



Factsheet N°11

Focus on State Aid

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I. What is State Aid?

According to Article 107 (ex Article 87) of the Treaty on the Functioning of the European Union, the European Union defines State Aid very broadly as covering any measure involving a transfer of state resources which distorts competition (or threatens to) by favouring certain undertakings (see definition in § 2 below) as far as it affects trade between Member States.

Starting from this definition, some key elements can be already highlighted such as:

- Transfer of state resources,
- Distortion of competition,
- Favouring certain undertakings (selective approach),
- Impact on trade between Member States

These key elements represent the main issues to check in order to satisfy oneself about the existence of a potential State Aid issue for a project. Starting from these elements, we can conclude that there is State Aid only if **ALL the following 5 points (cumulative criteria)** are fulfilled:

1. **Undertaking and economic activity:** an “undertaking” is any entity engaged in an economic activity (= **offering goods and services on the market**), regardless of its legal status, ownership and the way it is financed. Even if the entity provides the goods or services free of charge or is financed entirely by the state, it can be subject of the State Aid rules.
2. **Selectivity:** Aid must selectively favour certain undertakings or the production of certain goods or services. In this context, it will be always the case.
3. **Transfer of state resources:** It must be granted by the State / through state resources (which is the case in this context).
4. **Advantage:** The measure must confer a benefit or advantage on the recipient which it would not otherwise have received (in this context, the ERDF grant). Does the measure give an economic advantage (a benefit) which an undertaking would not have obtained under normal market conditions? Or is there no advantage, e.g. it is merely a service at market price (e.g. obtained through public procurement or by a Service of General Economic Interest (SGEI) provided the SGEI meets the *Altmark criteria*¹)? If there is no advantage, there is no aid.
5. **(Potential) distorting effect on competition and trade within the Union:** The aid given must **distort or threaten to distort competition**. This criterion is widely seen as redundant with the previous one because if a measure favours an undertaking, it is seen as possibly threatening to distort competition. By distorting the competition, the measure is also therefore affecting trade between Member States. Regarding the effect on trade within the Union, here again, the interpretation is very broad as it is sufficient that the goods or services are subject to trade (without the aid beneficiary being exporting at all) for this criterion to be met. Moreover, there is no minimum threshold and there are therefore very few cases in which trade between Member States is not affected.

In case of ETC projects, it is considered that criteria 2 and 3 are always fulfilled. Moreover, the strong link between Criteria 4 and 5 makes that Criteria 5 will be considered as always fulfilled if criteria 4 is.

One of the **key novelties** of the Interreg 2 Seas Mers Zeeën for the 2014-2020 period is the application of **Article 20 of the General Block Exemption Regulation (GBER)** in addition to the De Minimis rule. Moreover, a specific **2 Seas scheme** has also been established.

¹ SGEI meeting the so-called Altmark criteria are not considered as receiving an advantage through public support.

II. Who is concerned by State Aid?

By default, any organisation receiving public funds is concerned by State Aid. However, State Aid rules apply only if an entity acts as an *undertaking*.

Undertakings² are entities engaged in an *economic activity*, regardless of their legal status (they can be public bodies, charities, NGOs, associations or universities, as well as private firms) and regardless of whether they aim to make a profit or not. The classification as an undertaking is specific to an activity, NOT the status of an entity such as public or private. The only relevant criterion to decide is whether or not the entity carries out an **economic activity in the context of the ETC project**.

More particularly, within the domain of competition law, an undertaking is identified as any entity which exercises an activity of an economic nature and which offers goods and services in competition (actual or potential) with other operators active in the market, carrying out activities of an economic nature, devoted to the production and marketing of goods and services in the market.

This concept of undertaking is very wide and **can include both private and public organisations**. Activities carried out within the framework of statutory tasks normally performed by public authorities do not fall within the concept of an undertaking, in view of their non-business purposes and procedures, but in many cases, however, local public or administrative bodies may be considered to be similar to undertakings.

A distinction must then be done according to the size of the organisations³. Undertakings can be classified under two groups: SMEs and Large Enterprises.

A **small and medium-sized enterprise (SME)** is a particular case of an undertaking, which – like an undertaking - is NOT defined by its legal form. The category SME⁴ is made up of enterprises that meet certain criteria: An SME employs fewer than 250 persons and has an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

The definition is rather wide and the following attributes of organisations are irrelevant: The legal status as private or public (also economic operations of municipalities can be SMEs in the framework of State Aid regulations!) and whether or not they are profit-oriented (NGOs, non-profit organisation, etc. can be SMEs!). The definition also covers self-employed persons or family businesses and partnerships or associations regularly engaged in an economic activity.

Large enterprises (LE) will consist of all organisations NOT falling under the definition outlined above are NOT SMEs. Any organisation NOT engaged in an economic activity is NOT an enterprise and thus cannot be an SME. State Aid rules distinguish between small and large enterprises. Large enterprise means an undertaking, which does not fall within the definition of small and medium-sized enterprises. Some rules in the GBER are different for SMEs and large enterprises. For example, Article 20 of the GBER (Aid for cooperation costs incurred by SMEs participating in ETC projects) does not cover large enterprises.

In the evaluation of the existence of a potential State Aid issue, the nature of the beneficiary is therefore not relevant since even a not-profit organization can be engaged in economic activities. The main element to

² The terms Undertaking and Enterprise are used indifferently in EC Regulations and guidelines.

³ This distinction has consequences on rules in the GBER that can be applied for SMEs and large enterprises.

⁴ In the context of State aid, the definition of SME is provided in Annex 1 of the GBER.

take into account is **the nature of the activities in the project** that the partner organisation intends to implement through the public funding (i.e. the State Aid).

Additional guidance is available in the “2 Seas State Aid Guidance for applicants”.
The guidance is available on the [2 Seas website](#).

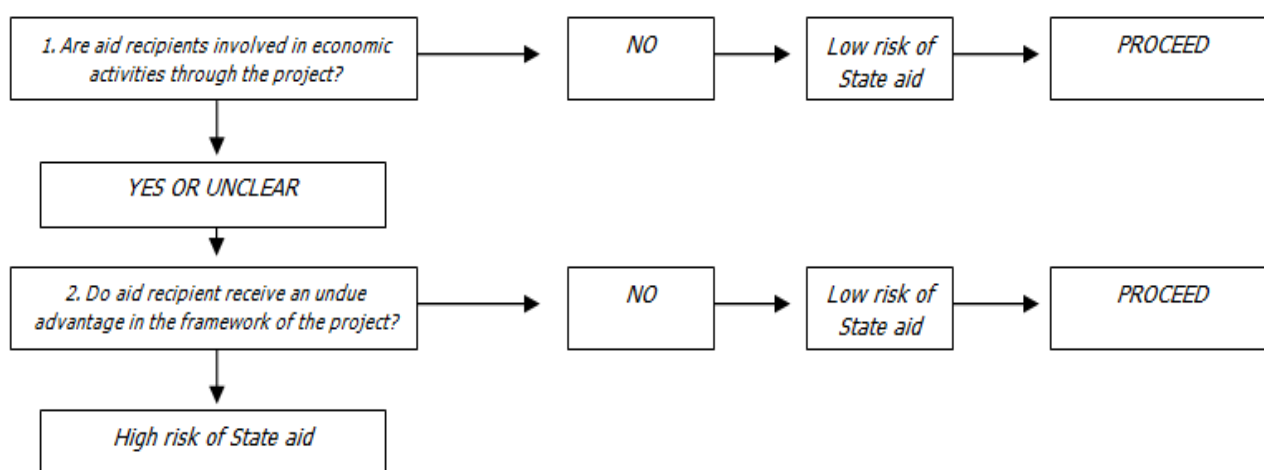
III. How to deal with State Aid?

A. The so-called “Balancing Test” and the State Aid risk

The “Balancing Test” can be applied to check whether the aid is considered State Aid or not. In order for a measure to be considered State Aid, the answer must be “yes” to **ALL 5 points mentioned in point I** above.

However, for ETC Programmes and more specifically for projects, some points of the list are always satisfied or almost always such as the transfer of state resources, the selectivity and the potential distort of competition in case there is an advantage.

The “Balancing Test” points shall be then limited to the 2 following questions and will be part of the risk assessment from the Programme Authorities.



If the answers to the two questions are all “YES”, then there might be a high risk of State Aid. In this case, several options are proposed by the European Commission:

- Eliminate the aid
- Ensure schemes / ad hoc awards to comply with GBER
- Meet the De Minimis requirements
- Informal contact with the European Commission (DG Competition) and official notification
- Take a risk and proceed anyway

If a Member State does decide to grant State Aid, **the Commission must be notified through a strict procedure.**

However, certain aid measures which are either enshrined in the Treaty (i.e. compatible State Aid with the market) or in Commission regulations (i.e. General Block Exemption Regulation and De Minimis) are exempt from notification.

B. General Block Exemption Regulation (GBER)

As part of an administrative simplification, the Commission adopted the General Block Exemption Regulation (GBER) and allows any Member State to not notify a number of State Aid measures to the Commission. It consolidates and harmonizes the rules previously existing and enlarges the categories of State Aid covered by the exemption.

Through the GBER, the 2 Seas Programme has opted to frame any State Aid through two schemes, as follows:

1. **Scheme n°40646⁵** covering **Article 20** - Aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects

Compared to the previous GBER⁶, a specific and new article 20 has been adopted which is directly opened to ETC. **Article 20 of the GBER** (*Aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects*) applies **only to SMEs** fulfilling the following conditions: criteria of the SME definition⁷, thresholds, transparency, incentive effect, aid intensity, eligible costs, cumulation, publication and information. In case these conditions are fulfilled, the following costs can be deemed eligible:

Costs for **organisational cooperation**⁸ including:

- Costs for **staff** and **offices** to the extent that it is linked to the cooperation project;
- Costs of **advisory** and **support services** linked to cooperation and delivered by consultants and service providers;
- **Travel** expenses, costs of **equipment** and **investment** expenditure directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the project.
- The services referred above shall not be a continuous or periodic activity nor relate to the undertakings usual operating costs, such as routine tax consultancy services, regular legal services or advertising.

Organisational cooperation is defined as *the development of joint business strategies or management structures, the provision of common services or services to facilitate cooperation, coordinated activities such as research or marketing, the support of networks and clusters, the improvement of accessibility and communication, the use of joint instruments to encourage entrepreneurship and trade with SMEs.*

The aid amount under Article 20 of GBER shall not exceed **50% (all types of public sources included)** of the eligible costs. In addition, aid to SMEs for cooperation costs incurred by participating in ETC projects cannot exceed **EUR 2 million per SME and per project.**

2. **2 Seas Scheme** (covering **several articles** of the GBER)

The 2 Seas Programme has established a specific scheme that includes those articles of the GBER that are more in line with the themes of the 2 Seas Programme.

The 2 Seas scheme covers the following articles of the GBER⁹:

Article 25	Aid for research and development projects
Article 26	Aid for research infrastructures
Article 27	Aid for innovation clusters
Article 28	Innovation aid for SMEs
Article 29	Aid for process and organisational innovation
Article 31	Training aid

⁵ <http://www.europe-en-france.gouv.fr/Centre-de-ressources/Aides-d-etat/Regimes-d-aides>

⁶ See COMMISSION REGULATION (EC) No 800/2008 of 6 August 2008

⁷ See annex 1 of the GBER (General Block Exemption Regulation) - COMMISSION REGULATION (EC) No 651/2014

⁸ See article 2 (63) of the GBER (General Block Exemption Regulation) - COMMISSION REGULATION (EU) No 651/2014.

⁹ See GBER (General Block Exemption Regulation) - COMMISSION REGULATION (EC) No 651/2014 for detailed information about each article mentioned.

Article 36	Investment aid enabling undertakings to go beyond Union standards for environmental protection or to increase the level of environmental protection in the absence of Union standards
Article 38	Investment aid for energy efficiency measures
Article 41	Investment aid for the promotion of energy from renewable sources
Article 45	Investment aid for remediation of contaminated sites
Article 46	Investment aid for energy efficient district heating and cooling
Article 47	Investment aid for waste recycling and re-utilisation

C. De minimis rule

For all entities for which a potential State Aid risk has been identified (during the project application and selection processes and after application of the “balancing test”), the Monitoring Committee can decide to apply the de minimis rule.

The de minimis rule requires that relevant partners submit a self-declaration to the Programme in order to ensure that the total de minimis aid received in the last three fiscal years does not exceed EUR 800 000¹⁰. Even though the GBER allows exemption per project and per SME (in the case of article 20), the de minimis rule can still represent an alternative solution for some partners that do not fall under the scope of Article 20 of GBER.

The form will be filled-in on the Electronic Exchange Platform of the Programme and can be downloaded on demand.

To benefit from the de minimis, aid the relevant partner has to satisfy the following criteria:

- The total ceiling for the aid covered by the de minimis rule within the 2 Seas Programme is maximum EUR 800 000 (cash grant equivalent) over the last three fiscal year period.
- The ceiling amounts to EUR 200,000 per Member State composing the 2 Seas Programme.
- The ceiling applies to the total of all public assistance considered to be de minimis aid.
- The ceiling applies to aid of all kinds, irrespective of the form it takes or the objective pursued.
- The regulation only applies to “transparent” forms of aid which means aid for which it is possible to determine in advance the gross grant equivalent without needing to undertake a risk assessment.

¹⁰ Following the Programme Monitoring Committee held on the 22-23/11/2018, it has been decided to reconsider the total de minimis threshold applicable within the 2 Seas Programme. The threshold is therefore calculated by multiplying the de minimis threshold (€ 200,000) by the number of Member States involved in the Programme. Therefore, the total threshold can now reach up to **€800,000** cumulative over the last three fiscal years per undertaking.

IV. How to assess the State Aid risk in a project proposal?

➤ Concept note stage

In the applicants' seminars preceding the submission of the Concept Note, some basic information is provided to applicants about State Aid (risk and related mitigation measures).

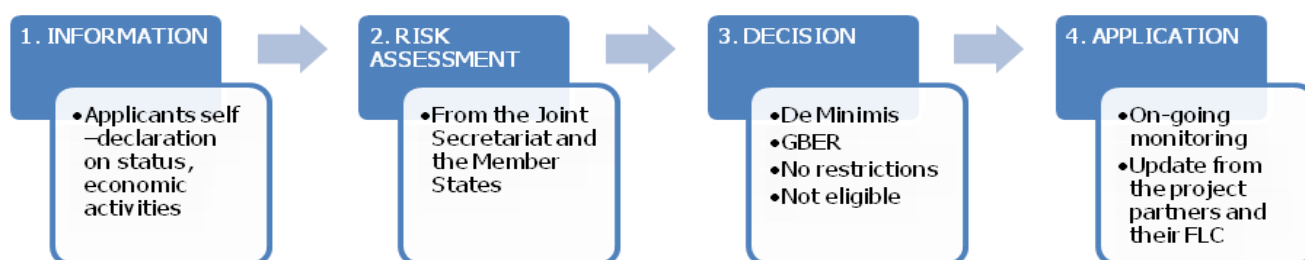
During the Concept Note evaluation, the JS and Member States are required to identify any possible State Aid risk based on the information provided by the applicants (e.g. economic character of their activities, economic advantage out of them, potential distortion of the market, etc.).

Recommendations given by the Monitoring Committee (Task Force) to applicants shall highlight whether the Concept Note might concern a sector or activity(ies) leading to a potential State Aid risk. Indications shall be provided by the Monitoring Committee (Task Force) to facilitators with regards to State Aid in order to guide applicants during the second stage of application.

➤ Application form stage

Applicants for whom Member States and/or JS and facilitators have identified a risk of State Aid are invited to attend specific training on State Aid. The training will provide in-depth information about State Aid risk and possible mitigation measures to tackle the risk in the framework of the 2 Seas Programme.

The risk assessment of State Aid existence in the application form stage is divided into four steps:



A. STEP 1 – Information from the applicants: self-assessment and self-declaration

During the application phase, every project partner shall perform a self-assessment on the nature of activities carried out in the framework of the project. They shall assess if activities carried out in the project can be considered as economic activities and if the organisation gains an advantage from them that it would not have had otherwise. This self-assessment can be performed thanks to the questions of the application form where guidance is available. Several questions have to be answered out of which the two first ones give the conclusion as to whether there is a risk of State Aid existence in the project.

Additional guidance is available in the “2 Seas State Aid Guidance for applicants”. The guidance is available on the 2 Seas website.

In case the conclusion is a **low** risk of State Aid (i.e. one of these two questions has been negatively answered), no particular restrictions or budget constraints will be applied to the partner.

However, in case the conclusion is a **high** risk of State Aid (i.e. both questions have been positively answered), the organisation is considered as an “undertaking” in the framework of the project and is subject to State Aid regulations.

Following this conclusion, relevant partners shall provide information in order to assess if the undertaking is viewed as a large enterprise or as a SME. This consists in an additional set of questions to guide the applicant throughout the process in order to determine the most adequate financial scheme through which the project can be financed.

The options available to the partner are **either** de minimis **or** one exemption from the GBER. This will depend on the status of the partner, the nature of the activities and the requested amount of aid to the Programme.

It is to be noted that de minimis rule or the selection of one exemption of the GBER (either the scheme related to art. 20 or the 2 Seas Scheme) conditions the partner's contribution to the project. Indeed, de minimis rule or each article of the GBER contains specific conditions that can be stricter than the Programme rules and to have to be complied with (e.g. ERDF rate, eligibility rules, conditions of application etc.)

In case a State Aid relevant partner selects one exemption from GBER, the following conditions have to be complied with:

- Only one exemption from the GBER (i.e. one article) can be selected for each concerned partner.
- Consequently, even if only some of the partner's activities are economic, all partner's activities in the project **will be subject to some or all restrictive conditions of the selected GBER article** (at least the public intervention rate, public intervention threshold, ex-ante deduction of revenues). The applicant will have to indeed verify the measure's eligibility conditions with its budget and its activities in order to determine the measure's framework.
- **Any other specific and stricter conditions of the selected article applicable to only one or several budget line(s)** will apply to the concerned budget lines.
- When the maximum rate of aid intensity has been selected, the applicant will be only able to provide contribution from private source or from its own funds;
- All specific conditions of the selected article apply for **the whole project duration**.
- It will be up to the applicant to ensure **a clear distinction and follow up between economic and non-economic activities** at the application, reporting, monitoring and audit and control stages. If the distinction is not possible, the applicant will only insert the economic activities in its budget and fulfill the selected article's conditions.

The "2 Seas Guidance for State Aid for applicants" provides additional information to address the conditions mentioned above.

Provided that the partner presents a high risk of State Aid, the aid from the Programme can be framed in the following ways based on the type of undertaking:

In case of the partner is considered as an SME (as defined in the GBER Annex 1¹¹)

Scheme	Rate	Ceiling
De minimis	Fixed ERDF rate 60% - no other possible external public contribution on top.	Amount will be capped to comply with the de minimis regulation Up to EUR 800K per undertaking (last three fiscal years period, up to EUR 200K per Member State)

¹¹An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

GBER – Article 20	Fixed ERDF rate 50% - no other possible external public contribution on top.	Amount will be capped to comply with the GBER article 20 EUR 2M per project and per SME
GBER – 2 Seas scheme	Public intervention rate to be fixed according to the article of the GBER selected	Amount to be capped according to the article of the GBER Specific eligibility conditions and rules may apply
GBER – other articles through the national schemes of the Member States involved in the 2 Seas Programme	Public intervention rate to be fixed according to the article of the GBER selected	Amount to be capped according to the article of the GBER Specific eligibility conditions and rules may apply

In case of the partner is considered as another form of organisation than SME

Scheme	Rate	Ceiling
De minimis	Fixed ERDF rate 60% - no other possible external public contribution on top	Amount will be capped to comply with the de minimis regulation Up to EUR 800K per undertaking (last three fiscal years period, up to EUR 200K per Member State)
GBER – 2 Seas scheme	Public intervention rate to be fixed according to the article of the GBER selected	Amount to be capped according to the article of the GBER Specific eligibility conditions and rules may apply
GBER – other articles through the national schemes of the Member States involved in the 2 Seas Programme	Public intervention rate to be fixed according to the article of the GBER selected	Amount to be capped according to the article of the GBER selected Specific eligibility conditions and rules may apply

During the application stage, the Lead Partner shall ensure that all project partners have dedicated particular attention to “step 1” of the procedure and that the information provided is correct.

However, in case the partner concerned did not provide correct information in the Application Form, the partner will bear the responsibility of putting the project in a difficult position. Nevertheless, strong support and guidance from the JS and territorial facilitators will be provided in order to ensure that the partner will have the necessary information to answer all questions of the application form correctly.

B. STEP 2 – Assessment by the JS and Member States

Once a project proposal is submitted to the JS, the status of each partner is checked by the concerned Member State. Member States will also check and confirm if a given partner is exercising an activity of an economic nature in competition with the market as well as if there is an economic advantage by giving this aid to the partner.

As part of the selection process, both the JS and Member States will evaluate the State Aid risk. This is done by taking into consideration the information provided by the partner and the nature of activities to be implemented by the partners having declared to be undertakings (or SME) exercising an activity of an economic nature in competition with the market. This is why it is crucial that particular attention is paid by the partners when filling-in this part of the application form.

As part of the assessment is based on the information provided by the applicants, the Programme Authorities will confirm or not the result of the self-assessment from the applicant i.e. low or high risk of State Aid in the project and selected scheme.

If the information and justification provided by the applicant is **deemed as correct and the State Aid risk has been appreciated correctly**, the Monitoring Committee will confirm that the project can be approved without any further action.

However, in case the conclusion from the Monitoring Committee differs from what has been concluded by the applicant, a revision of the application form will have to be considered in order to reduce the risk – see step 3 below.

C. STEP 3 – Decision by the Monitoring Committee

If a State Aid risk has been detected and assessed by Programme Authorities and the conclusion differs from the one of the applicant, the issue will be raised also at the Monitoring Committee meeting to discuss the approval of the concerned project proposal. The final decision about the risk of existence or not of a State Aid will be taken by the Monitoring Committee under its own responsibility and will be clearly stated in the minutes of the Monitoring Committee meeting. This is a collective responsibility of all members and delegations within the Monitoring Committee.

In case the MC confirms the existence of a HIGH State Aid risk, and if the application form is NOT in line with the applicable measures to tackle this risk (e.g. de minimis, GBER), **the project is not eligible**.

The project that has been deemed as ineligible may decide to resubmit a revised proposal that takes into account one or more measures to tackle the State Aid risk. According to the adopted measures, the project may need to resubmit a new Concept Note (e.g. in case of modification to the partnership) or a revised Application Form (e.g. in case of modification to the budget of the partner concerned by State Aid). Clear instructions will be provided in the notification letter.

D. STEP 4 – On-going project monitoring

Considering that the de minimis aid is calculated on a three tax year period, and that the ceiling as well as the eligibility conditions of the GBER articles must be fulfilled during the project implementation, project partners are responsible to inform the JS if their situation changes during the project life. The First Level Controllers are also responsible to verify the ongoing compliance of project partners with the State Aid.

E. Project modification for State Aid relevant partners

State Aid relevant partners can amend their involvement within a project under specific conditions. For each modification case, are highlighted below its possible effect and solutions. If the project must be modified, the modification must be aligned with the list of possible changes detailed in the Programme Manual Factsheet 6, section II.D.3. The different cases, their solutions and their related effect on State Aid regulations are displayed in the table below:

Case	Effect and Solution(s)
Activities	
Changes to the content of the economic activities as a result of modification of the number, nature and delivery date of deliverables and/or outputs (influenced by the concerned	Changing the nature of economic activities for which a State Aid scheme has been initially selected and approved is only possible under three cumulative conditions: <ol style="list-style-type: none"> 1. Those activities have not yet started; 2. No related costs have been incurred and claimed back to the Programme;

partner(s) or any changes in the partnership including observers)	<p>3. The changes brought to those economic activities must not result in a different way of complying with the selected and approved State Aid scheme. The initial rationale must be preserved.</p> <p>It is to be noted that the compliance with those conditions only apply to partners that have framed their activities under one article of the GBER.</p>
Budget	
Budget changes beyond the flexibility rule, within the given total ERDF	This has no effect on the compliance with State Aid regulations.
Decrease of the total ERDF	
Changes in the allocation of the budget per semester	
Changes in the allocation of the budget per calendar year (in case of a decrease of the total ERDF, or changes to the content of the project activities)	
Increase of the State Aid relevant partner's budget	This is only possible if the total budget proposed by the State Aid relevant partner complies with applicable budget limits (thresholds from the de minimis regulation or GBER Article 4 notification thresholds or any other relevant State Aid related regulations).
Partnership	
Change of the enterprise's size	Should the size of the partner organization acting as an enterprise change from SME to LE or vice versa, as defined in GBER Annex 1 ¹² , a new project partner will have to be created in order to reflect the new size of the partner organization (hence becoming a new type of enterprise).
Participation of a new State Aid relevant partner within an approved project	<p>This is only possible if the new State Aid relevant partner will implement new activities (not foreseen at the stage of approval) or project foreseen activities that have not been started. Both cases have to be to duly justified.</p> <p>It is to be noted that the compliance with those conditions only apply to partners that have framed their activities under one article of the GBER.</p>
Change of State Aid scheme	
Change of the State Aid scheme or changes within the initially selected State Aid scheme	<p>In very exceptional cases, changing the approved State Aid scheme applying to the State Aid relevant partner is possible but only if the two following and cumulative conditions are fulfilled:</p> <ol style="list-style-type: none"> 1. Those activities have not yet started; 2. No related costs have been incurred and claimed back to the Programme. <p>This particular modification will be a case of a major modification (see Factsheet 6).</p>
Extension of the duration	
Extension of the duration of the project or the economic activities	This has no effect on the compliance with State Aid regulations.

F. State Aid to third parties

Any undertaking receiving an advantage through a cooperation project that it would not have received under normal market conditions can be the recipient of State Aid. This applies to undertakings participating

¹² See annex 1 of the GBER (General Block Exemption Regulation) - COMMISSION REGULATION (EC) No 651/2014.

as project partners **as well as - potentially - to third parties** receiving benefits from the project such as trainings, business supports etc. State Aid indeed applies at different levels.

Where such indirect State Aid is provided, projects partners have the responsibility to ensure that State Aid rules are complied with by the final recipients and First Level Controllers are asked to verify that the conditions have been met. More information is available in the "2 Seas State Aid guidance for applicants".

G. Revenue generation and State Aid

Following the adoption of Regulation (EU) No 2018/1046 (Article 272 (26)(e) amending Article 61 (8) of Regulation n°1303/2013) no net revenues will have to be deducted by State Aid relevant partners (regardless of their size and occurrence of revenues' generation).

As stated under recital (197) of Regulation (EU) No 2018/1046, the relevant provisions of this Regulation should apply to already selected but still ongoing projects and to projects which are still to be selected under the 2014-2020 programming period.

On this basis, project applicants and project partners that are State Aid relevant are therefore not concerned by the revenue deduction during the project implementation and/or after implementation and will not have to comply with the procedures detailed in the Programme manual – Fact sheet 10 on revenue generating projects.

H. Responsibilities of the actors involved in the process

During the process described above, the analysis around the existence of a State Aid issue involves different actors with different responsibilities, as follows:

➤ Project Partners

- (For each project partner) provision of the correct information about eventual involvement in activity of an economic nature in competition with the market. This will be eased through a developed guidance by the JS and questions that should enable the partner to self-assess the risk of State Aid existence;
- (For undertakings involved in economic activities and having an economic advantage) provision of the correct filled in "De Minimis Aid Form";
- (For SMEs or LEs being undertakings involved in economic activities and having an economic advantage) provision of additional specific information in the Application Form;
- (For each project partner concerned) ensure that any third parties receiving indirect State Aid complies with State Aid rules
- (For each project partner concerned) ensure a sound audit trail regarding the distinction between the economic and non-economic activities as well as for any other eligibility conditions linked to the mitigation measure selected.

➤ Lead Partners

- (For the whole project) ensure that all information stated by the project partners in the Application Form is, to the best of its knowledge, correct.

➤ Joint Secretariat

- (For all applicants) provide the correct/sufficient information about the GBER and De Minimis rule and procedure to comply with;

- (For all project partners) verification of the information provided in the Application Form;
- (For undertakings involved in economic activities and having an economic advantage) assessment on the risk of State Aid existence through the “Risk Assessment” and set of answers provided in the Application Form;
- (If all answers to the “Risk Assessment” are affirmative) communication to the Member States about the risk of State Aid existence and proposal of measures to adopt;
- (For all concerned projects) – archiving the information of each aid measure and provide the necessary information to fill-in the annual report to be sent to the European Commission (through the C.G.E.T.)

➤ **Member States**

- (For all project partners) verification and confirmation of the correctness of the information and justification provided in the Application Form, particularly about the status of undertaking involved in an economic activity in competition with the market;
- (For undertakings involved in economic activities and having an economic advantage) assessment on the risk of State Aid existence through the “Risk Assessment” and set of answers provided in the Application Form;
- (In case a high State Aid risk is detected) further check and official opinion on the way to manage the risk of State Aid.

➤ **Programme Monitoring Committee**

- Final decision on the level of State Aid risk (to be stated in the minutes of the meeting);
- Final decision on the measures to adopt in order to tackle the risk:
 - De minimis
 - GBER Article 20
 - 2 Seas GBER scheme
 - Other article of the GBER
 - Other measures (e.g. notification to EC)

➤ **First Level Controllers**

- (For all project partners) verification of the ongoing compliance with State Aid rules (including indirect State Aid to third parties);

➤ **Managing Authority**

- Ensure that the overall procedure established by the Programme is fulfilled by all actors involved within the agreed deadlines;
- Ensure the information of each aid measure is correctly archived and the annual report is sent to the European Commission.