

Questions and answers:

- 1) A question related to a case study of a “single investment project” within the meaning of art. 14, para. 13 of GBER implemented in Bulgaria, including two successive expansions of the activity of the same beneficiary (at a group level) within the same level 3 region of the Nomenclature of Territorial Units for Statistics, started within a 3 year period from the date of start of works on the first investment. The first expansion started in 2014 and the second one – in 2016. For both investments, part of the single investment project, the beneficiary was granted state aid, constituting regional investment aid under a notified scheme fulfilling the requirements of GBER. The first aid was granted on the 30th of June 2014, before the entry into force of the transparency obligation, and the second one – on the 11th of January 2017, after the entry into force of the transparency obligation. When cumulating both aids the transparency threshold of EUR 500 000 is exceeded. Should in this case both aids granted be published in TAM?

European Commission’s answer:

Only the aid granted after the 1st of July 2016 falls under the transparency obligation. In your example the aid granted in 2014 does not have to be cumulated with the aid granted on 11th January 2017. If aid granted on 11th January 2017 exceeds the threshold, it must be reported in the TAM. If not, no aid must be reported at this stage. If aid is granted again in the future for the same single investment project, it must be cumulated with the aid already granted on 11th January 2017. When the cumulated amount reaches the threshold, each amount granted since the 11th January 2017 needs to be encoded either as one entry in the TAM (in particular if each application was granted with the same instrument and by the same Granting Authority) or as a separate entry in the TAM. After the first entry is encoded in the TAM, any subsequent amount of aid granted for the same single investment project would also need to be reported in the TAM. This interpretation is valid for encoding in TAM only.

- 2) Please confirm our understanding about the following case:

GA1, under aid scheme 1, granted to a given beneficiary state aid of 400 000 euro before 1 July 2016. After 1 July 2016 GA2, under aid scheme 2, granted to the same beneficiary a new amount of state aid of 400 000 euro for the same eligible costs as the aid granted by GA1. Taking this into account, on a cumulative basis the threshold of 500 000 euro for this beneficiary is exceeded. In this case, what actions in TAM GA2 is required to take:

- Only GA2 has to register in TAM the aid granted by it within 6 months after the date when the aid was granted or
- GA2 has to register in TAM the aid granted by it within 6 months after the date when the aid was granted and GA2 has to ask GA1 to register in TAM the aid granted by it to the same beneficiary before 1 July 2016, so that in TAM one record registered by GA1 and one record registered by GA2 show that for this beneficiary the threshold of 500 000 euro is exceeded.

European Commission’s answer:

In this case, as the cumulated aid granted after the 1st of July 2016 does not exceed the threshold (only the 400000 euro granted by GA2 must be considered), nothing has to be reported in TAM. If also

GA1 had granted the aid after the first of July 2017 (but still before GA2), then the cumulated amount would have exceeded the threshold and both GA1 and GA2 should have encoded their respective entry in TAM within a delay of 6 months after the second application had been granted by GA2. As a matter of fact, the TAM has been designed in a way that national/regional/sectorial offices are able to encode and or validate information on behalf of subordinated Granting Authorities, which allows them to exercise a coordinating role for cumulation purposes.

3) Please confirm our understanding about the following case:

After 1 July 2016, two different Granting Authorities (GA) have provided two different grants of aid to the same beneficiary, for the same eligible costs/for the same project, on the basis of two different granting acts (each one defining its own legal basis).

GA1 has granted to the given beneficiary state aid below the threshold of 500 000 euro and therefore this aid has not been registered in TAM by GA1. Afterwards, GA2, has granted to the same beneficiary a new amount of state aid for the same eligible costs/for the same project so that on a cumulative basis the threshold of 500 000 euro for this beneficiary has been exceeded. Therefore, in order to show this in TAM, GA2 needs to encode the amount it has granted and to also ask GA1 to register in TAM the aid granted by it to the beneficiary at a previous moment, so that in TAM one record registered by GA1 and one record registered by GA2 show that for this beneficiary the threshold of 500 000 euro is exceeded.

European Commission's answer:

Yes, we can confirm that your understanding is correct. However, as already mentioned previously please note that the TAM has been designed in a way that national/regional/sectorial offices are able to encode and or validate information on behalf of subordinated Granting Authorities, which allows them to exercise a coordinating role for cumulation purposes.

4) An aid scheme has entered into force and aid under it has been granted before 1 July 2016. After this it was found that the scheme was unlawful and therefore it was notified to the EC. The EC decided that the scheme was compatible with the internal market and the date of the EC's decision was after 1 July 2016. Could you confirm our understanding that despite of the retroactive action of the decision, the entire amount of the granted aid before 1 July 2016 should be encoded in the TAM. Taking this into account, when does the period of 6 months for encoding in TAM the information about the aids previously granted under this scheme start? Our understanding is that the 6 months period starts from the date of the EC's decision because the date of the EC's decision is the moment when the legal right to receive the aid is conferred on the beneficiaries.

European Commission's answer:

Yes, your understanding is correct, for reporting in the TAM, in case of illegal aid, the 6 month period starts from the date of the decision by the Commission.