner implementing such action.

If all answers are 'yes', the project is a State aid project in relation to the assessed partner. If this is the case, please go to the “De minimis aid” section in the next step. ³

If no partner is at risk of public aid (any of the answers is 'no'), go straight to the “Indirect aid” section.

³ Please do not omit part 2 to fill in if the budget of the partner is within the limit of de minimis aid. Some partners may be both de minimis and state aid eligible depending on the amount of the budget that constitutes aid for the partner. As some partners may want to apply for de minimis aid from national resources to cover their own contribution to the project, if possible, de minimis scheme should be also an option to cover co-financing from ERDF to avoid the cumulation principle within 80% intensity of state aid. The choice of the scheme will be agreed between the MA and the partner in the subsidy contract. Please indicate in the summary (part 4) if both forms of aid can be applied.



Part 2

1. De minimis aid

Project number	
Project title	
Lead partner	
Evaluated partner	

De minimis aid				
No.	Condition	Yes	No	Justification
1.	Is the undertaking engaged in activities related to agriculture, fisheries or exports as described in Article 1 of Regulation 2023/2831? (if not engaged in such activities, please select 'yes')			Please provide grounds for your assessment for each action and the partner implementing such action. If 'yes' is selected, please answer the remaining questions.
2.	Does the total amount of de minimis aid (awarded by the Member State plus ERDF co-financing) amount to: < EUR 300,000 in the last previous years starting from the date of its awarding?			



3.	Does the permissible limit of de minimis aid apply to any group of entities, with which an undertaking (the applicant) forms a single company within the meaning of Regulation 2023/2831?			
4.	Are the intensity thresholds set out in Chapter 3 of Regulation 651/2014 GBER or in the relevant aid scheme exceeded when de minimis aid is combined with other type of State aid for the same eligible expenditure in a project? (if the threshold is exceeded, please select 'yes')			

If all answers are 'yes', de minimis aid may be granted to the partner concerned.



2. GBER

a) General terms and conditions of GBER

Project number	
Project title	
Lead partner	
Evaluated partner	

General terms and conditions of GBER				
No.	Condition	Yes	No	Justification
1.	Is the aid awarded for export-related activities?			
2.	Is the undertaking under an obligation to repay the aid resulting from a decision of the European Commission (Article 1(4)(a) GBER)?			
3.	Is the undertaking in a difficult situation (Article 1(4)(c) GBER)?			
4.	Are eligible costs presented in values after deduction of tax or other charges (Article 7(1) GBER)?			
5.	Cumulation of aid	X		
5.1	Does the planned aid cumulate with other aid for the same eligible costs that partly or wholly overlap and does			



	this cumulation exceed the aid intensity threshold/amount allowed laid down in Chapter 3 of the GBER?			
5.2	Does the planned aid cumulate with de minimis aid in respect of the same eligible costs and does this cumulation exceed the allowable aid intensity threshold/amount laid down in Chapter 3 of the GBER?			

If all the answers are: ‘no’, then please go to the ETC Aid table.



b) ETC aid

Project number	
Project title	
Lead partner	
Evaluated partner	

ETC assistance				
No.	Condition	Yes	No	Justification
1.	Does the total amount of aid exceed EUR 22 000 per undertaking, per project?			If the answer is 'no', it is possible to grant aid on the basis of Article 20a GBER without fulfilling the other conditions defined in this part.
2.	Is the aid limit of EUR 2,2 million per undertaking and per project respected?			
3.	Is the aid intensity threshold equal to or less than 80%? ⁴			
4.	Do the eligible costs submitted in the application for funding fall into the categories indicated in the GBER 651/2014?			

If the answers to questions 2 - 4 are 'yes', the aid may be awarded under Article 20 GBER.

⁴ Please if the aid intensity equals 80% do not forget to explain in justification if de minimis can be also granted.

Some activities may not be state aid relevant allowing to decrease the intensity of state aid. However please remember that management cost shall be state aid related.

Part 3

1. Indirect aid - general part

Project number	
Project title	
Lead partner	

Indirect aid - preliminary verification				
No.	Condition	Yes	No	Justification
1.	Do the project partners plan to carry out activities potentially resulting in the granting of State aid to other entities (indirect aid) - i.e. activities as a result of which other undertakings may receive an advantage which they would not have received under market conditions and which affect or could affect the competition or trade between Member States? ⁵			

If the answer is 'no', there will be no indirect aid in the project. Continue with the 'Summary' section.

If the answer is 'yes' - the section 'Indirect aid - specific conditions' should be completed for each of the partners carrying out the activities addressed (or potentially addressed) to undertakings.

⁵ Please indicate in the justification the type of project activities that can be covered by indirect state aid.



3. Indirect aid - specific conditions

Project number	
Project title	
Lead partner	
Evaluated partner	

Indirect aid - specific conditions				
No.	Condition	Yes	No	Justification
1.	Does the project partner plan to use an open and competitive procedure to select the final recipients of the aid (the undertakings to receive indirect aid in the project)?			
2.	Are the services, assets, products in the project planned to be transferred to final recipients in compliance with market terms and conditions and at market price?			

If all answers are 'yes', there is no indirect aid in the project.



Part 4

Summary

Project number	
Project title	
Lead partner	
Evaluated partner	

Project partner	
Work Package [STHB only] ⁶	
Activity name ⁷	
Activity description ⁸	
Reason for assessment	
Recommendations and proposed solutions ⁹	
Applications, prerequisites, documents and information to be provided by the Applicant in order for the public aid/de minimis aid to be granted in compliance with the regulations	

⁶ Please list the state aid-relevant work packages.

⁷ Please list the state aid-relevant activities.

⁸ Provide a description that sums up the state aid related activities (for example: analysis, research, study visits, etc).

⁹ Please identify what type of aid can be granted state aid (give articles) and /or de minimis. List other recommendations e.g how the indirect can be avoided.



<p>Where State aid is identified - a specification of the expenditure included in the budget of the partner concerned which will be covered by the aid (if possible to indicate within the activity)</p>	
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