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General block exemption Regulation (Reg. 651/2014) – working document

Aid for culture and heritage conservation

First the general conditions of application of the GBER should be checked (12 conditions / Articles 1 -12) AND then the conditions with regard to Aid for culture and heritage conservation

A. General conditions of application.

GENERAL COMPATIBILITY CONDITIONS	COMPLIANCE CHECK (OK?)
Article 1 - Exclusion of certain activities (§2) <ul style="list-style-type: none">• Aid to export related activities• Aid contingent upon use of domestic over imported goods.	
Article 1 - Exclusion of certain sectors (§3) <ul style="list-style-type: none">• Fishery and aquaculture* (as in Reg 1379/2013)• Primary production of agricultural products*• The processing and marketing of agricultural products* if the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or when the aid is conditional on being partly or entirely passed on to primary producers;• Aid to facilitate the closure of uncompetitive coal mines (Council decision 2010/787); * <i>If undertaking active also in sectors within the scope of the this Regulation, the Regulation applies to aid granted in respect of these sectors provided that MS ensures that the activities in the excluded sectors do not benefit from the aid</i>	
Article 1 - Exclusion of companies concerned by the Deggendorf rule (§4) <p>Shall not apply to aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to outstanding recovery order following a previous Com. Dec. declaring an aid illegal/incompatible and shall not apply to ad hoc aid to such an undertaking</p>	
Article 1 - Exclusion of companies in difficulty (§4) <p>Shall not apply to aid to undertakings in difficulty</p>	
Article 1 - Exclusion of aid measures violating Union Law (§5) <p>Shall not apply to State aid measures, which entail a non-severable violation of Union law,</p>	

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<p>in particular:</p> <p>(a) 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 allowed.</p> <p>(b) obligation to use nationally produced goods or national services;</p> <p>(c) restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.</p>	
<p>Article 4 - Individual notification thresholds</p>	
<p>Shall not apply to aid which exceeds:</p> <ul style="list-style-type: none">• For investment aid for culture and heritage conservation: EUR 100 million per project; operating aid for culture and heritage conservation: EUR 50 million per undertaking per year;• For aid schemes for audiovisual works: EUR 50 million per scheme per year. <p>The thresholds shall not be circumvented by artificially splitting up the aid schemes or aid projects.</p>	
<p>Article 5 – Transparency of aid</p>	
<p>Shall apply only to transparent aid and shall be considered as transparent:</p> <ul style="list-style-type: none">• Grants and interest rate subsidies• Loans (where gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant)• Guarantees (gross grant equivalent calculated on the safe-harbour premiums laid down in a Commission Notice <p>or</p> <p>gross grant equivalent accepted before implementation on the basis of the Com Notice on Guarantees and the approved calculation methodology explicitly addresses the type of the guarantee and the type of the underlying transaction at stake in the context of the application of the GBER)</p> <ul style="list-style-type: none">• Tax advantages (when cap to ensure that threshold is not exceeded)• Repayable advances (if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of	

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the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission)	
Article 7 - Eligible costs	
<p>For the purposes of calculating the Aid intensity (where the aid intensity is not equal to a 100%)</p> <ul style="list-style-type: none">• Figures before any deduction of tax or other charge;• Aid granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid• Aid payable in several instalments shall be discounted to its value when granting (same for eligible costs and with interest rates of the moment of granting);• Tranches of aid in tax advantages shall be discounted on the basis of the discount rates applicable at the moment the tax advantages take effect;• Aid in 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 intensity may be increased by 10 percentage points. <p>Eligible costs & documentation</p> <ul style="list-style-type: none">• Eligible costs supported by clear, specific and contemporary documents.	
Article 8 - Cumulation	
<ul style="list-style-type: none">• Total amount of aid shall be taken into account for thresholds and maximum aid intensities (§1);• If Union funding (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);• Exempted aid may be cumulated with any other State aid if different identifiable	

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<p>costs (§3a);</p> <ul style="list-style-type: none">• No cumulation of exempted aid with any other aid on the same eligible costs, partly or fully overlapping, if the result would exceed the highest aid intensity/amount applicable to this aid (§3b);• State aid exempted under the 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 Chapter III of the GBER (§5).	
Article 9 – Publication and information	
<ul style="list-style-type: none">• Publication on a comprehensive State aid website, at national or regional level of the following (§1):<ol style="list-style-type: none">a. the summary information (see Article 11) or a link providing access to it;b. the full text of each aid measure (see Article 11) or a link providing access to the full text;c. the information on each individual aid award exceeding EUR 500 000 (see Annex III). <p>As regards aid granted to European Territorial Cooperation projects, the information referred to in this paragraph shall be placed on the website of the Member State in which the Managing Authority concerned, as defined in Article 21 of Regulation (EC) No 1299/2013 of the European Parliament and of the Council, is located. Alternatively, the participating Member States may also decide that each of them shall provide the information relating to the aid measures within their territory on the respective websites.</p> <ul style="list-style-type: none">• For schemes in the form of tax advantages, and for schemes covered by Article 16 and 21 (except for SMEs which have not carried out any commercial sale in any market) the conditions set out in paragraph 1(c) of this Article shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges (in EUR million (§2)):<ul style="list-style-type: none">- 0,5-1;- 1-2;- 2-5;- 5-10;	

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<ul style="list-style-type: none"> - 10-30; and - 30 and more. • 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). • Member States shall comply with the provisions of this Article at the latest within two years after the entry into force of this Regulation (i.e. 01/07/2016) (§6). 	
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For definitions on concepts: article 2 (pay attention to the new definition of undertaking in difficulty)

Reporting: article 11

Monitoring: article 12

Withdrawal of the benefit of the block exemption: article 10

B. Specific conditions for Aid for culture and heritage conservation

<p style="text-align: center;">ARTICLE 53 AID FOR CULTURE AND HERITAGE CONSERVATION</p>	<p style="text-align: center;">COMPLIANCE CHECK (OK?)</p>
<p>Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1);</p> <p>a.</p>	
<p>Purpose of aid & type of activities concerned</p>	
<ul style="list-style-type: none"> • Aid granted for the following cultural purposes and activities (§2): b. museums, archives, libraries, artistic and cultural centres or spaces, theatres, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions; c. tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; 	

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natural heritage linked to cultural heritage or if formally recognized as cultural or natural heritage by the competent public authorities of a Member State; d. intangible heritage in any form, including folklorist customs and crafts; e. art or cultural events and performances, festivals, exhibitions and other similar cultural activities; f. 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; g. writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.	
Form of aid	
<ul style="list-style-type: none">• The aid may take the form of (§3):<ul style="list-style-type: none">a. investment aid, including aid for the construction or upgrade of culture infrastructure;b. operating aid.	
Eligible costs	
<ul style="list-style-type: none">• For investment aid, the eligible costs shall be the investment costs in tangible and intangible assets, including (§4):<ul style="list-style-type: none">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	

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<p>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;</p> <p>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;</p> <ul style="list-style-type: none">• For operating aid, the eligible costs shall be the following (§5):<ul style="list-style-type: none">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;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 aid;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.	
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Maximum aid thresholds	
<ul style="list-style-type: none"> • 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, or through a claw-back mechanism. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period (§6); • For operating aid, the aid amount shall not exceed what is necessary to cover the operating losses and a reasonable profit over the relevant period. This shall be ensured ex ante, on the basis of reasonable projections, or through a claw-back mechanism (§7); • For aid not exceeding EUR 1 million, the maximum amount of aid may be set, alternatively to the method referred to in paragraphs 6 and 7, at 80 % of eligible costs (§8); • For publishing of music and literature as defined in paragraph 2(f), the maximum aid amount shall not exceed either the difference between the eligible costs and the project's discounted revenues or 70 % of the eligible costs. The revenues shall be deducted from the eligible costs ex ante or through a claw-back mechanism. 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 (§9); • Aid to press and magazines, whether they are published in print or electronically, shall not be eligible under this Article (§10). 	

ARTICLE 54 AID SCHEMES FOR AUDIOVISUAL WORKS	COMPLIANCE CHECK (OK?)
Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1);	
Subsidised products	
<ul style="list-style-type: none"> • Aid shall support a cultural product. To avoid manifest errors in the 	

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<p>qualification of a product as cultural, each Member State shall establish effective processes, such as selection of proposals by one or more persons entrusted with the selection or verification against a predetermined list of cultural criteria (§2);</p> <ul style="list-style-type: none">• 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 under this Article (§9);	
Form of the aid	
<ul style="list-style-type: none">• Aid may take the form of (§3):<ol style="list-style-type: none">a. aid to the production of audiovisual works;b. pre-production aid;c. distribution aid.	
Compliance with internal market rules	
<ul style="list-style-type: none">• Where a Member States makes the aid subject to territorial spending obligations, aid schemes for the production of audiovisual works may either (§4):<ol style="list-style-type: none">a. require that up to 160 % of the aid granted to the production of a given audiovisual work is spent in the territory of the Member State granting the aid; orb. calculate the aid granted to the production of a given audiovisual work as a percentage of the expenditure on production activities in the granting Member State, typically in case of aid schemes in the form of tax incentives.In both cases, if a Member States requires a minimum level of production activity in the territory concerned for projects to be eligible for aid, that level shall not exceed 50 % of the overall production budget. In addition, the maximum expenditure subject to territorial spending obligations shall in no case exceed 80 % of the overall production budget.• Aid shall not be reserved exclusively for nationals and beneficiaries shall not be required to have the status of undertaking established under national commercial law (§10).	

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Eligible costs	
<ul style="list-style-type: none">• The eligible costs shall be the following (§5):<ul style="list-style-type: none">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.	
Aid intensity	
<ul style="list-style-type: none">• The aid intensity for the production of audiovisual works shall not exceed 50 % of the eligible costs (§6);• Bonuses: The aid intensity may be increased as follows (§7):<ul style="list-style-type: none">a. 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;b. to 100 % of the eligible costs for difficult audiovisual works and co-productions involving countries from the Development Assistance Committee (DAC) List of the OECD.• The aid intensity for pre-production shall not exceed 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. The aid intensity for distribution shall be the same as the aid intensity for production (§8);	