

In the table below, you will find a list of compatibility conditions and provisions which should be reflected in the legal basis or in secondary law concerning the block-exempted aid measure under monitoring (Commission Regulation (EU) No 651/2014, OJ L 187, 26.6.2014, p. 1, as amended).

Please provide information, in short form, in the column "Where to find them in legal basis or secondary law?" by a reference to the relevant paragraph and page number of the legal document, e.g. Art. 1, p. 3, Legal text; Paragraph 3, p. 5, Secondary law).

If a condition or provision is implicitly fulfilled i.e. it is not especially contained in the legal text of the aid measure, please give a short explanation where it is established.

Where a condition is not applicable, please put "N/A" and give a short explanation.

### **A. Common provisions of application**

General conditions and provisions of application	Where to find them in legal basis or secondary law?
<p><b>Article 1 - Exclusion of certain activities and aids above a certain amount (§2)</b></p> <p>Shall <b><u>not</u></b> apply to (for all Articles):</p> <ul style="list-style-type: none"> <li>• Aid to export related activities;</li> <li>• Aid contingent upon use of domestic over imported goods.</li> </ul> <p>Shall <b><u>not</u></b> apply to (for Articles 18, 28 and 29):</p> <ul style="list-style-type: none"> <li>• Aid schemes to SMEs and R&amp;D&amp;I aid schemes with an <b>average annual State aid budget exceeding EUR 150 million</b> from six months after their entry into force. The GBER may continue to apply for a longer period to any of these aid schemes after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days from the scheme's entry into force. Where the Commission has already extended the application of this Regulation beyond the initial six months as regards such schemes, Member States may decide to extend those schemes until the end of the period of application of the GBER, provided that the Member State concerned has submitted an evaluation report in line with the evaluation plan approved by the Commission;</li> <li>• Any <b>alterations</b> of the schemes referred to above other than modifications which cannot affect the compatibility of the aid scheme under the GBER or cannot significantly affect the content of the approved evaluation plan.</li> </ul>	
<p><b>Article 1- Exclusion of certain sectors (§3)</b></p> <p>Shall <b><u>not</u></b> apply to (for all Articles):</p> <ul style="list-style-type: none"> <li>• The processing and marketing of agricultural products* where the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put</li> </ul>	

<p>on the market by the undertakings concerned; or where the aid is conditional on being partly or entirely passed on to primary producers;</p> <ul style="list-style-type: none"> <li>• Aid to facilitate the closure of uncompetitive coal mines (Council decision 2010/787).</li> </ul> <p>Shall <b>not</b> apply to (<b>for Article 18</b>):</p> <ul style="list-style-type: none"> <li>• Fishery and aquaculture* (as in Reg. 1379/2013).</li> </ul> <p><i>* If an undertaking is also active in sectors that are within the scope of the GBER, the GBER applies to aid granted in respect of these sectors provided that the Member State ensures that the activities in the excluded sectors do not benefit from the aid</i></p>	
<p><b>Article 1 - Exclusion of companies concerned by the Deggendorf rule (§4)</b></p> <p>Shall <b>not</b> apply to:</p> <ul style="list-style-type: none"> <li>• aid schemes which do not explicitly exclude the payment of individual aid, in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market;</li> <li>• ad hoc aid in favour of an undertaking as referred to in point a.</li> </ul>	
<p><b>Article 1 - Exclusion of companies in difficulty (§4)</b></p> <p>Shall <b>not</b> apply to aid to <b>undertakings in difficulty</b>:</p> <p><b>by derogation:</b> this Regulation applies to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty during the period from 1 January 2020 to 31 December 2021.</p>	
<p><b>Article 1 - Exclusion of aid measures violating Union Law (§5)</b></p> <p>Shall <b>not</b> apply to State aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular:</p> <ul style="list-style-type: none"> <li>• aid measure where the grant of aid is subject to the obligation for the beneficiary to have its headquarters or to be predominantly established in the relevant Member State. Requirement for an establishment or branch in the aid granting Member State at the moment of payment of the aid is however allowed;</li> <li>• aid measure where the grant of aid is subject to the obligation to use nationally produced goods or national services;</li> <li>• aid measures restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.</li> </ul>	
<p><b>Article 4 - Individual notification thresholds</b></p> <p>Shall <b>not</b> apply to aid which exceeds (<b>for Article 18</b>):</p> <ul style="list-style-type: none"> <li>• Consultancy in favour of SMEs: EUR 2 million per undertaking, per project;</li> </ul>	

<p>Shall <b>not</b> apply to aid which exceeds <b>(for Articles 28 and 29)</b>:</p> <ul style="list-style-type: none"> <li>• Innovation aid for SMEs: EUR 5 million per undertaking, per project;</li> <li>• For aid for process and organisational innovation: EUR 7,5 million per undertaking, per project.</li> </ul> <p>Shall <b>not</b> apply to aid which exceeds <b>(for Article 31)</b>:</p> <ul style="list-style-type: none"> <li>• Training: EUR 2 million per training project;</li> </ul> <p>The thresholds shall <b>not</b> be circumvented by artificially splitting up the aid schemes or aid projects.</p>	
<p><b>Article 5 – Transparency of aid</b></p>	
<p>Only transparent aid (aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid ex ante without any need to undertake a risk assessment) <b>shall be exempted</b>.</p> <p>The following aid categories are considered to be transparent:</p> <ul style="list-style-type: none"> <li>• Aid comprised in grants and interest rate subsidies</li> </ul>	
<p><b>Article 6 - Incentive effect</b></p>	
<p>Aid can only be exempted if incentive effect:</p> <ul style="list-style-type: none"> <li>• <b>Beneficiary submitted written application for aid to Member State, before work</b> on the project or activity starts, with at least the following information: <ul style="list-style-type: none"> <li>a. undertaking's name and size;</li> <li>b. description of the project, including its start and end dates;</li> <li>c. location of the project;</li> <li>d. list of project costs;</li> <li>e. type of aid (grant, loan, guarantee, repayable advance, equity injection or other) and amount of public funding needed for the project</li> </ul> </li> <li>• <b>Ad hoc aid to large enterprises</b>; in addition to the above, Member State has verified before granting the aid that the beneficiary provided documentation establishes one or more of the following: <ul style="list-style-type: none"> <li>- a material increase in the scope of the project/activity due to the aid, or</li> <li>- a material increase in the total amount spent by the beneficiary on the project/activity due to the aid, or</li> <li>- a material increase in the speed of completion of the project/activity concerned;</li> </ul> </li> </ul>	

Article 7 - Eligible costs	
<p><b>For the purposes of calculating the aid intensity</b></p> <ul style="list-style-type: none"> <li>• All figures shall be taken before any deduction of tax or other charge. The amounts of eligible costs may be calculated in accordance with the simplified cost options (Reg 1303/2013, or Reg 2021/1060) whichever is applicable provided that the operation is at least partly financed through a Union fund that allows the use of those simplified cost options and that the category of costs is eligible according to the relevant exemption provision;</li> <li>• Aid granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.</li> <li>• Aid payable in the future, including aid payable in several instalments shall be discounted to its value when granting. Eligible costs shall also be discounted to their value at the time of granting the aid. The discounting interest rate shall be the one which was applicable at the time of granting the aid;</li> <li>• Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology calculating their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the moment the aid is granted, the maximum aid intensities may be increased by 10 percentage points.</li> </ul> <p><b>Eligible costs &amp; documentation.</b></p> <ul style="list-style-type: none"> <li>• Eligible costs must be supported by clear, specific, and contemporary documentary evidence.</li> <li>• The amounts of eligible costs may be calculated in accordance with the simplified cost options set out in Reg 1303/2013, provided that the operation is at least partially financed through a Union fund that allows the use of those simplified cost options and that the category of costs is eligible according to the relevant exemption provision.</li> </ul>	
Article 8 - Cumulation	
<ul style="list-style-type: none"> <li>• <b>Total amount</b> of aid (for the aided activity or project or undertaking) shall be taken into account for thresholds and maximum aid intensities (§1);</li> <li>• If <b>Union funding</b> (not under the control of the Member State) is combined with State aid, only the latter shall be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate laid down in the applicable rules of Union law (§2);</li> <li>• GBER exempted aid may be cumulated with any other State aid as long as the measures concern <b>different identifiable costs</b> (§3a);</li> </ul>	

<ul style="list-style-type: none"> <li>• No cumulation of exempted aid with any other aid on the <b>same eligible costs</b>, partly or fully overlapping, if the result would exceed the highest aid intensity/amount applicable to this aid under GBER (§3b)<sup>1</sup>;</li> <li>• State aid exempted under the GBER shall not be cumulated with any <b>de minimis</b> aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in Chapter III of the GBER (§5).</li> </ul>	
<b>Article 9 – Publication and information</b>	
<ul style="list-style-type: none"> <li>• Publication on a comprehensive State aid website, at national or regional level of the following (§1): <ul style="list-style-type: none"> <li>a. the summary information (see Article 11) or a link providing access to it;</li> <li>b. the full text of each aid measure (see Article 11) or a link providing access to the full text;</li> <li>c. the information on each individual aid award exceeding EUR 500 000 (see Annex III), or for beneficiaries active in primary agricultural production (other than Section 2a) each individual aid award for such production exceeding EUR 60 000 and for beneficiaries active in the fishery and aquaculture sector (other than 2a) each individual aid award exceeding EUR 30 000;</li> </ul> </li> <li>• The information referred to in paragraph 1(c) shall be organised and accessible in a standardised manner, (see Annex III), and shall allow for effective search and download functions. The information referred to in paragraph 1 shall be published within 6 months from the date the aid was granted, or for aid in the form of tax advantage, within 1 year from the date the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted (§4).</li> <li>• Member States shall comply with the provisions of this Article at the latest within two years after the entry into force of this Regulation (§6).</li> </ul>	

<sup>1</sup> Financing provided to the final beneficiaries with support from the InvestEU Fund covered by Section 16 of Chapter III and the cost covered by this financing shall not be considered for determining compliance with the cumulation provisions laid down in the first sentence of this point. Instead, the amount relevant for determining compliance with the cumulation provisions of the first sentence of this point shall be calculated as follows. First, the nominal amount of the financing supported by the InvestEU Fund shall be deducted from the total eligible project costs, obtaining the total remaining eligible costs; second, the maximum aid shall be calculated by applying the relevant highest aid intensity or aid amount only to the total remaining eligible costs.

In cases of Articles for which the notification threshold is expressed as a maximum aid amount, the nominal amount of financing provided to the final beneficiaries with the support from the InvestEU Fund shall also not be considered for determining whether the notification thresholds in Article 4 are respected.

Alternatively, for senior loans or guarantees on senior loans supported by the InvestEU Fund under Section 16 of Chapter III, the gross grant equivalent of the aid entailed in such loans or guarantees provided to the final beneficiaries may be calculated in accordance with Article 5(2), point (b) or (c), as appropriate. This gross grant equivalent of the aid can be used for ensuring, in line with the first sentence of this point, that cumulation with any other aid for the same identifiable eligible costs does not result in exceeding the highest aid intensity or aid amount applicable to the aid under this Regulation or the relevant notification threshold under this Regulation.

Article 11- Reporting (info sheets)	
<ul style="list-style-type: none"> <li>The following has to be sent to the Commission: (§1) <ul style="list-style-type: none"> <li>Summary information in the standardised formal laid down in Annex II, together with a link providing access to the full text of the measure, including its amendments, within 20 working days following its entry into force.</li> <li>Annual report (Reg (EC) 794/2004) in electronic form, on the application of this Regulation, containing the information indicated in that Regulation, in respect of each whole year or each part of the year during which this Regulation applies.</li> </ul> </li> </ul>	

## **B. Specific conditions and provisions of application**

Article 18 aid for consultancy to SMEs	Where to find them in legal basis or secondary law?
<ul style="list-style-type: none"> <li>Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1)</li> <li><b>Aid intensity not</b> to exceed 50 % of the eligible costs (§2)</li> <li><b>Eligible costs:</b> consultancy services provided by external consultants (§3)</li> <li>Services concerned are <b>not continuous or periodic</b> activities nor related to usual operating costs (e.g. routine tax, regular legal or advertising services) (§4)</li> </ul>	

Article 28 Innovation aid for SMEs	Where to find them in legal basis or secondary law?
<ul style="list-style-type: none"> <li>Compatible and exempted from notification if general compatibility conditions (Chapter I) and conditions of this Article apply (§1)</li> </ul>	
<ul style="list-style-type: none"> <li><b>Eligible costs</b> (§2): <ul style="list-style-type: none"> <li>costs for obtaining, validating and defending patents and other intangible assets;</li> <li>costs for secondment of highly qualified personnel from a research and knowledge-dissemination organization or a large enterprise, working on research, development and innovation</li> </ul> </li> </ul>	

activities in a newly created function within the beneficiary and not replacing other personnel; c. costs for innovation advisory and support services.	
<ul style="list-style-type: none"> <li>• <b>Aid intensity</b> must not exceed 50 % of the eligible costs (§3).</li> <li>• In the particular case of aid for <b>innovation advisory and support services</b> the aid intensity can be increased up to 100 % of the eligible costs provided that the total amount of aid for innovation advisory and support services does not exceed EUR 200 000 per undertaking within any three year period (§4).</li> </ul>	

Article 29 Aid for process and organisational innovation	Where to find them in legal basis or secondary law?
<ul style="list-style-type: none"> <li>• Compatible and exempted from notification if general compatibility conditions (Chapter I) and conditions of this Article apply (§1)</li> <li>• <b>Aid to large undertakings</b> only if they effectively collaborate with SMEs in the aided activity and the collaborating SMEs incur at least 30 % of the total eligible costs (§2)</li> <li>• <b>Eligible costs</b> (§3): <ul style="list-style-type: none"> <li>a. Personnel costs;</li> <li>b. Costs of instruments, equipment, buildings and land to the extent and for the period used for the project;</li> <li>c. Costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions;</li> <li>d. Additional overheads and other operating costs, including costs of materials, supplies and similar products, incurred directly as a result of the project</li> </ul> </li> <li>• <b>Aid intensity must not</b> exceed 15 % of the eligible costs for large undertakings and 50 % of the eligible costs for SMEs (§4).</li> </ul>	

Article 31 training aid	Where to find them in legal basis or secondary law?
Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1);	

<ul style="list-style-type: none"> <li>• Aid shall not be granted for training which undertakings carry out to comply with national mandatory standards on training (§2);</li> </ul>	
<ul style="list-style-type: none"> <li>• <b>Eligible costs</b> (§3):             <ol style="list-style-type: none"> <li>a. trainers' personnel costs, for the hours during which the trainers participate in the training;</li> <li>b. trainers' and trainees' operating costs directly relating to the training project such as travel expenses, accommodation costs, materials and supplies directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the training project;</li> <li>c. costs of advisory services linked to the training project;</li> <li>d. trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training.</li> </ol> </li> </ul>	
<ul style="list-style-type: none"> <li>• <b>Aid intensity</b>; shall <b>not</b> exceed 50 % of the eligible costs. It may be increased, up to a maximum aid intensity of 70 % of the eligible costs, as follows (§4):             <ol style="list-style-type: none"> <li>a. by 10 percentage points if the training is given to workers with disabilities or disadvantaged workers;</li> <li>b. by 10 percentage points if the aid is granted to medium-sized enterprises and by 20 percentage points if the aid is granted to small enterprises.</li> </ol> </li> </ul>	
<ul style="list-style-type: none"> <li>• Where the aid is granted in the <b>maritime transport sector</b>, the aid intensity may be increased to 100 % of the eligible costs provided that the following conditions are met (§5):             <ol style="list-style-type: none"> <li>a. the trainees are not active members of the crew but are supernumerary on board; and</li> <li>b. the training is carried out on board of ships entered in Union registers.</li> </ol> </li> </ul>	



