



State Aid Self-Assessment¹

This document has been developed to help you to make an initial assessment of whether State aid is involved in your project and your options for dealing with this. This will help us to ensure that we have the necessary information to deal with your enquiry and to do so more quickly.

What is State aid?

State aid is defined as an **advantage** in any form whatsoever conferred on a **selective basis to undertakings** by national public authorities. Therefore, subsidies granted to individuals or general measures open to all enterprises are not covered by this prohibition and do not constitute State aid (examples include general taxation measures or employment legislation).

To be State aid, a measure needs to have these features (cumulative):

- there has been an **intervention by the State or through State resources** which can take a variety of forms (e.g. grants, interest and tax reliefs, guarantees, government holdings of all or part of a company, or providing goods and services on preferential terms, etc.);
- the intervention gives **the recipient an advantage on a selective basis**, for example to specific companies or industry sectors, or to companies located in specific regions
- **competition has been or may be distorted**;
- the intervention is likely to **affect trade between Member States**.

Before the State aid tests can be applied it is necessary to determine whether the following two aspects are present:

1.	Is the beneficiary an 'undertaking'? An undertaking is defined as any entity, regardless of its legal status, which is engaged in economic (commercial/competitive) activity and where there is a market in comparable goods or services.
2.	Is an undertaking engaged in economic activity? This is defined as offering goods and/or services on a given market and which could, at least in principle, be carried out by a private operator for remuneration in order to make profits.

¹ The State Aid Self-Assessment must be filled in and signed by every partner (lead partner and partners)



Key questions that should be considered are:

Consider these questions from the perspective of any organisations which could benefit directly or indirectly from the measure.

PART 1 - INITIAL STATE AID ASSESSMENT

1. Is the support provided granted by the State or through State resources?

Explanation

The definition of state resources is aid that is granted by the state; this includes all public and private bodies controlled by the state to distribute public funds. State resources include Funds not permanently belonging to the state but which the state may direct, such as European funds like ERDF. ERDF funds are considered to be granted through State resources or by the State, so usually for INTERREG Programme the answer is YES.

Yes or No: YES

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2. Does the support confer a selective advantage to an undertaking?

Explanation

The intervention gives **the recipient an advantage on a selective basis**, for example to specific companies or industry sectors, or to companies located in specific regions. *or* A benefit which is granted for free or on favourable (non-commercial) terms to some selected undertakings (but not others), could be state aid.

Definitions:

Advantage: An advantage can take the form of direct payment of state resources in the form of grants and subsidies as well as indirect benefits that affect the public budget such as tax breaks, rate rebates, low interest loans, sale of public land below market value and the provision of services for free or at below-market rates.

Selectivity: Support that targets particular businesses, regions or types of firm e.g. SMEs or particular sectors and not others is selective.

Undertakings: An undertaking is defined as any entity, regardless of its legal status, which is engaged in economic activity and where there is a market in comparable goods or services. It does not have to be profit-making as long as the activity carried out is one which, in principle, has commercial competitors. It can include voluntary and non-profit-making public or public authorities when they are engaged in economic activity. Charities, universities, research institutions, voluntary entities, social enterprises and public sector bodies may therefore be deemed to be undertakings when they are engaged in economic activity. Support in favour of non-undertakings (i.e. entities which are not involved in economic activity) is not state aid.

Economic activity: Activity which consists of offering goods or services on a given market and which could, at least in principle, be carried out by private actors in order to make



Romania – Bulgaria

profits.

YES or NO :

Please provide a short explanation.

3. Does the support distort or have the potential to distort competition?

Explanation

If the support has the potential to strengthen the position of the beneficiary relative to other competitors then this criteria is likely to be met. The potential to distort competition does not need to be substantial or significant, and this criterion can apply to relatively small amounts of financial support and firms with little market share.

YES or NO :

Please provide a short explanation.

4. Does the support affect trade between Member States?

Explanation

Commission's interpretation of this is broad - it is sufficient that a product or service is tradeable between member states, even if the recipient of support does not itself export to other EU markets. This test is not met only in very limited circumstances e.g. where a single, small business is involved in very localised activity e.g. hairdressers.

YES or NO :

Please provide a short explanation.

! If the answer to all 4 questions is YES, and you can consider that your project might have state aid incidence, therefore please urgently contact the Joint Secretariat for further instructions.

Lead partner....

Signature

Date

Project partners

Signature



Date

LEGAL BASIS for the State Aid Self-Assessment

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)

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0719%2805%29>

State aid websites:

Further information on EU legislation in the field of State Aid can be obtained from:

http://ec.europa.eu/competition/state_aid/overview/index_en.html

State aid guidance available:

State aid definition

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)

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719\(05\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719(05)&from=EN)

European legislation

<http://www.ajutordestat.ro/en/state-aid-legislation/community-legislation/>

National rules on procedure (Romania)

<http://www.ajutordestat.ro/> section State aid legislation

<http://www.ajutordestat.ro/legislatie-ajutor-de-stat/legislatie-comunitara/>

Romanian National rules (for Romanian partners)

<http://www.ajutordestat.ro/legislatie-ajutor-de-stat/legislatie-nationala-in-vigoare/>

Bulgarian National rules on procedure (for Bulgarian partners)

State Aid Act - State Gazette No. 85/24.10.2017