



Interreg

Romania-Hungary

European Regional Development Fund



EUROPEAN UNION



GOVERNMENT OF ROMANIA



HUNGARIAN
GOVERNMENT

AVOIDING STATE AID INCIDENCE

TIPS & HINTS

Partnership for a better future

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CONTENT

ISSUES TACKLED

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ORGANIZING EVENTS

GFA PROVISIONS / STATE AID FREE CONDITIONS

- NO participation fees for participants;
- NO sale of products is allowed;
- NO commercial activities are to be supported by the project;
- The event will be widely promoted;
- Public access will be free of charge.

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

**Risk of indirect aid to
economic operators**

RECOMMENDATIONS ON HOW TO AVOID

- NO commercial purpose/activity within the event;
- If economic operators are foreseen among participants, the event has to be promoted to all interested operators;
- The event shall not be dedicated to meet the specific economic interest of a single economic operator.

CREATING A BRAND / PLATFORM

GFA PROVISIONS / STATE AID FREE CONDITIONS

NO aid, subject to complying with GfA public procurement requirements.

Any purchase of goods, services or works/ other comparable transactions will be carried out through a competitive, transparent, non-discriminatory and unconditional procedure.

Regardless the procurement procedure, in case only one bid is submitted, this will not normally be sufficient to prove the market price. In this case, to justify the market price, for validation of the expenditure, 2 additional valid, comparable offers will be provided.

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

Risk of indirect aid to economic operators using the brand/accessing the platform.

RECOMMENDATIONS ON HOW TO AVOID

- In case a fee is foreseen for network maintenance and operation, it must be transparent, moderate (preferably covering only the real costs of operation and maintenance) one and unique for all users;
- If the brand/platform is addressed to enterprises, those should be:
 - of small/very small dimension;
 - active mainly at a local level (the area should be well defined);
 - active in economic sectors where the cross-border commercial flows are marginal.

ORGANIZING TRAINING

GFA PROVISIONS / STATE AID FREE CONDITIONS

- Non-discriminatory participation of all interested stakeholders/persons;
- Wide dissemination;
- Free access, opened to the general public;
- The participants (others than the staff of a public institution) must attend the training as natural person;
- Training support materials will have to be published on the Programme's website as well, either entirely, or at least in the format of a coherent summary;
- The price of training related to the functioning of the equipment purchased within the project will be included in the equipment price and can be done only for staff operating the equipment.

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

Risk of indirect aid to economic operators (exclusively for training initiatives having a professional content).

RECOMMENDATIONS ON HOW TO AVOID

It is recommended to adopt a selection procedure ensuring that

- a) the participants to a training initiative are not the employees of the same employer and/or
- b) the majority (in terms of percentages) of the employees of the same employer take part to a training initiative.

DRAFTING STRATEGIES / STUDIES / PLANS

GFA PROVISIONS / STATE AID FREE CONDITIONS

NO aid, subject to complying with GfA general and specific eligibility criteria for eligible costs /expenditure provisions

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

Risk of indirect aid If the study/strategy is customized for the needs of one/few specific company(ies).

RECOMMENDATIONS ON HOW TO AVOID

- The content of the strategy/study/plan shall not be customized for the needs of one/few specific company(ies);
- The studies, strategies, plans will have to be published on the Programme's website, either entirely, or at least in the format of a coherent summary.

INVESTING/ EQUIPPING BUSINESS INFRASTRUCTURE

GFA PROVISIONS / STATE AID FREE CONDITIONS

Normally business infrastructures are considered **State aid relevant** and covered by GBER. In cases in which they are not, this is possible only if the spaces are used for activities that do not have an economic relevance.

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

Risk of indirect aid if the access of enterprises to the business infrastructure is free of charge or for fees lower than market prices.

RECOMMENDATIONS ON HOW TO AVOID

The infrastructure (spaces/equipment) shall be used only for the performance of public services or for services that **do not consist in an economic activity**.

INVESTING/ EQUIPPING TRAINING CENTERS

GFA PROVISIONS / STATE AID FREE CONDITIONS

There are four conditions to allow the creation of a training center without State aid relevance:

- The training activities are exclusively targeted to physical persons;
- The training activities are provided for free;
- The participation to training activities is open to anyone interested;
- The training programmes are oriented mainly towards social purposes (personal development and employability of participants) rather than being oriented by the needs of the job market.

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

Risk of direct aid (if economic activity); risk of indirect aid to economic operators.

RECOMMENDATIONS ON HOW TO AVOID

The absence of any economic activity foreseen in the centres/with the equipment shall be insured. Relevant project partners should:

- Issue a declaration regarding the use of the centres and the equipment, assuring that all spaces and/or the equipment that have been the object of the funding are not used, even after project implementation, for economic activity* (intended as any activity which can be potentially offered on a given market by another economic operator with profit purposes);

**Economic activities are allowed, in case the local impact of the activity/activities can be proved. In this respect, the beneficiary shall provide a Local Impact Study drafted in line with the provision of 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](#));*

- Whenever possible, an operational plan for the use of each centre/facility after the project implementation period should be submitted following up the declaration, so that the assessment of the respect of all conditions for the absence of SA relevance can ultimately be performed;
- The spaces composing the centres/facilities and/or the equipment acquired within the project should have an exclusive destination for the project's training activities;
- Very limited scale auxiliary services (e.g. small café or buffet in the facility) are allowed, up to a maximum of 20% of the infrastructure.

INVESTING/ EQUIPPING CULTURAL INFRASTRUCTURE

GFA PROVISIONS / STATE AID FREE CONDITIONS

The cultural activities are

a) organized in a **non-commercial way**:

- Absence/marginal presence of economic activities;
- There are both economic/non-economic activities but there is a clear separation of accounts;
- The activities are objectively **non-substitutable**, thus excluding the existence of a genuine market.

(Such activities are not economic in nature* and thus the funding of such infrastructure will not be considered as State aid);

b) there is no potential effect on trade between Member States, due to **local impact****

**See paragraphs 33, 34 and 36 of [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);*

***See [paragraphs 196 of 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*

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

**Risk of direct aid if
thresholds are
overpassed**

RECOMMENDATIONS ON HOW TO AVOID

Verifying **absence//marginal presence of economic activities**:

- The visitors fees cover only a fraction of real running costs;
- The commercial-oriented use of the infrastructure is NOT overpassing 20% of its overall use (Both the surface and the periods of use of the infrastructure for economic purposes should be considered to calculate the real proportion, which should never overpass 20%)

Clear separation of accounts:

- The existence of a system of separation of accounts that guarantees that the public aid covers only the part of the infrastructures having non-economic purposes;
- All expenditures reported to the Programme are exclusively recorded in the non-commercial sections of the accounts, as all related running costs;
- No significant incomes appear in the recordings related to the “non-commercial” part of the accounts.

Local impact:

- The cultural infrastructure is unlikely to attract users or visitors from similar offers in other Member States, thus not affecting the trade between Member States;
- The cultural activities/the cultural infrastructure is not promoted to potential visitors from abroad, and the statistics do not show a strong increase of visitors from abroad.



INVESTING/ EQUIPPING TRANSPORT SYSTEMS

GFA PROVISIONS / STATE AID FREE CONDITIONS

SGEI without State Aid if respecting all 4 Altmark criteria

ASPECTS/RISKS IDENTIFIED IN THE MONITORING

Risk of direct aid if any of the 4 Altmark criteria is not fulfilled

RECOMMENDATIONS ON HOW TO AVOID

The 4 Altmark criteria:

- Existence of public service obligations clearly defined;
- The parameters for calculating the compensation must be objective, transparent and established in advance;
- The compensation cannot exceed all or part of the costs incurred in the discharge of the public service obligations;
- Operator chosen pursuant to a public procurement procedure.