**Question:**

##### In the framework of a granting procedure for support of sites of cultural and historical heritage it is foreseen that financing of measures for protection and restoration of cultural and historical heritage will fall out of the scope of state aid rules, if the sites are exploited in non-commercial way and/or the revenues from visitors fees for the access to the cultural site do not exceed 20% of the operational costs for the cultural site. This condition should be respected within the whole economic life of the infrastructure and equipment, financed with the grant. In case that the revenues exceed 20% of the costs, to the grant for the cultural site will be applied a group exemption scheme according to art. 53 of GBER.

##### The group exemption scheme under art 53 of GBER is notified to the Commission through SANI 2 The compliance of the grant with the requirements of the group exemption scheme is checked at the stage of application for the grant, even if the sites fall out of the scope of state aid rules. After the approval of the projects, to the grants falling out of the scope of state aid rules are not applied the requirements for transparency undеr art. 9 of GBER (publication of information for measures above 500 000 EUR) and for reporting under art. 11 of GBER, as they are not state aid.

If we suppose that after X years the revenues from visitors fees to the cultural site exceeds 20% of the costs, should the grant for this site be published and reported as aid under group exemption scheme under art. 53. If yes, when (in what time) should these obligations be fulfilled?

**Reply:**

##### The funding of cultural infrastructure not meant to be commercially exploited is in principle excluded from the application of State aid rules.  In contrast, cultural activities predominantly financed by visitor or user fees (i.e. more than 50%, not 20% as indicated in your question) or by other commercial means should be qualified as economic in nature. Therefore, such cultural infrastructure should be assessed under state aid rules such as the General Block Exemption Regulation (GBER).

##### The GBER exempts Member States from the obligation to notify certain aid measures if they meet the conditions laid down in its Chapter I as well as the specific conditions for the relevant category of aid laid down in its Chapter III.

##### According to Article 9 (4) GBER the information "shall be published within 6 months from the date the aid was granted". Aid is granted when the legal right to receive it is conferred on the beneficiary under the applicable national law (Article 2(28) GBER). Individual aid awards above EUR 500.000 granted after 1st of July 2016 have to be published at the national or regional transparency webpage. This concerns both schemes that were notified before and after the 1st of July 2016.

##### Therefore, if we suppose that after X years the revenues of the cultural activity are predominantly derived from visitors fees (i.e. more than 50%), all relevant provisions of the GBER need to be fulfilled, (i.e Chapter I of the GBER and in relation to culture, the conditions of Article 53 GBER). A way to ensure legal certainty in cases where it cannot be excluded that a cultural infrastructure might need to be considered to be commercially exploited at some point in the future would be to publish the relevant information in accordance with Article 9 of the GBER at the moment of granting of the relevant public financing.

*Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.*