

Proposals and request for clarifications/modification regarding the state aid for the 3rd Call Ip 8/b

No.	Proposal/request for clarification/modification	Programme' reply
1	To what extent do the investment/works expenditures, for the creation of a training center, fall under the state aid incidence?	<p>The creation of a training center may enter under the incidence of state aid if, besides the training activities performed during the project implementation – in respect of the GfA specific conditions – other training initiatives are foreseen to be delivered in the center, during or after the project implementation period, with an approach that implies an economic activity. This can be the case, for example, if the center will be directly managed by one of the project beneficiaries and participation fees are planned to be requested to training participants; or again, if the center is planned to be operated by a training provider operating on the market, selected by the project beneficiary without an open, non-discriminatory and transparent public procurement procedure. (Please be advised that in the context of the Interreg V-A Romania-Hungary, all procurements will be made with respect to the national public procurement law in Romania/Hungary. This provision is mandatory for all types of beneficiaries, no matter of their statute (either public or private). Any purchase of goods, services or works (or other comparable transactions) will be carried out through a competitive, transparent, non-discriminatory and unconditional procedure).</p> <p>The fact that the entity operating the center is or not statutory oriented to profit is not relevant to establish the presence of a State aid incidence, which is exclusively related to the economic nature of the activities there performed.</p>
2	To what extent the costs of organizing a qualification/ perfection course open to anyone willing to participate, but which, under the conditionality of the COR, will be required to meet certain participation criteria (eg a certain level of study) fall under the state aid incidence?	<p>As long as the specific conditions foreseen in the GfA for training activities (Chapter 2.2.2., letter c.) are respected, the organization of training activities within the project does not enter within the incidence of State aid. The foreseen presence of qualification requirements does not modify this situation, as long as the participation to the training course remains open to all interested natural persons, the requirements are established in a way that do not result in a substantial advantage for any specific economic operator, and they are transparently verified for all applicants based on the principle of equal treatment.</p>
4	Which are the possibilities of calculating the investment budget if it is under the GBER provisions?	<p>For activities covered by the GBER scheme, there is an intensity limit, established as follows: “The amount of the aid must not exceed the difference between the eligible costs and the operating return on the investment. Operating profit is deducted from the ex-ante eligible costs, based on reasonable estimates, or through a recovery mechanism.” Based on this rule, and according to the results of the requested calculation, the Managing Authority could be led to approve for the considered activity a lower financing rate than the one normally foreseen by the Programme. The calculation should be proposed by the applicant (for example, within the cost-benefit analysis) and will be subject to the analysis of the State aid assessors.</p> <p>With reference to the GBER scheme, we consider useful to highlight that the scheme cannot apply to “Specific infrastructures” defined as those infrastructures „built for an ex ante identifiable enterprise (s) and adapted to its needs”.</p>

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5	Is the state aid incidence for the two partners considered cumulatively or individually, for each partner, according to the relevant national legislation, in Romania or Hungary? Are enforced the national rules on State aid or the programme rules (or both)?	State aid incidence is assessed separately on each funding decision linking a Public authority to an individual State aid beneficiary. For a Romanian project partner, the funding decision that might represent State aid is the decision of the Managing Authority awarding to it the ERDF and national co-financing funds. For a Hungarian project partner, the funding decisions that might represent State aid are two: the decision of the Managing Authority awarding ERDF Funds and the decision of the National Authority awarding the national co-financing funds. Moreover, please consider that State aid incidence in the framework of the HuRo programme is assessed separately for each project activity. Accordingly, for the same project partner, a part of the funding awarded can be assessed as State aid relevant while another part – related to different activities – can be assessed as State aid free. The relevant State aid rules are the ones established by the programme, together with the relevant national and EU rules as recalled in the GfA.
6	How long should the state aid incidence be considered: during project implementation, during implementation and sustainability period, or for other period?	Unless a different provision is established in a specific State aid scheme, the conditions based on which the State aid incidence has been assessed must be kept in permanence. In fact, the project sustainability period is not relevant for State aid related aspects.

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7	<p>Please specify if the following types of activities are subject to State aid:</p> <ol style="list-style-type: none"> 1. Activity of promotion of social economy 2. Activity referring to the elaboration of strategies 3. Activity referring to social economy fairs 4. Activity related to the establishment of new social economy companies 	<p>With reference to the activities, based on the few information available, the following considerations can be expressed as regards their possible State aid relevance:</p> <ol style="list-style-type: none"> 1. Activities of promotion of social economy addressed to physical persons or public authorities don't present, normally, a State aid relevance, as long as they are not promoting specific brands, solutions or processes that may determine, for one or more specific companies, an advantage that they would have not normally received in market conditions; 2. Activities referring to the elaboration of strategies are normally considered State aid free within the RoHu programme. However, the State aid assessors will verify that the resulting strategy has a general scope and that neither its content or the elaboration process are likely to generate an advantage for a specific group of enterprises, that they would not have received in normal market conditions. 3. For the activity referring to Social economy fairs, its State aid incidence can be excluded, if the specific conditions foreseen in the GfA for events (chapter 2.2.2, letter b) are strictly respected. For this kind of activities, it is important to exclude any economic character as well as any indirect advantage for economic operators. Events should be widely promoted, participation should be open to anybody, not subject to any fee, and events should not have any promotional content related to specific firms, services or products. If these conditions are respected, events can be considered as not having any State aid incidence as the presence of any link to an economic activity can be excluded. 4. For the activity related to the establishment of new social economy companies (irrespective of the ownership) the project is going to generate an indirect State aid, represented by the funding received by each of the companies for the start-up of their activities. Considering the limited amount for this aid (e.g. max. 200.000 Euro for each company) the initiative can be covered by the de minimis scheme activated for the Programme, as long as each of the six individual aids generated fulfils the eligibility conditions there established for the beneficiary, the activities and the expenditures. <p>The initiative represents a situation of full transfer of the de minimis aid from the project beneficiary to other aid beneficiaries, as foreseen in Art. 11.5.iii of the De minimis scheme, annex to the GfA. Its implementation, accordingly, has to take place based on the procedure foreseen in Art.11 of the scheme for such specific situation. We recommend a careful reading and understanding of the tasks and responsibilities there foreseen for the project beneficiary in this situation (in particular: art.11.6.a, 2nd bullet; art. 11.6.b, 2nd bullet, Art. 11.7, Art. 11.9, Art. 11.12)</p>