

## DISCLAIMER

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

#### Aid for research and development and innovation

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 research and development and innovation.

#### A. General conditions of application.

GENERAL COMPATIBILITY CONDITIONS	COMPLIANCE CHECK (OK?)
<b>Article 1 - Exclusion of certain activities (§2)</b> Shall <b>not</b> apply to: <ul style="list-style-type: none"><li>• R&amp;D&amp;I aid schemes with <b>average annual State aid budget exceeding</b> EUR 150 million from six months after their entry into force (this Regulation 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)</li><li>• any <b>alterations</b> of schemes referred above other than modifications which cannot affect the compatibility of the aid scheme under this Regulation or cannot significantly affect the content of the approved evaluation plan</li><li>• Aid to <b>export</b> related activities</li><li>• Aid <b>contingent upon use of domestic</b> over imported goods.</li></ul>	
<b>Article 1 - Exclusion of certain sectors (§3)</b> <ul style="list-style-type: none"><li>• Fishery and aquaculture* (as in Reg 1379/2013) <b>except for R&amp;D, innovation aid for SMEs;</b></li><li>• Primary production of agricultural products* <b>except for R&amp;D aid and innovation aid for SMEs;</b></li></ul> <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>	
<b>Article 1 - Exclusion of companies concerned by the Deggendorf rule (§4)</b> Shall <b>not</b> 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	

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previous Com. Dec. declaring an aid illegal/incompatible and shall <b>not</b> apply to ad hoc aid to such an undertaking	
<b>Article 1 - Exclusion of companies in difficulty (§4)</b>	
Shall <b>not</b> apply to aid to undertakings in difficulty	
<b>Article 1 - Exclusion of aid measures violating Union Law (§5)</b>	
Shall <b>not</b> apply to State aid measures, which entail a non-severable violation of Union law, in particular: (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. (b) obligation to use nationally produced goods or national services; (c) restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.	
<b>Article 4 - Individual notification thresholds</b>	
Shall <b>not</b> apply to aid which exceeds: <ul style="list-style-type: none"><li>• Research and development:<ul style="list-style-type: none"><li>i. If predominantly fundamental research: EUR 40 million per undertaking, per project; where more than half of the eligible costs on activities within the category of fundamental research;</li><li>ii. If predominantly industrial research: EUR 20 million per undertaking, per project; where more than half of the eligible costs on activities within the category of industrial research or industrial research and fundamental research taken together;</li><li>iii. If predominantly experimental development: EUR 15 million per undertaking, per project; where more than half of the eligible costs on activities within experimental development;</li><li>iv. If Eureka project or project implemented by a Joint Undertaking (Article 185 or Article 187 TFEU), the amounts referred to in points (i) to (iii) are doubled.</li><li>v. if the aid for research and development projects is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis</li></ul></li></ul>	

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<p>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 time of grant, the amounts referred to in points (i) to (iv) are increased by 50 %;</p> <p>vi. aid for feasibility studies in preparation for research activities: EUR 7,5 million per study;</p> <ul style="list-style-type: none"><li>• Research infrastructures: EUR 20 million per infrastructure;</li><li>• Innovation clusters: EUR 7,5 million per cluster;</li><li>• Innovation for SMEs: EUR 5 million per undertaking, per project;</li><li>• Process and organisational innovation: EUR 7,5 million per undertaking, per project;</li></ul> <p>The thresholds shall <b>not</b> be circumvented by artificially splitting up the aid schemes or aid projects.</p>	
<b>Article 5 – Transparency of aid</b>	
<p>Shall be exempted only transparent aid and shall be considered as transparent:</p> <ul style="list-style-type: none"><li>• Grants and interest rate subsidies</li><li>• Loans (where gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant)</li><li>• Guarantees (gross grant equivalent calculated on the safe-harbour premiums laid down in a Commission Notice</li></ul> <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"><li>• Tax advantages (when cap to ensure that threshold is not exceeded)</li><li>• 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 the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission)</li></ul>	
<b>Article 6 - Incentive effect</b>	
Aid can only be exempted if incentive effect:	

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<ul style="list-style-type: none"><li>• <b>Beneficiary submitted aid application to MS, before work</b> on the project or activity starts, with at least the following information:<ul style="list-style-type: none"><li>- undertaking's name and size;</li><li>- description of the project, including its start and end dates;</li><li>- location of the project;</li><li>- list of project costs;</li><li>- 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, MS has verified before granting the aid that the beneficiary provided documentation demonstrating 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><b>→Exceptions</b></li><li>• <b>Tax advantages if:</b><ul style="list-style-type: none"><li>- the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and</li><li>- the measure has been adopted and is in force before work on the aided project or activity has started, except in the case of fiscal successor schemes, where the activity was already covered by the previous schemes in the form of tax advantage</li></ul></li></ul>	
<b>Article 7 - Eligible costs</b>	
<ul style="list-style-type: none"><li>• <b>To calculate the aid intensity</b> figures before any deduction of tax or other charge;</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 several instalments shall be discounted to its value when granting on the basis of the discount rate applicable at that time (same for eligible costs and with interest rates of the moment of granting);</li><li>• Tranches of aid in tax advantages shall be discounted on the basis of the discount rates</li></ul>	

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<p>applicable at the various times the tax advantages take effect;</p> <ul style="list-style-type: none"><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><li>• <b>Eligible costs &amp; documentation.</b> Eligible costs supported by clear, specific and contemporary documents.</li></ul>	
<b>Article 8 - Cumulation</b>	
<ul style="list-style-type: none"><li>• <b>Total amount</b> of aid 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>• Exempted aid may be cumulated with any other State aid if <b>different identifiable costs</b> (§3a);</li><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 (§3b);</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):<ol style="list-style-type: none"><li>a. the summary information (see Article 11) or a link providing access to it;</li></ol></li></ul>	

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- 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).

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.

- 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):
  - 0,5-1;
  - 1-2;
  - 2-5;
  - 5-10;
  - 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).

**For definitions on concepts:** article 2 (pay attention to the new definition of undertaking in difficulty)

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**Reporting:** article 11

**Monitoring:** article 12

**Withdrawal of the benefit of the block exemption:** article 10

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### B. Specific conditions for aid for research and development and innovation

<b>ARTICLE 25 AID FOR RESEARCH AND DEVELOPMENT PROJECTS</b>	<b>COMPLIANCE CHECK (OK?)</b>
Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1)	
<b>Activities eligible to receive aid</b>	
<ul style="list-style-type: none"><li>• <b>Activities eligible to receive aid (§2):</b><ul style="list-style-type: none"><li>a) fundamental research;</li><li>b) industrial research;</li><li>c) experimental development;</li><li>d) feasibility studies.</li></ul></li></ul>	
<b>Eligible costs</b>	
<ul style="list-style-type: none"><li>• <b>Eligible costs of R&amp;D allocated to a specific category of R&amp;D (§3):</b><ul style="list-style-type: none"><li>a) Personnel costs: researchers, technicians and other supporting staff to the extent employed on the project;</li><li>b) Costs of instruments and equipment; to the extent and for period used for the project. If not used for their full life for the project, only the depreciation costs corresponding to the life of the project; based on generally accepted accounting principles</li><li>c) Costs for of buildings and land; to the extent and for the duration period used for the project. Buildings: only depreciation costs corresponding to the life of the project; based on generally accepted accounting principles. Land; costs of commercial transfer or actually incurred capital costs.</li><li>d) Costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;</li><li>e) Additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project;</li></ul></li><li>• The eligible costs for <b>feasibility studies</b> shall be the costs of the study (§4)</li></ul>	



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Aid intensity	
<ul style="list-style-type: none"> <li>• <b>Aid intensity</b> for each beneficiary no more than (§5):               <ol style="list-style-type: none"> <li>a) 100 % of the eligible costs for fundamental research;</li> <li>b) 50 % of the eligible costs for industrial research;</li> <li>c) 25 % of the eligible costs for experimental development;</li> <li>d) 50 % of the eligible costs for feasibility studies.</li> </ol> </li> <li>• <b>Bonuses:</b> Aid intensities for industrial research and experimental development may be increased up to 80 % of the eligible costs as follows (§6):               <ol style="list-style-type: none"> <li>a) by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises;</li> <li>b) by 15 percentage points if one of the following conditions is fulfilled:                   <ol style="list-style-type: none"> <li>i. the project involves effective collaboration:                       <ul style="list-style-type: none"> <li>- between undertakings of which at least one SME, or project carried out in at least two Member States, or in a Member State and in a Contracting Party of the EEA Agreement, and no single undertaking bears more than 70 % of the eligible costs, or</li> <li>- between an undertaking and one or more research and knowledge-dissemination organisations, where the latter bear at least 10 % of the eligible costs and have the right to publish their own research results;</li> </ul> </li> <li>ii. project results widely disseminated (conferences, publication, open access repositories, or free or open source software)</li> </ol> </li> </ol> </li> <li>• Aid intensities for <b>feasibility studies</b> may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.</li> </ul>	

ARTICLE 26 INVESTMENT AID FOR RESEARCH INFRASTRUCTURES	COMPLIANCE CHECK (OK?)
<ul style="list-style-type: none"> <li>• Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1)</li> </ul>	
<ul style="list-style-type: none"> <li>• If the infrastructure <b>pursues both economic and non-economic</b> activities; financing, costs and revenues of each type of activity shall be accounted for</li> </ul>	

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separately on the basis of consistently applied and objectively justifiable cost accounting principles (§2)	
• <b>Market price</b> charged for the operation or use of the infrastructure (§3)	
• <b>Access open</b> to several users on a transparent and non-discriminatory basis. Preferential access under more favourable conditions may be granted to undertakings which have financed at least 10% of the investment costs in proportion to contribution to the investment costs; preferential access conditions publicly available (§4)	
• <b>Eligible costs:</b> investment costs in intangible and tangible assets (§5)	
• <b>Aid intensity</b> not to exceed 50 % of the eligible costs (§6)	
• If public funding for both economic and non-economic activities; monitoring and claw-back mechanism; ensure that applicable aid intensity is not exceeded as a result of an increase in the share of economic activities compared to the situation envisaged at the time of awarding the aid (§7)	

ARTICLE 27 AID FOR INNOVATION CLUSTERS	COMPLIANCE CHECK (OK?)
Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1)	
• Aid granted exclusively to the <b>legal entity operating the innovation cluster</b> (§2)	
• <b>Open access</b> to the cluster's premises, facilities and activities to several users; granted on transparent and non-discriminatory basis. Preferential access under favourable conditions may be granted to undertakings financing at least 10 % of the investment costs in proportion to the undertaking's contribution; favourable conditions publicly available (§3).	
• The fees charged for the cluster's facilities and activities correspond to the <b>market price</b> or reflect their costs (§4).	
<b>Investment aid</b>	
• Investment aid may be granted for the construction or upgrade of innovation	

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clusters. The <b>eligible costs</b> : investment costs in intangible and tangible assets (§5).	
<ul style="list-style-type: none"> <li>• <b>Aid intensity</b> of investment aid: <b>not</b> to exceed 50 % of the eligible costs. Possibility to increase by 15 percentage points for innovation clusters in areas under Article 107(3)(a) TFEU and by 5 percentage points for innovation clusters in areas under Article 107(3)(c) TFEU (§6)</li> </ul>	
<b>Operating aid</b>	
<ul style="list-style-type: none"> <li>• <b>Duration</b>: Operating aid for innovation clusters <b>not</b> to exceed 10 years (§7).</li> </ul>	
<ul style="list-style-type: none"> <li>• The <b>eligible costs for operating aid</b>: personnel and administrative costs (including overhead costs) relating to (§8):             <ol style="list-style-type: none"> <li>a. Animation of the cluster to facilitate collaboration, information sharing and the provision or channelling of specialised and customised business support services;</li> <li>b. Marketing of the cluster to increase participation of new undertakings or organisations and to increase visibility;</li> <li>c. Management of the cluster's facilities; Organisation of training programmes, workshops and conferences to support knowledge sharing and networking and transnational cooperation.</li> </ol> </li> </ul>	
<ul style="list-style-type: none"> <li>• <b>Aid intensity</b> of operating aid <b>not</b> to exceed 50 % of the total eligible costs during the period over which the aid is granted (§9).</li> </ul>	

ARTICLE 28 INNOVATION AID FOR SMES	COMPLIANCE CHECK (OK?)
<ul style="list-style-type: none"> <li>• Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1)</li> </ul>	
<ul style="list-style-type: none"> <li>• <b>Eligible costs</b> (§2):             <ol style="list-style-type: none"> <li>a. costs for obtaining, validating and defending patents and other intangible assets;</li> <li>b. costs for secondment of highly qualified personnel from a research and knowledge-dissemination organization or a large enterprise, working on research, development and innovation activities in a newly created function</li> </ol> </li> </ul>	

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<p>within the beneficiary and not replacing other personnel;</p> <p>c. costs for innovation advisory and support services;</p>	
<ul style="list-style-type: none"> <li>• <b>Aid intensity</b> not to 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	COMPLIANCE CHECK (OK?)
<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 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 not</b> to exceed 15 % of the eligible costs for large undertakings and 50 % of the eligible costs for SMEs (§4).</li> </ul>	

ARTICLE 30 AID FOR RESEARCH AND DEVELOPMENT IN THE FISHERY AND AQUACULTURE SECTOR	COMPLIANCE CHECK (OK?)

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| <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>• Aided project of <b>interest to all undertakings</b> in the particular sector or sub-sector concerned (§2).</li><li>• The following <b>information to be published</b> on the internet before the start of the project (§3):<ul style="list-style-type: none"><li>a. that the aided project will be carried out;</li><li>b. the goals of the aided project;</li><li>c. the approximate date for the publication of the results expected from the aided project and its place of publication on the internet;</li><li>d. a reference that the results of the aided project will be available to all undertakings active in the particular sector or sub-sector concerned at no cost.</li></ul></li><li>• The <b>results of the aided project shall be made available</b> on internet from the end date of the aided project or the date on which any information concerning those results is given to members of any particular organisation, whatever comes first. The results shall remain available on internet for a period of at least 5 years starting from the end date of the aided project (§4)</li><li>• <b>Aid shall be granted directly to the research and knowledge-dissemination organisation</b> and shall not involve the direct granting of non-research related aid to an undertaking producing, processing or marketing fishery or aquaculture products (§5).</li><li>• 6. The <b>eligible costs</b>: same as Article 25(3) (§6):<ul style="list-style-type: none"><li>a. Personnel costs: researchers, technicians and other supporting staff to the extent employed on the project;</li><li>b. Costs of instruments and equipment; to the extent and for period used for the project. If not used for their full life for the project, only the depreciation costs corresponding to the life of the project; based on generally accepted accounting principles</li><li>c. Costs for of buildings and land; to the extent and for the duration period used for the project. Buildings: only depreciation costs corresponding to the</li></ul></li></ul> |  |
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<p>life of the project; based on generally accepted accounting principles. Land; costs of commercial transfer or actually incurred capital costs.</p> <p>d. Costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;</p> <p>e. Additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project;</p> <ul style="list-style-type: none"><li>• <b>Aid intensity not</b> to exceed 100 % of the eligible costs (§7)</li></ul>	
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