

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 1407/2013 of 18 December 2013 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.

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 where there may be a risk of State aid. 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 that the provision of de minimis/State aid will occur:

- in the direct form, i.e. directly by the Managing Authority to the project partner(s),
- in the indirect form, i.e. the provision of such aid under the project by the project partner(s) to other entities.

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

1. Are the applicants (one or more project partners) undertakings (within the meaning of EU law) carrying out economic activities within the framework of the activities planned to be implemented as specified in the project application?
2. If the funding is awarded, will the beneficiary 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 competition (also potentially) 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 grounds for the assessment in relation to the project and their tasks,
- indicate the conditions necessary for the implementation of the measures covered by public aid,
- assess the activities in the project considering the most appropriate category of State aid 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. (T)JS asks the project partners to enclose with the application the completed application forms for de minimis /non de minimis aid and certificates (copies) of de minimis aid granted, or a declaration of the amount of such aid received in this period, or a declaration that no such aid was received in this period. Model certificates and statements or links to these documents will be available on the Interreg NEXT Poland–Ukraine 2021-2027 Programme web page as part of the materials for the call for proposals to be announced.

Once all the above-mentioned documents have been received, the experts will carry out an evaluation of the 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), i.e.:

- if the partner applies for de minimis aid in the application for funding, only the part concerning this category of aid should be filled in (however, if the partner may not receive it, the block exemption part should also be completed);
- if the partner applies for GBER-based State aid, only the part concerning this category of aid should be filled in (however, if the partner may not receive it, proceed to checking whether the partner may obtain de minimis aid);

- if public aid is indicated in the project and the partner has not mentioned the presence of public aid in the application for funding, an assessment based on the whole of Part 2 should be carried out.

If the tasks are not aid-type tasks (there is no risk of State aid in the project), the expert should go directly to the section “Indirect aid” without completing the other sections.

The experts also check whether there is a risk of indirect aid in the project. In the event of a positive response, the experts provide detailed information to the applicants and set out conditions to eliminate the risk of indirect aid.

If more than one action is involved in a project, the expert shall duplicate the relevant checklist sheet and complete it separately for each action and each partner.

During the assessment, if support measures are identified, the experts make recommendations which the MA/(T)JS will use to develop the conditions needed for project approval and/or the detailed conditions attached to the funding agreement. In their recommendations, experts should point to the possibility of:

- eliminating the risk of State aid in the project through additional modifications or changes to the tasks;
- fulfilling specific conditions for the elimination of indirect aid in the project;
- granting State aid on the basis of one of the approved aid schemes (or de minimis aid if applicable).

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

- the application for funding and annexes thereto,
- de minimis aid/non-de minimis aid application form,
- certificates (copies) of de minimis aid granted, or declarations of the amount of such aid received during this period, or declarations that no such aid was received during this period,
- 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 (T)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. 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 conditions

Project number	
Project title	
Lead partner	
Evaluated partner	

Public aid test (Article 107(1) of TFEU)				
No.	Condition	Yes	No	Justification
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.
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.

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

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 1407/2013? (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 200,000 (< EUR 100,000 for road freight transport) in the last three financial 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 1407/2013?			
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	-		
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 20 000 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 million per undertaking and per project respected?			
3.	Is the aid intensity threshold equal to or less than 80%?			
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.



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 entities/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?			

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 undertaking the activities addressed (or potentially addressed) to undertakings.

4.2 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 beneficiaries of the aid (the undertakings to receive indirect aid in the project)?			
2.	Are the benefits (services, assets, products) granted in compliance with market terms and conditions and at market price?			
3.	Are the services, products, results of the project offered on the market by another entity?			

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	Please complete the evaluation sheet for each measure covered by the rules of de minimis aid/public aid
Work Package [STHB only]	
Activity name	
Activity description	
Reason for assessment	
Recommendations and proposed solutions	
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 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.	

