



Workshop on Measure 16 “Cooperation” European Network for Rural Development

State aid rules

Brussels

1 June 2016

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Aspects to be taken into account as concerns State aid in the context of an RDP

State aid questions:

- do **NOT PLAY** a **ROLE** if support is paid for a project relating to an agricultural activity;
- **ONLY PLAY A ROLE** if support is paid for a project relating to any other kind of activities;
- if State aid plays a role, for cooperation measures, the aid intensities are different from the RD Regulation and the measure has to be notified to the Commission



How to get an RDP to life

RDP approval

Substance of the RDP based on the RD-Regulation 1305/2013 and the DA/IA

Procedure for the approval by the

The focus is the RDP in its entirety

State aid authorisation

Substantial State aid rules based on Guidelines, Block Exemption Regulation or the Treaty

Procedure for the authorisation

The focus of the State aid authorisation is on individual measures



Do Member States have to ask for approval under both boxes ?

RDP approval is always required

State aid approval:

- *If activity or project relates to an agricultural activity (= Annex I of the TFEU)
→ No State aid approval IS NOT NECESSARY*
- *If activity or project relates to non-Annex I activities
→ State aid approval IS NECESSARY*



Why is there a difference between Annex I and non Annex I related activities?

Article 42 TFEU:

State aid rules only apply IN THE AGRICULTURAL SECTOR if legislator so decides

Article 81 and 82 of RD Regulation 1305/2013:

State aid rules do not apply as long as covered by Article 42 TFEU, i.e. agricultural activity



What does this mean in practice ?

RD-Regulation provides for measures both in relation to agricultural activities and non-agricultural activities

Examples for non-agricultural activities:

„Forestry“, „tourism in rural areas“, in some cases „village renewal“



What does this mean for cooperation measures

- 1. See „State aid guidance“ document of COM services for details*
- 2. What is the cooperation project about ? Focus on agricultural activities or non-agricultural activities*
- 3. Decision does not depend on the type of participants, e.g. consultants, architects, local shops or the like may form part of the cluster*

However, example of office for cluster run by a consultancy who also uses it for other economic activities



Why are there two different procedures

RDP approval: COM checks whether the proposed RDP is in line with RD legislation. Focus: the RDP in its entirety

State aid approval: COM acts as a competition authority,

I.e. the focus of either one of these procedures is rather different from the other



Why can State aid provisions be different from RD Regulation adopted by legislator ?

Aids paid constitute State aid even in cases where EU money is spent under EU law, IF MEMBER STATES HAVE DISCRETION as regards the choice of a given project

Member States do indeed have discretion as to the choice of projects they want to finance under there RDP → State aid law applies

If State aid control applies, what does it require in substance to obtain authorisation ?

What is State aid ? → Notion of aid, Art. 107(1) TFEU →

How does DE MINIMIS key into this notion ?

If State aid: Could it be authorised nevertheless → Art. 107(2) or (3) TFEU ?



What are the PROCEDURAL requirements to obtain a State aid authorisation for cooperation measures?

Under Article 108 TFEU, Member States have to NOTIFY any State aids to the Commission under the Treaty or Commission GUIDELINES

- even **if an aid is not *State aid*** (cf. previous slide „notion of aid“), MS might wish to have legal certainty that this is so and requires a COM Decision by way of notification;

- Commission has to take action (information request or adoption of a Decision) within two months;

- if there are no objections, Commission adopts a positive Decision (happens in almost all notified cases);

- if there are objections, Commission has to open a formal investigation procedure



Co-operation – specific conditions: AGRI SA GL and RDR

*Similar – all conditions except aid intensity
(for example):*

Forms of cooperation (Art. 35 (1) RDR and p. 315, 575 and p. 701 GL)

Activities (Art. 35 (2) RDR and p. 316, 575 and 702 GL)

Eligible costs (Art. 35 (3) and p. 321, 576 and 708 GL)



Aid intensity: AGRI SA GL

Forestry sector

- studies, running costs, animation – up to 100%
- direct costs (investments) – depending on the objective of the investment:

investment	Maximum aid intensity
Afforestation and creation of woodland Establishment of agro-forestry systems Prevention and restoration of damage to forests Investments improving the resilience and environmental value of forest ecosystems	100%
Investments in forestry technologies and in processing, in mobilising and in marketing of forest products Investments in infrastructure related to the development, modernisation or adaptation of forestry	40%
Infrastructure - non-productive investments, investments aimed exclusively at improving the environmental value of forests and investments for forest roads, which are open to the public free of charge and which serve the multifunctional aspects of forest	100%



Aid intensity: AGRI SA GL

Rural areas

- studies, running costs, animation – up to 50%
- direct costs (investments) – depending on the regional status of the area of investment: p. 711 in connection with p. 638 of the GL

For example

- in less developed regions: between 50 and 25 %
- in 'c' areas: 10 or 15 %
- other areas : 10%
- other special aid rates for outermost regions, SMEs, ect.

SA Horizontal conditions – reminder (do not exist in RDR, but very important from SA viewpoint)

Undertakings in difficulty

Deggendorf clause

Incentive effect

Cumulation



Again (see 1st slide) Aspects to be taken into account as concerns State aid in the context of an RDP

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THANK YOU VERY MUCH!

*FOR MORE INFORMATION ON STATE AID IN AGRICULTURE,
FORESTRY AND RURAL AREAS:*

http://ec.europa.eu/agriculture/stateaid/index_en.htm

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