
Programme Culture

Clarification of State Aid Rules to Open Calls for Proposals
Funded by EEA Grants 2014 – 2021

Support Area:

Contemporary Arts

Revitalization of Movable and Immovable Cultural Heritage
Capacity Building of Umbrella Associations, Networks and
Platforms

In force from: 21.1.2021

Updated: 26.4.2021

This Clarification of State Aid Rules is issued by the Ministry of Finance of the Czech Republic acting as a Programme Operator of the Programme Culture (hereinafter referred to as “Programme Operator”) in order to specify rules of the open calls for project proposals funded by the EEA Grants 2014-2021 in programme Culture (hereinafter referred to as the „open call“) in terms of state aid.

In line with section 12 of the open call „Process of Application Appraisal and Project Selection“ the state aid shall be granted in one of the following regimes (or a combination thereof) in case all respective conditions are adhered to:

- within **General Block Exemption Regulation** (hereinafter referred to as “GBER“),¹ which assumes, if certain conditions are met, compatibility of the aid with the EU internal market within the meaning of Article 107 (3) of the Treaty on the Functioning of the European Union (hereinafter referred to as the “TFEU“) and exempts such aid from the notification requirement of Article 108 (3) of the TFEU.;
- within **De Minimis Regulation**², when de minimis aid it is not considered state aid due to its low amount because it does not meet all definition elements of state aid pursuant to Art. 107 (3) of the TFEU.

Specification of State Aid Conditions for Grant Support

The aid regime under which support is to be provided shall be determined by the Programme Operator with respect to the amount of support, focus of the projects and conditions laid down by the GBER or the De Minimis Regulation.

Before providing the support, the Programme Operator will whether the projects recommended for support meet the conditions of the respective regime. As all the conditions established must be met, it can happen that the project will not be supported from public funds to the full/requested extent.

Where a project partner is financially involved according to Section 5 of the open call “Eligible Partners and Support for Donor Partnership projects” (i.e. when the partner accepts part of the grant from the project promoter to fund project activities), such partner must also comply with the rules for state aid (GBER and De Minimis Regulation).

The list bellow summarizes principal conditions of both regimes.

Specification of Principal GBER Conditions

A. General conditions (chapter I GBER)

- Aid is excluded in favour of an undertaking which is subject to an **outstanding recovery order** following a previous Commission decision declaring an aid illegal and incompatible with the internal market. (Art. 1, par. 4 GBER)
- Aid is excluded to undertakings in difficulty³, with the exception of undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021. (Art. 1, par. 4 c) GBER)
- Adherence to the **rules for cumulation** must be observed in case the project is supported from other state aid schemes⁴.
 - Aid with identifiable eligible costs granted under GBER may be cumulated with any other state aid, as long as those measures concern different identifiable eligible costs. (Art. 8, par. 3 a) GBER)
 - Aid with identifiable eligible costs granted under GBER may be cumulated with any other state aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under GBER, see below. (Art. 8, par. 3 b) GBER)

¹ Commission Regulation (EC) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, so called general block exemption regulation. Consolidated text in force is available: <https://eur-lex.europa.eu/legal-content/CS/TXT/?qid=1601643214116&uri=CELEX:02014R0651-20200727>

² Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid. Consolidated text in force is available: <https://eur-lex.europa.eu/legal-content/CS/TXT/?uri=CELEX:02013R1407-20200727>

³ Definition of the „undertaking in difficulty“ is stated in Art. 2, par. 18 GBER.

⁴ In line with conditions of the open call the project activities in terms of the eligible project costs shall not be financed from other financial instrument or public source with exemption of funds designated for project co-financing (if allowed by conditions of the provider).

- Aid granted under GBER shall not be cumulated with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in GBER, see below. (Art. 8, par. 5) GBER)
- Aid granted under GBER⁵ shall be provided only in case such aid is considered to have an **incentive effect**, i.e. if the applicant has submitted a written application for the aid concerned before work on the project or activity starts. In order to fulfil the incentive effect the application for the aid shall contain at least the following information: undertaking's name and size; description of the project, including its start and end dates; location of the project; list of project costs; type of aid (grant) and amount of public funding needed for the project. (Art. 6, par. 2 GBER)

The compliance with the above mentioned general conditions shall be confirmed by the applicant before the grant is awarded by the Programme Operator.

B. Specific provisions for aid for culture and heritage conservation (Art. 53 GBER)

- The aid shall be granted for the following **cultural purposes and activities** (Art. 53, par. 2 GBER):
 - a. museums, archives, libraries, artistic and cultural centres or spaces, theatres, cinemas, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions;
 - b. tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognized as cultural or natural heritage by the competent public authorities of a Member State;
 - c. intangible heritage in any form, including folklorist customs and crafts;
 - d. art or cultural events and performances, festivals, exhibitions and other similar cultural activities
 - e. cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
 - f. writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.
- The aid may take the form of: (Art. 53, par. 3 GBER):
 - a. **investment aid**, including aid for the construction or upgrade of culture infrastructure;
 - b. **operating aid**.
- For investment aid, the eligible costs shall be the investment costs in tangible and intangible assets, including: (Art. 53, par. 4 GBER):
 - a. costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if **at least 80 % of either the time or the space capacity per year is used for cultural purposes**;
 - b. costs for the acquisition, including leasing, transfer of possession or physical relocation of cultural heritage;
 - c. costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication;
 - d. costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors;
 - e. costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project;
- For operating aid, the eligible costs shall be the following (Art. 53, par. 5 GBER):
 - a. the cultural institution's or heritage site's costs linked to continuous or periodic activities including exhibitions, performances and events and similar cultural activities that occur in the ordinary course of business;

⁵ Within the open call, the incentive effect is required for aid under Art. 54 GBER. The aid granted under Art. 53 GBER shall be deemed to have an incentive effect if the conditions laid down in Article 53 are fulfilled.

- b. costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
- c. costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitisation and of use of new technologies as well as costs of improving accessibility for persons with disabilities;
- d. operating costs directly relating to the cultural project or activity, such as rent or lease of real estate and cultural venues, travel expenses, materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan, lease and depreciation of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity; depreciation charges and the costs of financing are only eligible if they have not been covered by investment aid⁶;
- e. costs for personnel working for the cultural institution or heritage site or for a project;
- f. costs for advisory and support services provided by outside consultants and service providers, incurred directly as a result of the project.

— The aid shall not exceed **thresholds** set in Art. 4, par. 1 z) GBER:

- a. For investment aid: EUR 150 million per project;
- b. For operating aid: EUR 75 million per undertaking per year.

The aid thresholds not be circumvented by artificially splitting up the project.

— The **maximum aid amount** is set:

- a. For investment aid, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs ex ante, on the basis of reasonable projections. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period (Art. 53, par. 6 GBER)⁷.
- b. For operating aid, the aid amount shall not exceed what is necessary to cover the operating losses and a reasonable profit over the relevant period⁸. This will be ensured ex ante, on the basis of reasonable projections (Art. 53, par. 7 GBER).
- c. In case of activities related to the publishing of music and literature (Art. 53, par. 2(f) GBER) the aid amount shall not exceed either the difference between the eligible costs and the project's discounted revenues or max. 70 % of the eligible costs. The eligible costs shall be the costs for publishing of music and literature, including the authors' fees (copyright costs), translators' fees, editors' fees, other editorial costs (proofreading, correcting, reviewing), layout and pre-press costs and printing or e-publication costs. (Art. 53, par. 9 GBER)

— Aid to press and magazines, whether they are published in print or electronically, is not be eligible (Art. 53, par. 10 GBER)

C. Specific provisions for aid for audiovisual works (Art. 54 GBER)

— The aid shall be granted for support the **script-writing, development, production, distribution and promotion of audiovisual works**. (Art. 54, par. 1 GBER)

— Aid for videogames is not eligible.

— Aid shall support a **cultural product**.

In case of support of audiovisual works, the Programme Operator shall ensure verification of the cultural product against a predetermined list of cultural criteria (Art. 54, par. 2 GBER) prior awarding the grant.

— Aid **shall not** be reserved for specific production activities or individual parts of the production value chain. Aid for film studio infrastructures shall not be eligible. (Art. 54, par. 9 GBER)

— Aid may take the form of: (Art. 54, par. 3 GBER):

- a. aid to the **production of audiovisual works**;
- b. **pre-production** aid;

⁶Depreciation charges are not eligible under the conditions of the open call.

⁷As specified in the open call, in case of income generated during the project implementation and its sustainability period, the project promoter shall reinvest such income in line with the outcomes of the programme and project purpose. Net income shall be returned to the Programme Operator.

⁸As specified in the open call, in case of income generated during the project implementation and its sustainability period, the project promoter shall reinvest such income in line with the outcomes of the programme and project purpose. Net income shall be returned to the Programme Operator.

c. **distribution aid.**

— The eligible costs shall be the following: (Art. 54, par. 5 GBER):

- a. For production aid: the overall costs of production of audiovisual works including costs to improve accessibility for persons with disabilities.
- b. For pre-production aid: the costs of script-writing and the development of audiovisual works.
- c. For distribution aid: the costs of distribution and promotion of audiovisual works.

— The aid shall not exceed **threshold** set in Art. 4, par. 1 aa) GBER: EUR 50 million per scheme per year.

— The **maximum aid intensity** is set:

- a. for the production of audiovisual works: max. 50 % of the eligible costs. (Art. 54, par. 6 GBER);

The aid intensity may be increased to 60 % of the eligible costs for cross-border productions funded by more than one Member State and involving producers from more than one Member State. (Art. 54, par. 7 a) GBER)

- b. for pre-production: max. 100 % of the eligible costs. If the resulting script or project is made into an audiovisual work such as a film, the pre-production costs shall be incorporated in the overall budget and taken into account when calculating the aid intensity.
- c. The aid intensity for distribution shall be the same as the aid intensity for production. (Article 54, par. 8 GBER)

Specification of Principal Conditions of de minimis Regime

— The total amount of de minimis aid granted to a single undertaking shall not exceed **EUR 200 000** over any period of three fiscal years (current and the two previous fiscal years, i.e. calendar or business years) (Art. 3, par. 2 De Minimis Regulation). De minimis aid shall be deemed to have been granted on the date on which the legal act establishing it takes legal force or effect. (The Programme Operator shall verify the limit in the [Central Register of de minimis support](#)).

— Relationship of the applicant / financially involved project partner with other enterprises within the '**single undertaking**' (Art 2, par. 2 De Minimis Regulation) shall be revealed by the applicant in a form of a statutory declaration (standardized form).

— De minimis aid may be **cumulated** with other state aid in relation to the same eligible costs (Art. 5 De Minimis Regulation). However the maximum rate or amount given by the rules for other support (e.g. GBER) must not be exceeded.⁹

— The Programme Operator shall record prescribed data about de minimis aid in the [Central Register of de minimis support](#) within 5 working days from the date of granting de minimis aid.

⁹ In line with conditions of the open call the project activities in terms of the eligible project costs shall not be financed from other financial instrument or public source with exemption of funds designated for project co-financing (if allowed by conditions of the provider).