

# JRC CONFERENCE AND WORKSHOP REPORT

## State Aid Map in the Energy Sector

*Report from the TAIEX-REGIO  
multi-country workshop with the Smart  
Specialisation Platform on Energy*

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2020



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EU Science Hub

<https://ec.europa.eu/jrc>

JRC122164

PDF ISBN 978-92-76-24548-3

doi:10.2760/33767

Luxembourg: Publications Office of the European Union, 2020

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How to cite this report: Rudolf Mesarič, J., Seigneur, I. and Mérida Martin, F., *State Aid Map in the Energy Sector*, Publications Office of the European Union, Luxembourg, 2020, ISBN 978-92-76-24548-3, doi:10.2760/33767, JRC122164.

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## **Acknowledgements**

The authors would like to thank all the participants of this workshop who have accepted to share their experiences as ESIF and State aid practitioners in the field of energy. Their active contributions during the two days have been of outmost importance to create the State aid maps as final output of the workshop and to come up with the conclusions of this report. We are particularly grateful to the REGIO Community of Practitioners (CoP), in special to Marcelline Bonneau, CoP Manager, and Palma Muñoz, CoP “Champion”, who made this workshop possible. Their hard work, ideas and commitment were greatly appreciated. We also would like to thank Irene Benito for her continuous support and dedication in the organisation of the workshop.

## Abstract

The EU Member States and regions are currently investing in sustainable and innovative energy projects using European Structural and Investment Funds in order to meet their energy security and environmental targets. This support granted by Member States may distort competition and affect trade between Member States which may trigger the application of State aid rules. However, despite the general prohibition of State aid, environmental protection and clean energy measures are objectives of common interest that may justify the granting of State aid.

Compliance with EU State aid rules has been often mentioned as an important challenge for cohesion policy experts, being one of the main sources of irregularities and corrections in the implementation of the regional cohesion policy and can, therefore, constitute a bottleneck for S3 and energy programmes' implementation in many regions.

This report is part of the policy support provided by the Smart Specialisation Platform on Energy (S3PEnergy) to EU regions and Member States that have selected energy as a priority within their Smart Specialisation Strategies and wish to implement support schemes in this area.

In order to guide their work, the S3PEnergy, in collaboration with the Andalusian Innovation and Development Agency and the Andalusian Energy Agency, and within the scope of the [REGIO Communities of Practitioners](#), organised a **TAIEX-REGIO Multicountry Workshop on State Aid Map in Energy Sector held on the 19<sup>th</sup> and 20<sup>th</sup> of March 2019, in Seville, Spain.**

The aim of the workshop was multifold:

- To create a forum for a fruitful discussion on the application of State aid rules in the energy sector (e.g. energy infrastructures, renewables, smart grids, energy efficiency, sustainable buildings, etc);
- To address practical issues faced by national or regional responsible authorities about State aid compliance of their public interventions in energy
- To co-construct State aid maps in energy to facilitate the application of the State aid rules by practitioners.

The report is organised in three main sections. The first offers a general insight on State aid and the applicability of the State aid rules in the energy sector, and points to the existence of differences between the Cohesion Policy and Competition Policy. The second section elaborates on the work done in the workshop, such as the exchange of experiences among the practitioners in the form of presentations of specific energy projects and discussions. Special attention is given to the creation of the State aid maps as the final output of the workshop. Finally, the report concludes with a summary of the most common challenges in the State aid assessment of energy projects that were identified by the participants Possibilities for future cooperation among practitioners and provides suggestions for additional actions to be taken by the State aid practitioners, the REGIO Community of Practitioners (CoP) and the European Commission.

**Keywords**

Smart Specialisation, Thematic Smart Specialisation Platform on Energy, Cohesion Policy, European Structural and Investment Funds, Competition Policy, EU State aid rules, State aid map, Communities of practitioners, Energy projects

# 1 Setting the context

The **smart specialisation** concept has established a new approach for knowledge-based regional development in order to help governments in their decision-making processes concerning the allocation of research and innovation resources. It underpins the EU Cohesion Policy, since Smart Specialisation Strategies (S3) are a pre-condition for using European Structural and Investment (ESI) Funds for research and innovation in the programming period 2014-2020.

To support Member States and regions in defining and implementing their S3, in 2011 the European Commission established the **Smart Specialisation Platform**<sup>1</sup> (S3 Platform) to provide R&I stakeholders with information, methodologies, peer-reviews, and policy and technical advice. Part of the S3 Platform's activities includes the thematic support to territories with similar priorities of specialisation selected.

Energy is the most common priority in S3, as 2/3 of Member States and regions that have defined a S3 model have selected energy as a priority. Accordingly, the **S3PEnergy**<sup>2</sup> was launched in May 2015 with the objective to assist the national or regional administrations in the implementation of their S3 in the area of energy and support the optimal uptake of ESI Funds for energy across Europe. To fulfil this objective, the S3PEnergy offers targeted support based on the regions' needs (thematic seminars, guidance material) and also supports interregional cooperation in the area of energy innovation. So far, six interregional S3 partnerships have been established under the S3PEnergy, in the fields of Bioenergy, Geothermal, Marine Renewable Energy, Smart Grids, Solar Energy and Sustainable Buildings<sup>3</sup>.

**Cohesion policy** has an important role to play in assisting regions and MS in the transition towards a low carbon economy: during 2014-2020, 40 billion EUR were made available through the ESI Funds for investments in low-carbon economy (twice the amount spent in this area during the previous funding period)<sup>4</sup>. ESI Funds offer indeed significant opportunities to implement support measures to energy-related projects, but the development of such initiatives is also subjected to major challenges in their effective uptake.

One of the difficulties frequently raised by energy Managing Authorities and practitioners relates to the need to be consistent with other EU policies, particularly with the Competition Policy and the State aid rules when developing ESIF support initiatives. **State aid** constitutes one of the main sources of irregularities and corrections in the implementation of regional cohesion policy: according to the European Court of Auditors<sup>(5)</sup>, State aid issues are the third more significant type of error after procurement and eligible cost. In addition, the field of energy is very complex and remains challenging for State aid practitioners.

The fact is that there is a significant lack of general awareness on State aid framework among a great number of ESI Funds practitioners. The major question that often arises among these practitioners is how to grant EU funds without violating the State aid rules. To receive answers, practitioners usually turn to the European Commission (EC) for advice. However, practitioners have expressed that the EC is often not able to address all the questions that arise in their daily work.

Considering this background, DG REGIO understood the difficulties that MS are experiencing and set up a new pilot tool to address the needs of practitioners: the **DG REGIO Communities of Practitioners**<sup>6</sup> (**CoP**). The CoP gathers a group of cohesion policy experts who share experiences (peer-to-peer), exchange information, problems and potential solutions. In this way, practitioners can use the good practices already developed in other MS and learn from each other for a better and improved use of EU funds.

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<sup>1</sup> <https://s3platform.jrc.ec.europa.eu/>

<sup>2</sup> <https://s3platform.jrc.ec.europa.eu/s3p-energy>

<sup>3</sup> <http://s3platform.jrc.ec.europa.eu/s3-energy-partnerships>

<sup>4</sup> [https://ec.europa.eu/regional\\_policy/en/policy/themes/low-carbon-economy/](https://ec.europa.eu/regional_policy/en/policy/themes/low-carbon-economy/)

<sup>5</sup> ECA, 2016

<sup>6</sup> <https://regiopractitioners.wordpress.com/>



Figure 1: The purpose of the Community of practitioners

So far, this project has been of great relevance among practitioners. A series of workshops has already been organised to help practitioners to improve their understanding of State aid rules and their application in their daily work. The main outcome of these workshops has been the creation of State Aid Maps in the fields of Research, Development and Innovation (RDI), the Transport sector and on Monitoring and Evaluation of State aid compliance with the national European Regional Development Fund (ERDF) programme<sup>7</sup>. The responses of the participants after the workshops were very positive. All of them agree upon the importance for practitioners to work together and help each other.

As a practical contribution in assisting professionals from national and/or regional authorities on State aid issues in the sector of Energy, the S3PEnergy organised a **Multicountry Workshop on State Aid Map in Energy Sector**<sup>8</sup>. The workshop took place in Seville on the 19<sup>th</sup> and 20<sup>th</sup> of March 2019. It was organised in collaboration with the Andalusian Innovation and Development Agency<sup>9</sup> and the Andalusian Energy Agency<sup>10</sup>, with the support of the TAIEX-REGIO Peer 2 Peer<sup>11</sup> tool.

It brought together 25 State aid practitioners from Managing Authorities and Intermediate Bodies from 11 EU countries (Belgium, Croatia, Finland, France, Hungary, Lithuania, Portugal, Romania, Slovenia, Spain and United Kingdom), which are all participating in the interregional thematic S3PEnergy partnerships, plus representatives from the EC.

One of the aims of the workshop was to co-construct State aid maps in the energy sector between all those ESI Funds and State aid experts. The purpose of drafting such maps was to address practitioners' questions on State aid in the form of schematic presentations of the resources, which can provide them with appropriate answers. In this way, State aid maps can facilitate the application of State aid rules by the Managing Authorities and Intermediate Bodies when designing and implementing their support schemes in order to invest better and more effectively their ESI Funds in innovative energy, as defined in their S3 priorities.

<sup>7</sup> For more information see: <https://regiopracitioners.wordpress.com/category/past-and-upcoming-events/>

<sup>8</sup> <http://s3platform.jrc.ec.europa.eu/-/taix-regio-multicountry-workshop-on-state-aid-map-in-energy-sector>

<sup>9</sup> Agencia IDEA: <https://www.juntadeandalucia.es/organismos/economiaconocimientoempresasyuniversidad/idea.html>

<sup>10</sup> AAE: <https://www.agenciaandaluzadelaenergia.es/en/know-agency>

<sup>11</sup> TAIEX: Technical Assistance and Information Exchange instrument of the European Commission [https://ec.europa.eu/regional\\_policy/en/policy/how/improving-investment/taix-regio-peer-2-peer/](https://ec.europa.eu/regional_policy/en/policy/how/improving-investment/taix-regio-peer-2-peer/)



## 2 General Insights on State Aid

Article 107 (1) of the Treaty on the Functioning of the European Union (TFEU) provides the formal definition of State aid<sup>12</sup>.

There are also various documents and guidelines from the EC and other bodies explaining State aid in detail. See for example:

- Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01)<sup>13</sup>
- COMMISSION STAFF WORKING DOCUMENT Guidance on State aid in European Structural and Investment (ESI) Funds, Financial instruments in the 2014-2020 programming period<sup>14</sup>
- State aid: A Beginner's Guide for Public Bodies in Northern Ireland<sup>15</sup>.

State aid can also be explained in the following way:

### (a) State aid is a term that public funds are labelled with when certain conditions are met (altogether):

**First**, the recipient of public funds must be regarded as an “**undertaking**”. Undertaking is every entity engaged in economic activity (offering goods or services on the market) even if: the entity has a social character or does not generate profit, is a public body or acting in public interest or if it is engaged in economic activity only in small amount or seasonally.

An entity that carries out both economic and non-economic activities is to be regarded as an undertaking only with regard to the former.

Here are some examples of an “undertaking”:

- A municipality that operates the district heating network on its own and provides services to the households.
- A natural person who produces electrical energy with the photovoltaic system for its own household and sells excess energy to the electricity grid.
- A local energy agency that performs services to the companies (for example energy audits of buildings).
- A university that performs research for the companies (for example contractual research for development of smart grid).

**Second**, public funding must represent **State resources** meaning that funds must be provided from the State budget and be imputable to the State. Some examples:

- State budget (including budget of the regions and municipalities).
- EU funds over which the State has control (whether they become part of the State budget or the State has the discretionary power to allocate them). This is the case in decentralised EU programmes.  
(Funds from centralised EU programmes do not represent State resources).
- Funds from public undertakings if the State has discretion for their allocation.

<sup>12</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A12008E107>

<sup>13</sup> [http://ec.europa.eu/competition/state\\_aid/modernisation/notice\\_aid\\_en.html](http://ec.europa.eu/competition/state_aid/modernisation/notice_aid_en.html)

<sup>14</sup> [https://ec.europa.eu/regional\\_policy/en/information/publications/guidelines/2017/guidance-on-state-aid-in-european-structural-and-investment-esi-funds-financial-instruments-in-the-2014-2020-programming-period](https://ec.europa.eu/regional_policy/en/information/publications/guidelines/2017/guidance-on-state-aid-in-european-structural-and-investment-esi-funds-financial-instruments-in-the-2014-2020-programming-period)

<sup>15</sup> <https://www.economy-ni.gov.uk/publications/state-aid-beginners-guide-public-bodies-northern-ireland>

**Third**, public funds must be allocated **selectively** to the recipients (regarding the size, sector, location, and ownership of the company or conditions of financing – discretion power of the public body).

- There are only a few non-selective (general) measures, usually in the field of general tax exemptions.

**Fourth**, public funding provides an **economic advantage** for the recipient, meaning that the conditions of funding would not have been available on the market.

For example:

- Grants (where the beneficiary does not have to provide anything in return).
- Low interest loans.
- Capital funding where the public body does not pursue the market profit.
- Public funds to the supplier of services in return for a market price usually do not contain an economic advantage.

**Fifth**, public funding must have an **impact on competition**. Impact on competition is present whenever there is a market open to competition for the activity in question.

There are only rare examples when this condition is not fulfilled. For example:

- If there is a legal monopoly for providing the services.
- If there is a natural monopoly for building the infrastructure.

**Sixth**, public financing must have an **effect on trade between MS**. This condition is usually fulfilled if there is an impact on competition.

Only in cases where the activity is purely local (for example local swimming pool, local newspaper in local language, local nursing home, local hospital), the effect on trade between MS is not present.

The funding of energy infrastructure has so been assessed by yet as local by the EC.

### **(b) What are the consequences if public funding is State aid?**

If public funding represents State aid, it can only be granted in line with the rules of State aid.

If the State aid rules require a prior notification of the funding to the EC (DG COMP), the funding will be regarded as unlawful aid as long as this obligation is not met ('standstill obligation'). In this case, the beneficiaries will have to reimburse the funds plus the interest rate. Awareness of the State aid rules is therefore very important when planning and implementing initiatives.

### (c) State aid in numbers

The 2018 State Aid Scoreboard<sup>16</sup> shows that in 2017, MS spent €116.2 billion EUR on State aid, i.e. 0.76% of EU GDP. About 53% of total spending was attributed to State aid for environmental and energy savings, largely due to the approval and implementation of numerous renewable energy initiatives in many MS. In 20 MS, environmental protection and energy savings represent one of the two main policy objectives for which they spent the most in 2017.

The graph below shows that, at the EU level, the observed overall change in reported State aid expenditure in 2017 compared to 2016 largely differs by policy objective:

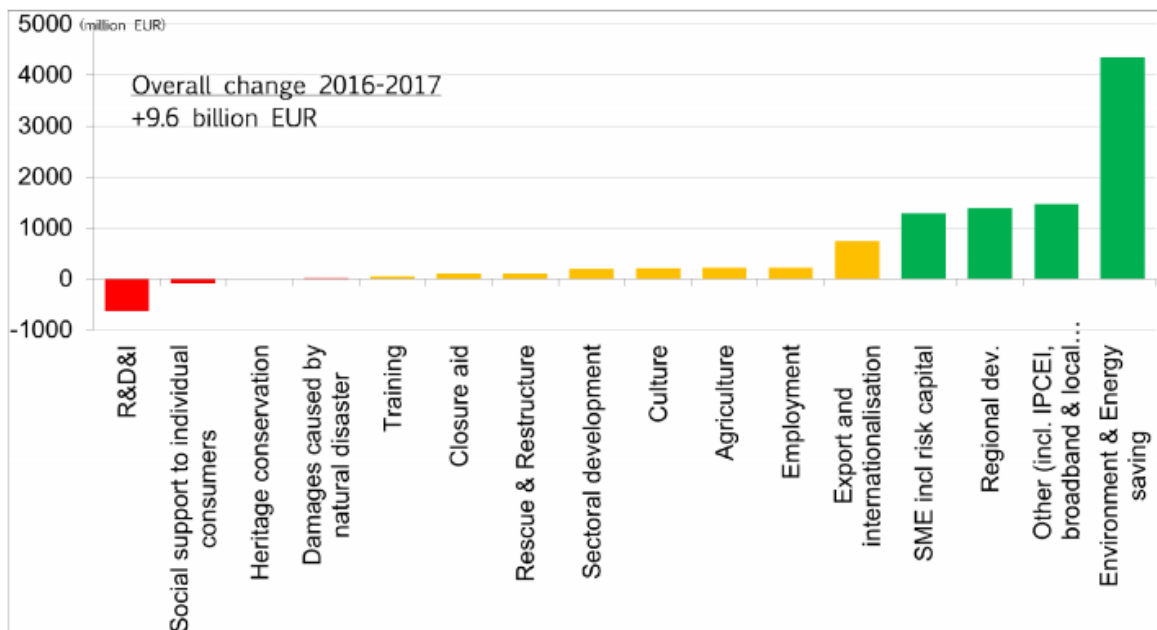
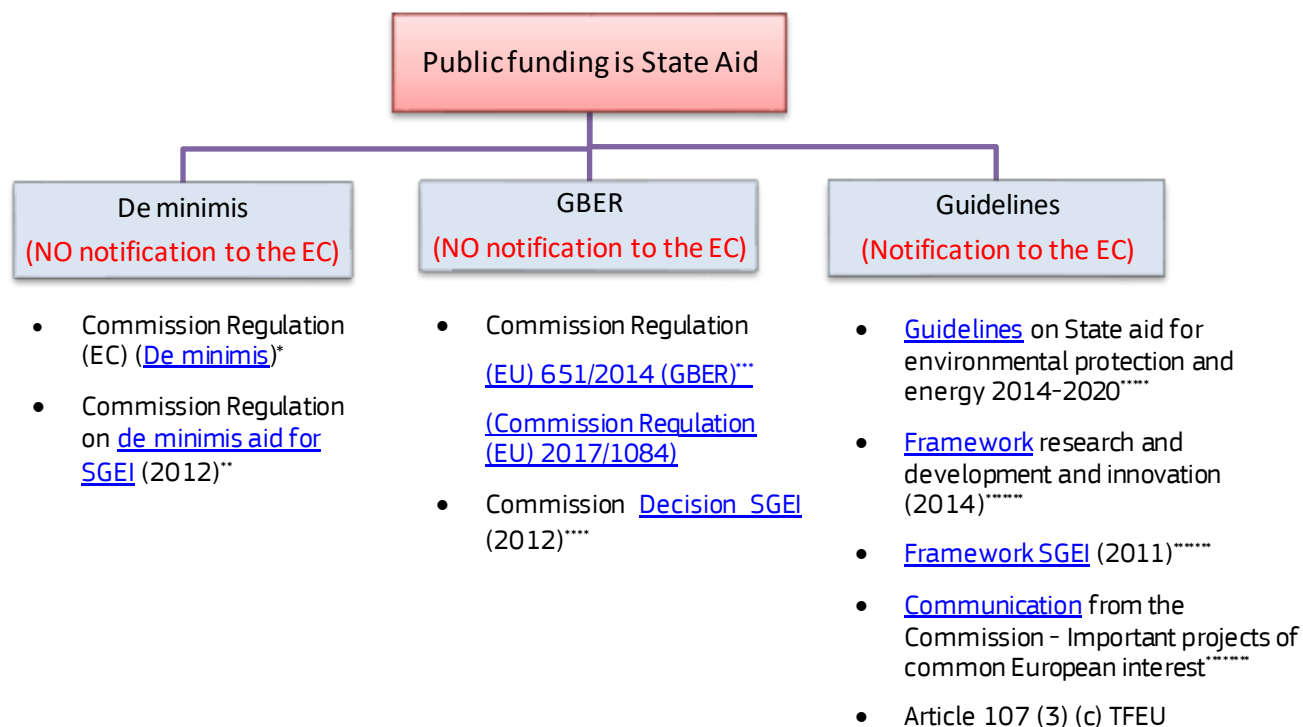


Figure 2: State aid expenditure by objective (in millions EUR)

<sup>16</sup> State Aid Scoreboard 2018, [http://ec.europa.eu/competition/state\\_aid/scoreboard/state\\_aid\\_scoreboard\\_2018.pdf](http://ec.europa.eu/competition/state_aid/scoreboard/state_aid_scoreboard_2018.pdf)

## 2.1 Applicability of the State aid rules in the energy sector

Rules that can be applicable for public funding in the energy sector are presented in the following diagram<sup>17</sup>:



\* 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.

\*\* Commission Regulation on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8)

\*\*\* Commission Regulation ([EU](#)) [N°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 (2017 amendments: Commission Regulation (EU) 2017/1084).

\*\*\*\* Commission Decision of 20 December on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest

\*\*\*\*\* Guidelines on State aid for environmental protection and energy 2014-2020 (2014/C 200/01)

\*\*\*\*\* Framework for State aid for research and development and innovation (2014/C 198/01)

\*\*\*\*\* European Union framework for State aid in the form of public service compensation (2011)

\*\*\*\*\* Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest

<sup>17</sup> All legal and non-legal documents that are relevant for the granting of public funds (national and EU funds) are listed in Annex 2.

## A. What are the differences between the rules?

### 1. Procedure:

The main difference between the rules is in the obligation to notify the financing to the EC under Article 108 (3) TFEU. If public funding for energy represents State aid, it can be granted without the notification to the EC only if the conditions from the following regulations are met (e.g. block exempted aid):

- Commission Regulation (EC) [1407/2013](#) (De minimis)
- Commission Regulation on de minimis aid for Services of General Economic Interest SGEI (2012)
- Commission Regulation (EU) 651/2014 (General Block Exemption Regulation (GBER))
- Commission Decision SGEI (2012)

An aid that does not fulfil the conditions established in the GBER, De minimis Regulations or Commission Decision for SGEI, should need to be notified to the EC.

State aid measures not automatically exempted from prior notification are not necessarily incompatible with EU State aid rules. They simply need to be notified by MS to the EC, who then examines whether they are in line with EU State aid rules under the existing guidelines and frameworks or directly based on the Article 107 (3) (c) TFEU.

### 2. Purpose of funding:

Except for the de minimis Regulation (Commission Regulation (EC) [1407/2013](#)), which allows financing for different purposes and objectives, State aid rules are usually designed for specific funding purposes.

The General Block Exemptions Regulation, Commission Regulation ([EU 651/2014 \(GBER\)](#)), enables the granting of the aid for variety of purposes. Among them, the rules for the aid in the energy sector are covered in Section 7 (articles 36-49).

GBER categories applicable for energy financing are:

- Early adaptation to/going beyond EU standards, or for higher environmental protection in their absence (incl. new transport vehicles)
- Energy efficiency measures (esp. in buildings)
- Cogeneration, district heating and cooling
- Renewable energy sources (operating and investment aid)
- Reductions/exemptions from environmental taxes
- Energy infrastructure
- Environmental studies.

Beside the categories of aid specifically designed for energy, other categories of the GBER could, be used in some instances, to finance energy projects:

- Regional investment aid (articles 13 and 14)
- Aid for small and medium sized enterprises (articles 17 and 18)
- Aid for research and innovation (articles 25 - 28)
- Aid for local infrastructure (article 56).

### 3. Specific guidelines:

There are guidelines and frameworks of the EC that set out the conditions under which the EC will consider an aid compatible with the internal market. The eligible objectives are wider than in the GBER Regulation. For example, the Guidelines on State aid for environmental protection and energy 2014-2020 (EEAG) establish the rules on compatibility for the same types of measures as GBER and additionally for:

- Aid for CO<sub>2</sub> capture and storage (operating and investment aid)
- Aid in the form of reductions in funding support for electricity from renewable sources
- Aid for generation adequacy measures
- Aid in the form of tradable permits.

The guidelines, in general, allow higher intensities<sup>18</sup> of financing and larger budget of the schemes, although the conditions for granting the aid are stricter than in the block exempted regulations (for example GBER). Common assessment principles (for example in the Guidelines on State aid for environmental protection and energy) are:

- Contribution to a well-defined objective of common interest (MS may rely on justification provided in the Operational Program)
- Need for State intervention
- Appropriateness of the aid measure
- Incentive effect
- Proportionality of the aid
- Avoidance of undue negative effects on competition and trade between Member States
- Transparency of aid.

### 4. Other possibilities:

In addition to the State aid rules specifically designed for the financing of energy objectives, there are other possibilities for ensuring compliance of public financing with the State aid rules, such as:

- State aid rules for research, development and innovation<sup>19</sup> (if the energy project is in the research, development or innovation phase)
- State aid rules for services of general economic interest<sup>20</sup> (if the energy project is set up for the purpose of providing the services of general economic interest)
- State aid rules for implementation of the Important Projects of Common European Interest (IPCEI)<sup>21</sup>.

### 5. Applicability of the Article 107 (3) (c) of the TFEU:

If the measure does not fall under one of the existing frameworks and guidelines, the last possibility is to notify the measure directly on the basis of the Article 107 (3) (c) of the TFEU which states: "The following may be considered to be compatible with the internal market: aid to facilitate the

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<sup>18</sup> Aid intensities for environmental and energy investment aid as a part of the eligible costs are summarised in the Annex 1 of the Guidelines on State aid for environmental protection and energy 2014-2020  
[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0628\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0628(01)&from=EN)

<sup>19</sup> Framework for State aid for research and development and innovation (2014/C 198/01)

<sup>20</sup> Commission Regulation on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8), Commission Decision of 20 December on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, European Union framework for State aid in the form of public service compensation (2011)

<sup>21</sup> Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest

development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest".

Article 107 (3) (c) of the TFEU does not define a specific category of the aid. To be compatible under Article 107 (3) (c) TFEU, the aid measure must pursue an objective of common interest in a necessary and proportionate way. The EC then examines whether the distortions of competition and the effect on trade are limited, so that the overall balance of the measure is positive. The assessment follows the same steps as in the case of the guidelines presented above.

## **B. How to know which State aid rules should be used?**

State aid rules could be presented as "a sieve" letting through only the "good aid". The rules that enable the most of the public funding to go through the sieve are for example:

### **1. Commission Regulation (EC) 1407/2013 (de minimis)<sup>22</sup>:**

Although de minimis aid has no strict objective of aid, no specific eligible costs and does not require an incentive effect, its limitation to EUR 200 000 per single undertaking in three years makes it difficult to use for bigger investment projects in the energy sector. De minimis aid is, therefore, recommended for smaller investments, where complex procedures or funding conditions defined in other rules would not attract enough investors (for example energy efficiency measures in buildings). De minimis aid is also useful in cases where the costs of the project could not be eligible under the other State aid rules.

### **2. Commission Regulation (EU) 651/2014 (GBER)<sup>23</sup>:**

The advantage of the GBER is that it allows MS to grant aid without the need to notify the measure to the EC in advance. As the financial perspective is limited in time, the obligation to notify sometimes constitutes significant burden, both for the authorities and beneficiaries of the aid. Despite of the advantages, the weakness of applying the GBER lies in the transfer of the responsibility to MS, as the assessment of the compatibility of the aid is the sole responsibility of the MS. The GBER is, therefore, best used for the simple and clear measures where there are no major challenges regarding the compatibility of the aid.

In addition, as there are several objectives within the GBER, it would be recommended to be familiar with the entire GBER Regulation in order to identify the different options available. For example, if the authority of the MS would like to grant State aid for an energy project only examines the GBER articles covering the environmental and energy aid, it will miss other possibilities provided by the GBER to finance the energy project. For instance, if the project is still in the research phase, the GBER articles for research, development or innovation could also be applicable. Alternatively, if the project represents a local infrastructure, Article 56 of the GBER could apply. There are also some possibilities in applying the rules for Regional investment aid (Articles 13 and 14), though not for the investment in production of energy.

### **3. Guidelines on State aid for environmental protection and energy 2014-2020:**

Beside the GBER, MS can grant State aid for energy projects in line with the Guidelines on State aid for environmental protection and energy 2014-2020. In this case, the aid must be notified to the EC in advance. As already mentioned, these guidelines cover additional categories of aid and provide greater intensity of the aid, but the conditions for the granting of aid are stricter. The guidelines should be used in the following situations:

- If the category of the aid in question is not covered by the GBER (for example for Generation adequacy measures which are outside the scope of GBER),
- If the intensity of financing in the GBER is not sufficient or the threshold of the project/scheme is larger than provided in the GBER,
- In case of complex projects where the MS would not want to take responsibility for the assessment of the aid.

<sup>22</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=urisrv:OJ.L\\_2013.352.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=urisrv:OJ.L_2013.352.01.0001.01.ENG)

<sup>23</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014R0651-20170710>

The main differences between the GBER and the Guidelines on State aid for environmental protection and energy 2014-2020 in the energy field can be seen below:

<b>Commission Regulation <a href="#">(EU) 651/2014</a> (GBER)</b>	<b>Guidelines on State aid for environmental protection and energy 2014-2020</b>
No notification necessary	Notification to the EC is necessary
The amount of aid per project is limited	No threshold for the amount of the aid
Aid intensities are lower	Aid intensities are higher (in some cases up to 100%)
	Additional categories of aid are included

Although since 2015 more than 96% of new measures (for which expenditure were reported for the first time) fell under the General Block Exemption Regulation,<sup>24</sup> there are still many Commission's decisions issued under the Guidelines on State aid for environmental protection and energy 2014-2020, as can be seen from the case list provided in Annex 3.

#### 4. State aid rules for other categories of aid

The same reasoning regarding the question on which State aid rules should be used applies for other categories of State aid. The purpose of the aid should be decided:

Is it an energy efficiency initiative with a R&I component? (Could the State aid rules for research, development and innovation apply?)

Does it serve as a compensation for clearly defined public service obligation? (Does the beneficiary provide services of general economic interest (SGEI)? Could the SGEI rules be applicable?)

Does it promote the important project of common Economic interest?

#### 5. Article 107 (3) (c) of the TFEU

Article 107 (3) (c) of the TFEU sets out the possibilities for granting the aid to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the common interest. In case the existing regulations and guidelines do not provide the frame for the granting of compatible aid (for example for nuclear power station or electric vehicle charging infrastructure), MS can notify the financing of the energy project to the EC directly on the basis of Article 107(3)(c) TFEU. Although there are no specific purposes of the aid or the intensities defined in this regard, the compatibility assessment approach can be found in the EC Decisions.<sup>25</sup>

So far, after the entry into force of the GBER and the Guidelines on State aid for environmental protection and energy 2014-2020, MS had rarely used this option.

## 2.2 State aid in the S3 context

Cohesion Policy and Competition Policy co-exist. From the Competition policy perspective, it is irrelevant whether investments in energy are financed from the national resources or Cohesion Policy funds. The rules applicable to State aid apply to both of them. As the goals and priorities of Cohesion Policy and Competition Policy differ in some aspect, in practice this could prevent the potential achievements of the S3 models defined by the MS and regions. Experiences of the MS practitioner's<sup>26</sup> show that State aid rules could, in some cases, limit the funding possibilities of ESI Funds. Considering the State aid rules and their limitations in the early stage of designing the S3 priorities or the measures could therefore prevent unnecessary challenges in the implementation phase.

<sup>24</sup> State Aid Scoreboard 2018, page 7,

[http://ec.europa.eu/competition/state\\_aid/scoreboard/state\\_aid\\_scoreboard\\_2018.pdf](http://ec.europa.eu/competition/state_aid/scoreboard/state_aid_scoreboard_2018.pdf)

<sup>25</sup> See for example, EC decision SA.38769 (2015/N) – The Netherlands: The Green Deal for Publicly Accessible Charging Infrastructure Scheme.

<sup>26</sup> Some experiences of practitioners in this regard are presented in the next chapter.



What are the possible challenges in the EU financing of energy investments from the State aid perspective?

In this regard, the following inconsistencies between Cohesion Policy and Competition Policy could be observed:

- Different levels of allowed financing.
- Different definitions of eligible costs.
- Different type of the beneficiaries.
- Different conditions attached to financing.

For example, if in line with the Cohesion Policy, investments in energy efficiency could be financed up to 85% of the eligible costs but the rules on State aid prevent granting more than 30% of the eligible costs the full potential of Cohesion funding could not be obtained.

It should also be noted that both the Cohesion Fund Regulation 1300/2013<sup>27</sup> and the ERDF Regulation 1301/2013<sup>28</sup> do not allow granting support for investment to achieve the reduction of greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC (e.g. Mineral oil refineries, Coke ovens, etc.).

Regarding the application of the de minimis aid, which to a certain extent allows the aid for the undertakings in difficulty, the Regulation 1300/2013 applies a stricter approach to the definition of an undertaking in difficulty. In line with article 2 (2) (e) of the Regulation 1300/2013, the Cohesion fund shall not support undertakings in difficulty, as defined under State aid rules. The same wording is present also in article 3 (3) (d) of the Regulation 1301/2013).

To overcome the differences between the Cohesion Policy and Competition Policy, a consistent cross-policy approach is needed.

Nevertheless, the purpose of Competition policy and State aid rules (in general and in the field of energy) should always be kept in mind:

- to provide equal level playing field for all MS, and
- to steer public aid towards the objective of common interest that otherwise would not be realised (for example investment in R&D&I, investment in renewable energy, investment in sustainable buildings).

Therefore, State aid rules should not be seen as an obstacle for public funding but instead as a tool to trigger a maximum of private investments with a minimum of public support. A clear understanding and consideration of State aid rules by policy makers during the design phase of S3 and energy programmes is thus necessary to achieve a more efficient implementation of the support schemes.

## 2.3 Application of State aid rules in the S3: the case of Andalusia<sup>29</sup>

As a practical introduction of this **Multicountry Workshop on State Aid Map in Energy**, Palma Muñoz, from the Agency of Innovation and Development of Andalusia, co-organiser of the event, presented the application of State aid rules in the S3 of Andalusia, under the ERDF 2014-20 Operational Programme of Andalusia.

This Operational Programme aims (among other objectives) to strengthen research institutions and to improve their scientific and technological infrastructures. Research, development and innovation activities are promoted in the public and private sectors, enhancing linkages and knowledge transfer between enterprises and research centres. The Andalusian Operational Programme also contributes to a more efficient and respectful use of

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<sup>27</sup> Regulation (EU) No 1300/2013 of the European parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 (OJ L 347, 20.12.2013).

<sup>28</sup> Regulation (EU) No 1301/2013 of the European parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013).

<sup>29</sup> <https://regiopractitioners.wordpress.com/2019/03/22/state-aid-rules-in-the-s3-the-state-aid-map-in-the-energy-sector/>

natural resources and to a reduction of carbon emissions. The funds aims to help the region to respect environmental standards and preserve biodiversity, which is key for its economy<sup>30</sup>.

The planned financing over the period 2014-2020 is presented below<sup>31</sup>:

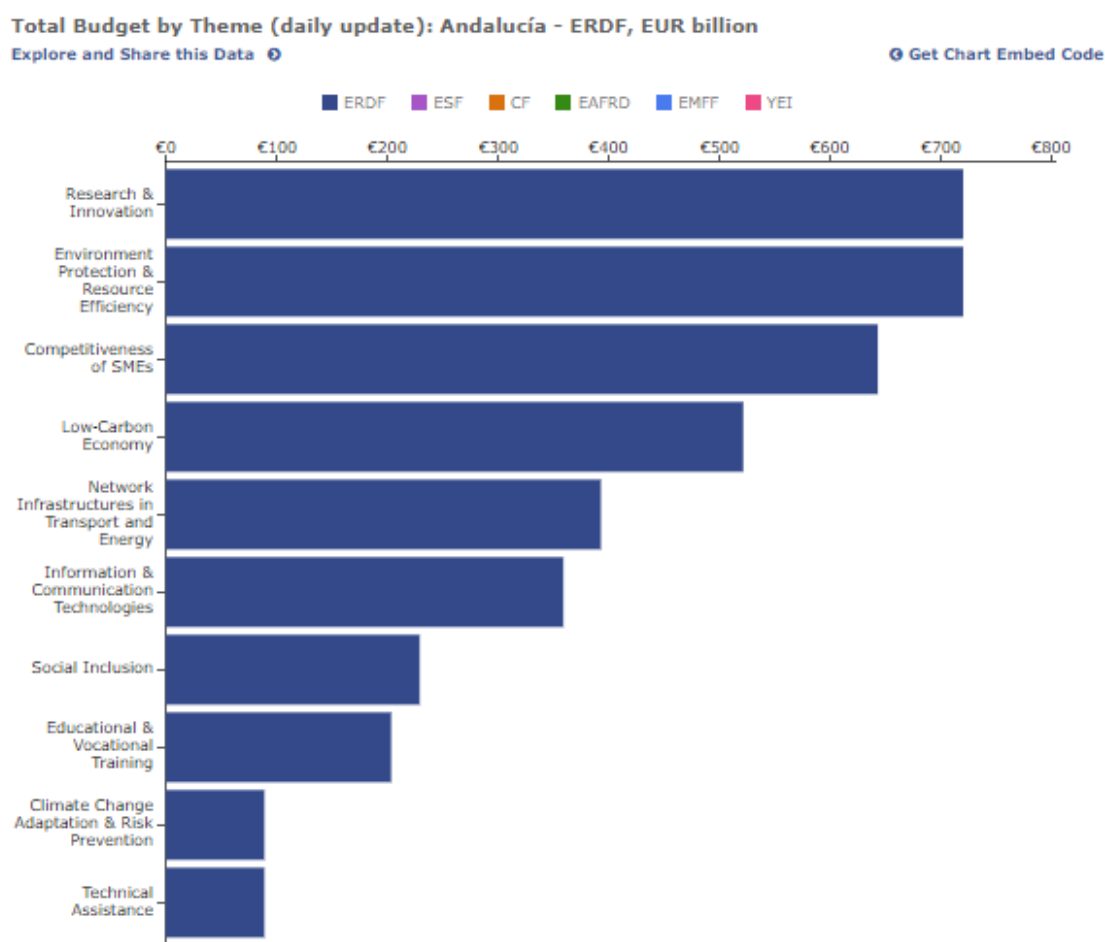


Figure 3: Total ERDF budget – Andalusia 2014-2020 (EUR bn)

There are two incentive programmes managed by the Andalusian Agency of Innovation and Development that implement the *Industrial Strategy of Andalusia 2020* and the eight specialisation priorities identified in the *Research and Innovation Strategy for Smart Specialisation (RIS3 or S3) of Andalusia*:

- Order of June 5, 2017 Incentive Programme for the Promotion of Industrial Research, Experimental Development and Business Innovation

For these measures, framed under T01 (Research and innovation) of the ERDF Andalusia 2014-2020 Operational Programme, the alignment with the S3 is a mandatory precondition for a project to obtain funding.

- Order of June 5, 2017 Incentive Programme for the Industrial Development, the Improvement of Competitiveness, Digital Transformation and the Creation of Employment in Andalusía

For these measures, framed under T03 (SMEs competitiveness) of the ERDF Andalusia 2014-2020 Operational Programme, the contribution of the projects to the S3 is a preferential criterion that may represent up to an additional 5% of intensity of the aid.

<sup>30</sup> [https://ec.europa.eu/regional\\_policy/en/atlas/programmes/2014-2020/spain/2014es16rfop003](https://ec.europa.eu/regional_policy/en/atlas/programmes/2014-2020/spain/2014es16rfop003)

<sup>31</sup> <https://cohesiondata.ec.europa.eu/programmes/2014ES16RFOP003>

All the public funding granted under these incentive programmes are considered State aid as they satisfied all the requirements of article 107.1 TFUE. For the beneficiaries that are engaged in an economic activity and are regarded as “undertakings” in line with the State aid rules, public funding is therefore to be granted in the frame of Regulation (EU) 1407/2013 (De minimis aid) and Regulation (EU) 651/2014 (GBER). So far, for State aid under these two incentive programmes, the following GBER articles have been applied<sup>32</sup>:

- Article 14 (Regional investment aid)
- Article 25 (Aid for research and development projects: Industrial research, Experimental development and Feasibility studies)
- Article 26 (Investment aid for research infrastructures)
- Article 27 (Aid for innovation clusters)
- Article 28 (Innovation aid for SMEs)
- Article 29 (Aid for process and organisational innovation).

As regards projects in the energy field, public funding is also granted through the Order of December 23, 2016 Incentive Programme for the Sustainable Energy Development of Andalusia in the period 2017-2020. This programme, managed by the Andalusian Energy Agency, implements the *Energy Strategy for Andalusia 2020*, which reflects the energy model that Andalusia pursues towards the establishment of a low-carbon economy. There are three different lines in this incentive programme, which are framed under TO4 (Low-carbon economy) and TO6 (Environment and resource efficiency) of the ERDF Andalusia 2014-2020 Operational Programme:

- Sustainable Construction
- Sustainable SMEs
- Smart Grids.

The intensity of the aid can be seen in the summary of the scheme referred to in reference nº33 hereinafter. The contribution of the projects to the S3 is a preferential criterion that may represent up to an additional 10% of intensity of the aid.

When granting public resources to energy projects, State aid rules apply only when the beneficiary of a measure is an undertaking engaged in an economic activity. This classification is always relative to a specific activity. An entity that carries out both economic and non-economic activities is to be regarded as an undertaking only with regard to this specific activity.

In case of State aid, the aid is to be granted in the frame of Regulation (EU) 1407/2013 (De minimis aid) and one block-exempted scheme<sup>33</sup> under Regulation (EU) 651/2014 (GBER). For State aid to energy projects, the following GBER articles were applied:

- Article 31 (Training aid)
- Article 36 (Investment aid enabling undertakings to go beyond Union standards for environmental protection or increase the level of environmental protection in the absence of Union standards)
- Article 37 (Aid for early adaptation to future Union standards for SMEs)

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<sup>32</sup> For the implementation of the Industrial Strategy of Andalusia three block-exempted scheme were developed:

- SA.51058 (2018/X) HAC-AYUDAS REGIONALES A LA INVERSIÓN. Sustitución del régimen SA.47478 (Regional aid scheme) [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_51058](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_51058)
- SA. 51051 (2018/X) INV-Ayudas para promover la investigación y el desarrollo e innovación. Sustitución regímenes SA.40863 (Research, development and innovation scheme) [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_51051](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_51051)
- 51059 (2018/X) HAC- AYUDAS A PYME. Sustitución de los regímenes: SA.39336 and SA.47479 (SMEs scheme) [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_51059](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_51059)

<sup>33</sup> SA.47398 MIMAM - Modificación régimen SA 42837. Aid to promote environmental protection and sustainable energy development. [http://ec.europa.eu/competition/state\\_aid/cases/259982/259982\\_1675341\\_12\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/259982/259982_1675341_12_1.pdf)  
[http://ec.europa.eu/competition/state\\_aid/cases/274564/274564\\_1983463\\_11\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/274564/274564_1983463_11_1.pdf)

- Article 38 (Environmental investment aid for energy efficiency measures)
- Article 40 (Investment aid for high-efficiency cogeneration)
- Article 41 (Investment aid for the promotion of energy from renewable energy sources)
- Article 42 (Operating aid for the promotion of electricity from renewable energy sources)
- Article 43 (Operating aid for the promotion of energy from renewable sources in small scale installation)
- Article 46 (Investment aid for energy efficient district heating and cooling)
- Article 47 (Investment aid for waste recycling and re-utilisation)
- Article 48 (Investment aid for energy infrastructure) and
- Article 49 (Aid for environmental studies)

In the implementation of its Operational Programme, Andalusia has faced some **challenges** due to the inconsistencies between the two sets of EU rules (ESI Funds rules and State aid rules).

In line with article 6 of the GBER, an aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the MS concerned before work on the project or activity starts. One of the major challenges was how to ensure the fulfilment of an incentive effect requested in State aid rules for project proposals with a Horizon 2020 “Seal of Excellence”: the work on the project in question started before the submission of the written application to the MS for the aid exempted in the scope of the GBER, but after the submission of the aid application by the beneficiary to the Horizon 2020 call.

To overcome the difficulties arising from the application of the State aid rules, and in particular, the application of the incentive effect, the practitioners from the Andalusian authorities addressed their questions to the EC via the “eState aid WIKI”<sup>34</sup>. The EC confirmed that in the case of “Seal of Excellence” projects, the application date for funding under the Horizon 2020 SME Instrument programme is considered as the relevant application date. Although the aid application by the beneficiary via the Horizon 2020 participant portal seems to contain the information required in article 6.2 GBER, this should be checked in each case by the granting authority<sup>35</sup>.

Due to some inconsistencies between the two set of EU rules, it was difficult to design a support measure. Some additional legal steps needed therefore to be taken to assure the legal certainty. After receiving the positive answer from the EC, the Agency of Innovation and Development of Andalusia sent a legal report to the regional ministry to justify the modification of the regulatory basis. In addition, they sent a legal report to the regional auditing body to explain how a “soft law” introduces an exception to an EU regulation (Article 6 of the GBER). The introduction of an exception to the requisite of the incentive effect in the State aid scheme was also necessary.

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<sup>34</sup> The ‘eStateAid-WIKI’ of DG Competition of the European Commission is an IT-tool to facilitate informal exchanges on general State aid matters between the European Commission’s services and the Member States and EFTA countries (including the ESA).

<sup>35</sup> COMMISSION STAFF WORKING DOCUMENT Explanatory note of the Commission services on the application of State Aid Rules to national and regional funding schemes that offer alternative support to SME Instrument project proposals with a Horizon 2020 ‘Seal of Excellence’ (point 2.3).  
[https://ec.europa.eu/regional\\_policy/sources/docgener/guidelines/2017/application\\_of\\_state\\_aid\\_rules.pdf](https://ec.europa.eu/regional_policy/sources/docgener/guidelines/2017/application_of_state_aid_rules.pdf)

### 3 Workshop on State aid Map in the Energy Sector

The Multicountry Workshop on State Aid Map in Energy Sector, held in Seville in March 2019, was organised within the scope of the REGIO Communities of Practitioners<sup>36</sup> and as a practical contribution of the S3PEnergy to its policy support to EU regions and MS that have selected energy as a priority within their S3.

The **main aim** of the workshop on State aid map in the energy sector was to support those regions and countries in designing and implementing aid measures in sustainable energy that are compatible with the internal market, in order to invest better and more effectively their ESI Funds.

The workshop pursued three **specific objectives**:

1. To create a forum for a fruitful discussion on the application of State aid rules in energy (e.g. renewables, energy efficiency and sustainable buildings, district heating and cooling);
2. To address practical issues faced by national or regional Managing Authorities or Intermediate Bodies who are implementing support measures to energy initiatives under different investment priorities from their ESI funds, mainly Thematic Objective (TO) 1 (S3/R&I), TO4 (Low Carbon Economy) and TO7e (infrastructure for smart energy distribution, storage and transmission systems).
3. To draft a tailor-made guide of all State aid legislation in the energy sector in the form of State aid maps, on which all practitioners can rely.

The first day was dedicated to **sharing the experience** gained in granting the EU funds in the field of energy, considering the State aid rules framework. The participants had the opportunity to present their field of work, discuss and exchange experiences, and learn from the various presentations made by practitioners from different MS about concrete State aid cases in the energy sector and the State aid rules in the S3 context.

The second day was devoted to **drafting the State aid maps**. This process included the definition of the scope of the maps, the identification of the questions to be addressed via the maps and its co-construction. The workshop ended with the presentation of the Map(s) and possibilities for further development.

#### 3.1 Exchange on the issues faced by the participants to the workshop – Presentations

Following the introductory presentation of State aid rules in the S3 context (see section 2), there were 14 specific presentations delivered by practitioners, with a wide and diverse content in the field of public co-financing in the energy sector. All presentations are published on the S3PEnergy website<sup>37</sup> and on the CoP blog<sup>38</sup>. The table below presents the short summaries and added value of the presentations. The open questions and discussions among the practitioners are also presented.

Table 1: Summaries and added value of the presentations

Case 1	RES support reduction for energy-intensive users (Lithuania)
Short summary of the case	<p>Financial support for electricity from renewable energy sources (RES) is provided through a public interest service fee (RES levy), which is paid by all electricity consumers. RES levy is reduced for undertakings, which operate in electro-intensive sectors</p> <p>Reduced RES levy will be applied to the volume of electricity consumed exceeding 1 GWh per object per calendar year. The threshold of 1 GWh is justified, as beneficiaries will have to incur administrative costs, amounting to approx. 10.000 EUR, to be eligible for the State aid, which will be equal or higher than the support. Beneficiaries will pay the full RES levy of a given year and will receive a compensation equivalent up to 85% of RES levy.</p>

<sup>36</sup> <http://regiopractitioners.wordpress.com/>

<sup>37</sup> <http://s3platform.jrc.ec.europa.eu/-/taix-regio-multicountry-workshop-on-state-aid-map-in-energy-sector>

<sup>38</sup> <https://regiopractitioners.wordpress.com/category/state-aid/>

	<p>Undertakings shall have to submit an energy efficiency audit report (every 4 years). If according to the energy efficiency audit report the undertaking does not have the best available techniques for environmental protection and energy efficiency in place, it shall sign a contract with the administrator, whereby it would be obligated to invest 75% of the RES levy reduction of 4 years into undertaking's energy efficiency measures.</p> <p>Not only will the aid increase the competitiveness of beneficiaries, but it will also provide incentives for such businesses to invest in energy efficiency measures, thus building a long-term framework for reduction in electricity costs.</p>
SA rules	Section 3.7.2. of the Guidelines on State aid for environmental protection and energy 2014-2020
Questions and discussion between participants and solution found	<p>The scheme was notified to the EC and approved. (State Aid SA.50484 (2018/N) – Lithuania, Support scheme to energy intensive users, <a href="http://ec.europa.eu/competition/state_aid/cases/277165/277165_2045423_74_2.pdf">http://ec.europa.eu/competition/state_aid/cases/277165/277165_2045423_74_2.pdf</a>).<sup>39</sup></p> <p><b>1. What will be the reduction of energy consumption?</b></p> <p>With this scheme, Lithuania will reduce the consumption of energy by approx. 2 TWh.</p> <p><b>2. Why did you introduce the condition to invest 75% of the RES levy reduction into undertaking's energy efficiency measures, if the undertaking does not have the best available techniques? (This condition is not included in the Guidelines.)</b></p> <p>Lithuania has decided to include additional requirement into the scheme, in order to foster the implementation of energy efficiency measure in industry, especially electro-intensive companies.</p> <p><b>3. Participants also shared their experience with Feed in tariff schemes for energy producers.</b> Public support usually takes the form of a preferential (guaranteed) prices (feed-in tariffs) and premiums on top of the market price (green bonuses). The level of financing is limited to the difference between the market price and production price of the energy. For the participants, the major challenge in implementing the measure is not to overcompensate the energy producers. In addition to consulting the EC, practitioners try to find an explanation from the decisions taken by the EC.<sup>40</sup></p>

<sup>39</sup> Other similar cases approved by the EC:

- SA.42424 Reduced contribution to financing of RES support for energy-intensive users – Denmark  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_42424](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_42424)
- SA.52530 Reductions for EIUs from CHP charge – Poland  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_52530](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_52530)
- SA.52413 Reduced RES and HECHP financing contribution for EIUs in Greece  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_52413](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_52413)
- SA.45861 Support to energy intensive users in Bulgaria  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_45861](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_45861)
- SA.39042 RES support reduction for energy-intensive users – Romania  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_39042](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_39042)

<sup>40</sup> Cases of Feed in tariff schemes for further reading:

- SA.40171 2006 RES support scheme – Czech  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_40171](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_40171)
- SA.48642 Soutien par appel d'offres au développement d'installations de production d'électricité innovantes à partir de l'énergie solaire – France  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_48642](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_48642)
- SA.41998 A) Support to electricity from renewable energy sources and combined heat and power installations, and B) Support for electro-intensive users in the form of reductions in electricity support scheme contributions  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_41998](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_41998)

<b>Case 2</b>	<b>Aid to Urban Renewal and Energy Efficiency (Financial instruments for energy efficiency in buildings) (Portugal)</b>
Short summary of the case	<p>The aim of the public co-financing was to foster the energy efficiency in buildings and reduce consumption of energy by 30%. The measure was financed from different public funds (national, European Investment Bank and the Development Bank of the Council of Europe) combining them with funds from commercial banking. The measure was financed in the form of a loan (granted by selected financial institutions, with the interest rates below those practiced on the market for the same type of investments) and guaranty (granted by the entity selected for the management of this product).</p> <p>The beneficiaries of the measure were individuals, condominiums, private and public companies including non-profit organisations, regardless of the use of the buildings. Eligibility was defined ex ante by energy audit. Before granting an aid, an analysis of the current energy behaviour of the building was made. After the investment, the planned energy behaviour with the intervention needed to be conformed to the energetic certificate in order to confirm the achievement of the envisaged measures and the achievement of planned energy performance.</p>
SA rules used	<p>Article 16 of the GBER (Regional urban development aid)</p> <p>Article 17 of the GBER (Investment aid to SMEs)</p> <p>Article 38 of the GBER (Investment aid for energy efficiency measures)</p>
Questions and discussion between participants and solution found	<p><b>1. How to bring the rule “by the book” in to practice.</b></p> <p>National authorities had difficulties on how to bring the measure in line with the GBER, especially:</p> <ul style="list-style-type: none"> <li>- There were three types of regions: less developed, in transition and more developed. Are they different regarding the State aid rules? Which rules should be considered?</li> <li>- Public support will be granted to buildings linked to economic activity and non-economic activity. How to distinguish between them?</li> </ul> <p>With the informal help of DG COMP and DG REGIO, the following solution was found: to use article 16 of the GBER for urban development strategies (for all regions), article 17 for SME (cities) and article 38 for other enterprises.</p> <p><b>2. How did you divide between economic and non-economic activity?</b></p> <p>The financing of the <a href="#">household</a> and the equipment for collective use was considered as a non-economic activity. All other uses of buildings were considered as an economic activity.</p> <p><b>3. Which cost did you finance under Article 16 of the GBER?</b></p> <p>Under article 16 of the GBER the construction works, costs related to technical projects and costs related to the acquisition of real estate were financed.</p> <p><b>4. Which cost did you finance under Article 38 of the GBER?</b></p> <p>Eligible costs related to energy efficiency were: construction works of walls and roof, technical systems as cold water, interior lightning, management systems of energy consumption, production systems of renewable energy for self-consumption (limited to 30% of eligible costs), and energy audits.</p> <p><b>5. It was the reduction in CO<sub>2</sub> emission measured?</b></p> <p>Measurement of the reduction in CO<sub>2</sub> emission is mandatory. If the ex post audit shows that there is not enough reduction in CO<sub>2</sub> emission the beneficiary must return all the public resources received.</p> <p><b>6. Was the measure successful?</b></p> <p>The measure was successful. There was a great involvement of local authorities. 92 projects were approved with a total investment of €315.424.393,91 and a total support of public resources (national and from EU) of €111.342.834,04.</p>

<b>Case 3</b>	<b>Corporate tax incentive measures for investments serving energy efficiency purposes (Hungary)</b>
Short summary of the case	A corporate income tax incentive on investment projects aimed at increasing energy efficiency has been introduced in Hungary. The tax incentive may be applied up to 70% of the calculated corporate income tax liability. The tax incentive is applicable up to 30% of eligible costs (but not more than 15 million EUR), which can be increased by 10-20% for SMEs and also by regional bonuses 5 or 15%. Tax allowance can be applied for five consecutive fiscal years.
SA rules used	Article 38 of the General Block Exemption Regulation (GBER) <sup>41</sup> (Investment aid for energy efficiency measures) Article 14 of the GBER (Regional investment aid) Article 17 of the GBER (SME)
Questions and discussion between participants and solution found	<p><b>1. Is the measure selective?</b></p> <p>Hungary found the measure selective because public authority has discretion power to decide which company will receive the aid.</p> <p><b>2. What is a separate investment? How to determine the counterfactual scenario in case of energy efficiency measures?</b></p> <p>Those questions were common to all participants. Article 38 of the GBER defines as eligible (i) the difference between the costs of the aided investment and the costs of alternative not environmentally friendly investment or (ii) the costs of separate environmental investment. It is difficult to determine what separate investment is. According to the EC, investment in more efficient boiler is not always regarded as separate investment.</p> <p>See the <a href="#">EC reply on eState aid WIKI to HR question (2016.12.05)</a>: "...Therefore depending on the energy efficiency intervention the right counterfactual scenario has to be applied. For example, for insulating a building the 'do-nothing' scenario can be applied as the building can still be used without this energy efficiency intervention. In the case of the replacement of a boiler that reached the end of its life the counterfactual situation would be to invest in a less energy efficiency boiler. In this case the difference of the investment in between an energy efficient boiler and a less energy efficient boiler constitutes the eligible costs. Should a new less energy efficient boiler be replaced by a new energy efficient boiler then the full cost of the new energy efficiency boiler would be eligible."</p> <p><b>3. Are the costs of energy generation eligible under Article 14 of the GBER?</b></p> <p>Limitation of regional investment aid to energy financing was also of common concern of the participants. Article 14 of the GBER (Regional investment aid) does not apply for investment in energy generation, distribution and infrastructure. In the case of an investment in a new company that includes energy generators, this cannot be part of the eligible cost for regional aid. But in the event that part of energy equipment is used for own production of energy, it can apparently be part of the eligible cost for regional investment. Some replies from the EC, made available on the <b>eState aid WIKI</b>, seem to be contradictory:</p> <p><a href="#">EC answer on eState aid WIKI to EE question (Article 13 - Scope of regional aid - Eligibility of boiler as essential part of project, 2018.04.13)</a>: "Certain energy generation related costs may be considered as eligible costs for regional aid if the following three cumulative conditions are met:</p>

<sup>41</sup> Commission Regulation (EU) 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 (including Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014))



	<p>1) The energy generation is not the primary objective of the overall project (the rule would be that the majority of costs should be not related to energy generation);</p> <p>2) The capacity of energy generation should be adapted to the needs of the undertaking, meaning that the objective is auto-consumption and thus at most 20% of the planned energy generated would be sold (based on ex ante analysis), i.e. 80/20 rule applies and</p> <p>3) As regards the source of energy, only the investments that would be eligible for aid under State aid energy rules would be eligible e.g. renewable sources of energy or high efficiency co-generation (but not e.g. diesel-powered engine)."</p> <p><u>EC reply on eState aid WIKI to LV question</u> (Article 13 - NACE Rev.2 codes for excluded sectors set in Article 13, 2016.06.15): "Only the part of the project that is not related to energy generation (distribution and infrastructure) is eligible for regional aid, whereas the part related to energy production (even if the energy is produced as a side effect of another activity), is not eligible for regional aid (it does not matter if the undertaking is using this energy for its own consumption or is selling it to other users)."</p> <p>See also the EC reply on eState aid WIKI to:</p> <ul style="list-style-type: none"> <li>- PL question (Article 13 - Scope of regional aid energy sector, 2014.11.14).</li> <li>- PL question (Article 13 - Scope of regional aid 2016.06.15) and</li> <li>- HR question (Article 13 - Scope of regional aid, regional policy, energy and environmental objectives, energy efficiency measures and equipment 2016.06.15)</li> </ul> <p>Practitioners agreed that in the situations where there are different replies from the EC on the eState aid WIKI, the advisable solution would be to address those differences to the EC and ask for additional explanations.</p> <p><b>4. What is energy efficiency, how to measure it?</b></p> <p>Energy efficiency means energy savings but practitioners from Managing Authorities would like to have clear instructions from the EC how to measure it.</p>
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<b>Case 4</b>	<b>State aid in the ROP 2014-2020 to support the shift to a low-carbon economy and removing bottlenecks in key network infrastructures (Romania)</b>
Short summary of the case	<p><u>A. Investment in public lighting</u></p> <p>Financial support from EU funds was granted for investment in public lighting. The beneficiaries were municipalities, who then delegate the public lighting service management to the third party's operators. Operators could be selected through public tender or by direct contracting in case of local municipal companies.</p> <p>If during the process, the institutions in charge of controlling the implementation decide that the investment does not comply with the State aid legislation, the beneficiary takes the risk regarding the recovery of the amounts granted and the related interest.</p> <p><u>B. Investments in recharge stations for hybrid electric and electric cars</u></p> <p>Financial support from EU funds was granted for purchase and installation of recharge stations for hybrid electric and electric cars. Recharge stations will be operated by third parties selected through competitive, transparent and non-discriminatory procedure.</p>
SA rules	B. Article 56 of the GBER (Aid for local infrastructures)

Questions and discussion between participants and solution found	<p><b>1. Why it was considered that the financing of public lighting was State aid?</b></p> <p>Lithuanian authorities made an assessment that public financing for investment in public lighting was not State aid for municipality, as the municipality did not perform the operation by itself. There could be State aid to the operators if they do not pay the market price for the use of infrastructure.</p> <p><b>2. Could the rules for SGEI be applicable?</b></p> <p>Participants did not agree upon the applicability of SGEI rules. The question remains open whether the operation of public lighting is PSO or the operator just performs service for the municipality.</p>
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<b>Case 5</b>	<p><b>Experience on Financial Instruments for Energy Sector</b></p> <p><b>Market Gap in Energy Efficiency / Energy Service Company (ESCO) (Spain)</b></p>
Short summary of the case	<p>Energy efficiency measures are not the main concern for buildings owners. No individual provider will finance 100% of financing requirements. That is why public funding is needed to provide the incentives to the owner of the buildings.</p> <p>An efficient way to finance energy efficiency in buildings is through ESCO companies. ESCO companies usually provide financing, installations, operations, energy saving measures and guarantee of savings.</p> <p>In Spain, ESCO model has not a definitive developing. Energy efficiency projects do not generate new cash, they just generate savings and that is why banks do not finance it. The objective of the measure is to configure a Financial Instrument that makes the ESCO model bankable and allows for a rapid rollout of the ESCO model. This could be done by dividing ESCO in two activities:</p> <ol style="list-style-type: none"> <li>1. Installation Company ("operational ESCO") – provides technical solutions and installations.</li> <li>2. Special purpose vehicle ("financial ESCO") – provides financing and risk taking.</li> </ol>
SA rules	The assessment has not been done yet.
Questions and discussion between participants and solution found	<p><b>1. Who is the recipient of aid?</b></p> <p>State aid could be present on the level of the investor, SPV (ESCO) and banks. The final assessment has not been done yet. The presence of State aid will depend on the conditions of financing</p> <p><b>2. Which State aid rules could be applicable?</b></p> <p>Participants found the presented ESCO model quite complex. In some MS ESCO model is well developed in the field of financing energy efficiency in public (municipal) buildings (in LT, HR, SI) with the funds of EBRD. In these cases, ESCO companies were chosen on public tender and there was no State aid on the ECSO level.</p>

Case 6	Barriers to attracting investment in emerging technologies (Marine Renewable Energy) (Wales)
Short summary of the case	<p>The aim of the measure is to support the early stage technologies (tidal stream and wave). Financing of research (Prototype stage) is made for SME under the Article 25 of the GBER. However, in moving from prototype to demonstration at utility scale phase, there are barriers for investors. Initial capital costs are high (typically around €4.5m per megawatt deployed) and the current revenue support mechanism for renewable energy generation favours mature technologies (offshore and onshore wind and solar PV for example). The revenue support is made available through an auction of “Contracts for Difference” (CFDs), where renewable energy generators bid for a premium over the wholesale grid price of electricity. Mature technologies are able to bid in at €60 to €70 per megawatt hour above the wholesale price, a level unviable for the emerging technologies.</p> <p>To attract investment in emerging technologies a new Revenue support proposal is being discussed - Innovation Power Purchase Agreement (IPPA). IPPA is a contract between the generator (which generates electricity from emerging technologies) and the buyer of electricity (offtaker). In this mechanism, generator sells energy at “Emerging technology price”, set by the Member State, to offtakers. The offtaker applies for tax credit for emerging technology price over wholesale price and the national tax body reduces the tax bill by difference or provides a tax credit payment.</p> <p>In this way, consumers will not bear the additional costs and tax body will indirectly support new technology development towards cost reduction. New technologies will have to compete for the support on a first-come first-served basis, as there will be a limited budget and the Emerging technology price should decrease over time.</p>
SA rules	<p><u>Offtakers</u>: The consensus of the Wales authorities was that there is no State aid to the offtakers as the State resources flow through the offtakers, they do not stick and there is no net advantage. Notification under Article 107 may be an option for certainty. The IPPA proposal includes mechanisms to independently validate the amount of electricity provided by the generator that is purchased by the offtaker.</p> <p><u>Generators</u>: Article 25 of the GBER (Aid for research and development projects)</p>
Questions and discussion between participants and solution found	<p>New Revenue support proposal (Innovation Power Purchase Agreement) created a lot of State aid questions:</p> <p><b>1. Is there aid to the “offtaker”? Is there a transfer of State resources?</b></p> <p>Regarding the presence of aid to the offtakers, the practitioners found that there could be a transfer of State resources involved in reduced tax bill to the offtakers and that it would need to be considered if there is State aid for the offtakers engaging in economic activity.</p> <p><b>2. Do State resources flow through the offtaker to the generator? Is there aid to the generators?</b></p> <p>For the question whether State resources flow from the offtaker to the generator, practitioners’ opinions differed. It was taken into account that there were private resources used for buying the electricity from the generators but actually not all generators were final beneficiaries (only those selling the energy from emerging technologies), so there could be indirect aid to generators.</p> <p>Wales’ authorities felt that a notification was probably needed at the level of the generators, as there did seem to be a flow through of State resources.</p> <p><b>3. What were the criteria for the determination of the size of the company (SME)?</b></p> <p>Wales’s authorities would determine the size of the company based on evidence of headcount, balance sheet and turnover. We also take into account potential for partner and linked enterprises.</p>

<b>Case 7</b>	<b>Research and Innovation Strategy for the Smart Specialisation (RIS3CAT) and the applications of State aid threshold to investments (Spain, Catalonia)</b>
Short summary of the case	<p>In line with the Energy and Climate Change Plan 2012-2020 of the region Catalonia, there are several projects that received public financing, for example:</p> <ul style="list-style-type: none"> <li>- Energy reduction in buildings in rehabilitation (for residential, industrial or commercial buildings).</li> <li>- Production of synthetic fuels from biogenic carbon and water.</li> <li>- New technologies for smart grids (Innovations in sensors and remote-control systems, and distributed automation along the electrical grid).</li> </ul> <p>Excessive and inefficient bureaucracy (including the application of State aid rules) had a negative impact on the implementation of the measures.</p>
SA rules	De Minimis Regulation
Questions and discussion between participants and solution found	<p><b>Several questions regarding public financing challenges were discussed on the characteristics of the scheme and the applicability of State aid rules, and its compatibility with the GBER?</b></p> <ul style="list-style-type: none"> <li>- The State aid framework only applied to a very little number of projects from the private sector. Most of the projects tried to be regulated by the De Minimis Regulation. But as the companies were over passing the thresholds of €200,000 for the De Minimis, GBER was applied in some cases.</li> <li>- The increasing restrictions on financing which applied to these projects lead to a drastic reduction of the number of projects requesting the public funding.</li> <li>- Because of some lack of clarity of the State aid regulation and the terms of its application, performed audits found some incompatibilities with the State aid rules and several grants already allocated, had to be recovered. This led to de-stimulation for applying for public financing.</li> </ul> <p>The participants shared the view of the presenter that the <b>administrative complexity in applying the State aid rules</b> disincentives the presentation of projects that could be eligible. The companies, then, finance their projects by other means or abandon them.</p> <p>Most of the MS have a GBER framework (scheme) under which they publish the public tenders for project funding. This provides some legal certainty but, as GBER schemes are not scrutinised and approved by the EC, some risk of incompatibility with the State aid rules remains.</p>

Case 8	<b>Experiences in the application of State aid rules in ESCO model (Renovation of public buildings) (Croatia)</b>
Short summary of the case	<p>In many MS ESCO market is still in development. Most of the ESCO companies are small undertakings (constrained by financial capacity). There are some obstacles for the further development of ESCO markets, for example: the ESCO model is not fully recognised by the financial sector, especially due to the creditworthiness problem of newly established companies and the insufficient number of ESCO companies willing to take risks in energy renovation. The increase of the number of ESCO projects is therefore not possible without additional intervention of the State.</p> <p>Croatia has set up an Energy Renovation Programme for Public Building 2016-2020. Public financing can be obtained in different ways: directly co-financing of non-refundable funds from ESI funds, via energy efficiency contract (ESCO) and in addition the combination with financial instruments and national resources.</p> <p>Applicants could be:</p> <ul style="list-style-type: none"> <li>- The owners of the buildings (State bodies, institutions, units of local and regional self-government).</li> <li>- Users of the buildings (companies, natural persons, social bodies, etc.)</li> <li>- ESCO companies as a provider of the energy services.</li> </ul> <p>Assessment of possible existence of State aid has to be made on all three levels:</p> <p>1. At owner level, there is no State aid as they are not engaged in economic activity (public bodies).</p> <p>2. At the user of the building level, State aid could be present if the user is performing economic activity. In case primary activity is non-economic, and there is only a small share of economic activity, the 20% rule for ancillary activity is used.<sup>42</sup></p> <p>3. At service provider (ESCO) level, it is important to assess whether:</p> <ul style="list-style-type: none"> <li>- ESCO company is gaining an economic advantage from the EU funds (there is State aid to ESCO) or</li> <li>- ESCO company transfers all benefits from EU funds to a public building that can be considered as the ultimate beneficiary of the grant (no State aid to ESCO).</li> </ul>
SA rules	It was not decided yet which State aid rules should be used.
Questions and discussion between participants and solution found	<p><b>1. State aid and ESCO companies</b></p> <p>The main discussion between the participants was how to apply State aid rules on ESCO company, especially how to measure the benefit to ESCO companies, the whole amount of the grant? They could not reach a conclusion on this matter.</p> <p><b>2. What kind of public procurement was implemented for the selection of ESCO companies in Croatia?</b></p> <p>Croatian authorities performed an open public tender for the selection of ESCO companies.</p> <p><b>3. How are you planning to apply the condition for ancillary activity (20%)</b></p> <p>Representative from the Croatia explained that 20% of the total infrastructure capacities are commonly defined as spatial (building surface area in m<sup>2</sup>) and temporal (annual use of space) capacities, but also on the basis of the income derived from carrying out economic activities in relation to total revenues/coverage of non-economic expenditure. Also, for such auxiliary activities it should be evident that they arise from performing non-economic activities.</p>

<sup>42</sup> For more information see Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01), paragraph 207.

<b>Case 9</b>	<b>State aid experience in the area of renovation/energy efficiency measures in multi-apartment buildings, State and municipal buildings, ESCO contracts (Lithuania)</b>
Short summary of the case	<p>VIPA, acting as Lithuanian National Promotional Institution (NPI), is implementing ESIF and non-ESIF financial instruments. The following measures (Financial instruments) are performed by NPI:</p> <p><u>Multi-apartment building modernisation</u></p> <p>The measure is financed with a favourable loan. The loan is associated with the apartment (asset), not the specific individual. The owner of the apartment has an obligation to repay the loan. Up to 100% of the investment is financed and at least 40% energy savings are envisaged in the project. Beneficiaries are:</p> <ul style="list-style-type: none"> <li>- Physical person not engaged in economic activity (No State aid)</li> <li>- Physical person engaged in economic activity (de minimis aid)</li> <li>- Enterprise (de minimis aid)</li> </ul> <p><u>Renovation of Central Government Buildings</u></p> <p>The measure is financed with a favourable loan (blended with repayable grant). Beneficiaries are the owners (on behalf of the State) of building/premises, carrying activities in the building (hospital, police station, university, etc.) as well as tenants carrying activities in these buildings. Beneficiaries have a choice to take a loan themselves or to profit from ESCO model (selected through public procurement).</p> <p><u>Renovation of Municipal Buildings</u></p> <p>The measure is financed with loans to the owners of municipal buildings through financial intermediaries (commercial banks), selected via public procurement. The financial intermediaries leverage the energy efficiency aid with their private investments. There is a preferential remuneration (in the form of asymmetric risk sharing for financial intermediaries following GBER Article 39 (8)).</p>
SA rules	<p>De minimis aid in case the owner/user/tenant is performing an economic activity.</p> <p>Article 39 of the GBER (Investment aid for energy efficiency projects in buildings)</p>
Questions and discussion between participants and solution found	<p><b>1. How to assess the presence of State aid for tenants of the building?</b></p> <p>VIPA assessed the presence of State aid for tenants of the building in the following way:</p> <ul style="list-style-type: none"> <li>- if the entity is not engaged in economic activity – no State aid</li> <li>- if the entity is engaged in economic activity, the ancillary rule was used: if the economic activity was <math>\leq 20\%</math> no State aid, otherwise de minimis aid</li> </ul> <p><b>2. How to calculate the amount of de minimis aid for tenants?</b></p> <p>Calculations of the de minimis aid for tenants are based on energy savings. It is calculated pro rata (area occupied by tenant / total area*100) for the remaining rental period.</p> <p><b>3. Is there State aid to the National promotion institution (NPI)?</b></p> <p>Regarding the activity and financing of the NPI there is no aid as the remuneration for managing the funds does not exceed limits established in Re. 480/2014<sup>43</sup> following Re. 1303/2013 in accordance with Guidelines 1)</p>

<sup>43</sup> COMMISSION DELEGATED REGULATION (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund (OJ EU L 138/5, 13.5.2014).

	<p><b>4. In the case of tenants was it consider that an entity should primarily deal with a non-economic activity?</b></p> <p>Yes, it was considered.</p> <p><b>5. In the case a physical person renting out one flat inherited, it was consider as not economic activity but just fruit of the ownership, as did the EC asses for municipality in case SA.34891<sup>44</sup>?</b></p> <p>No, it was considered that every activity consisting in offering goods and services on a market is an economic activity, including the renting out one inherited flat.</p> <p><b>6. Is there also State aid for new tenants of the building renovated with public funds?</b></p> <p>No, because market prices for renovated buildings are higher. For the new tenants moving to the renovated building, market rates are applied, therefore the new tenant does not receive any aid/advantage.</p>
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Case 10	Energy renovation of family houses and State aid issues (Croatia)
Short summary of the case	<p>Ministry of Regional Development and European Union Funds in Croatia has set up the Family houses energy renovation program. The measures will cover:</p> <ul style="list-style-type: none"> <li>- Renovation of the outer envelope (thermal protection, replacing windows)</li> <li>- Replacement of the heating systems (new systems with gas condensing boilers)</li> <li>- Use of renewable energy sources (solar thermal collectors, installation of heat pumps and installation of small biomass furnaces).</li> </ul> <p>In 85% the beneficiaries are family houses primarily used for residential purposes and State aid is not present. Family houses are defined as buildings where more than 50% of the gross area is intended for housing. If some part of a family house was used for economic activities, de minimis aid was granted.</p>
SA rules	De minimis Regulation - if a family house is not primarily used for residential purposes but is used for economic activity.
Questions and discussion between participants and solution found	<p><b>1. There is an obstacle in Regulation (EU) 1303/2013 (CPR)<sup>45</sup>. It does not foresee a natural person as a beneficiary of the funds.</b> In line with Article 2 item 10 'beneficiary' means a public or private body.</p> <p><b>2. It was considered the renting of family house as economic activity?</b></p> <p>Yes, it was considered that an economic activity also includes rental of a house by means of a lease agreement by which the owner derives income.</p> <p>Not all the practitioners agreed with this assessment. It was not clear whether the regularity of the economic activity of the household is important.</p>

<sup>44</sup> Commission decision SA.34891 State support to Związek Gmin Fortecznych Twierdzy Przemysł, paragraph 25.

<sup>45</sup> Regulation (EU) No 1303/2013 of The European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ EU L 347/320, 20.12.2013).

<b>Case 11</b>	<b>Urban heating and cooling system - Implementing the article 41 &amp; 46 of the GBER regulation (Belgium, Flemish region)</b>
Short summary of the case	<p>A pharmaceutical company has received 9.5 million EUR from 3 different funds (ERDF, Call of green energy and Ecology support) for investment in energy from renewable sources (geothermal). The total project costs were 43 million EUR. The granting was performed by the Flemish Agency for innovation and the Flemish Energy Agency, which had limited experience with State aid cases.</p> <p>In addition to State aid rules, it has to be observed which cost can be financed from different EU funds. From <i>ERDF</i>, testing and second drilling could be funded, from <i>Call green energy</i> the cost of district heating and from <i>Ecology support</i> the first drilling.</p> <p>Special attention had to be given to the eligible cost under the GBER – only the additional cost to the conventional investment. And the big question was: What is in this case conventional investment?</p>
SA rules	<p>Article 41 of the GBER (Investment aid for energy from renewable sources)</p> <p>Article 46 of the GBER (Investment aid for energy efficient district heating and cooling)</p> <p>De minimis aid for publicity cost</p>
Questions and discussion between participants	<p><b>1. What is the ‘conventional’ investment?</b></p> <p>The Flemish participant has explained that they have consulted the EC, and, in this case, the ‘conventional’ investment was the high-efficiency gas boiler.</p> <p><b>2. Is there any deduct revenues?</b></p> <p>Here, we could observe some inconsistency between the State aid rules. Article 41 of the GBER does not require a deduction of revenues, but Article 46 requires the funding gap method<sup>46</sup>. Also, the CPR Regulation does not require deduction of revenues in State aid cases. As the project could not be divided, the funding gap method was used for the whole project.</p> <p><b>3. How did you calculate the revenues?</b></p> <p>The presenter explained that the template was developed according to the Guide to Cost-Benefit Analysis of Investment Projects, asking for special attention in including also the future savings obtained.</p> <p>The problem was also the time horizon as the revenues that could be generated after the programming period. Article 46 of the GBER requires that the operating profit shall be deducted from the ex-ante eligible costs or through a claw-back mechanism. Duration of the project is until 2023 and after this period public authorities usually do not monitor the project anymore. Due to the problems described, an external auditor was involved.</p> <p>Flat rate for revenues exists for research and development projects, however it does not for energy projects. But it will help if it would.</p> <p><b>4. What if the beneficiary was a public authority?</b></p> <p>For example, if the public authority build the district heating network and operate it by itself, the public authority would be regarded as an undertaking and public financing would have to be in line with the State aid rules. The most important consequence of being a public authority a beneficiary under State aid, is that its own contribution is considered as State aid as well. This means that the public authority has to prove that its own contribution has a private origin (most likely a bank loan).</p>

<sup>46</sup> Article 46 of the GBER: The aid amount for the distribution network shall not exceed the difference between the eligible costs and the operating profit. The operating profit shall be deducted from the eligible costs ex ante or through a claw-back mechanism.



Case 12	District heating and cooling and State aid (France)
Short summary of the case	<p>The aim of the initiative is to finance the investment in district heating. The owner and the operator would be the public authority (the City). Because public authority will operate the network by itself it is considered as undertaking (automatically large undertaking) and a lot of State aid questions arose in this regard.</p> <p>To receive some answers, National Authorities organised a meeting with the EC. The position of the EC was to use the GBER (article 46). But in the application of the GBER, a lot of new doubts regarding the correctness of application of State aid rules appeared and MS addressed questions to the EC via eState aid WIKI:</p> <p><b>Q: Is it mandatory to fulfil both requirements set out in Point 41 and 42 of the Directive 2012/27/EU, to be regarded as Directive 2012/27/EU efficient district heating and cooling? (see Article 2 (124) GBER)</b></p> <p>A: Yes, but if the first one is fulfilled, the second one must be fulfilled as well.</p> <p><b>Q: Which part of energy efficient district heating and cooling (production plant, the network) could be eligible under article 46 GBER?</b></p> <p>A: Only a distribution network part of an efficient district heating and cooling system is eligible for aid under Article 46 of GBER.</p> <p><b>Q: Notification threshold under GBER is 20 million EUR. Is it possible to grant 60 million EUR to three different undertakings, 20 million EUR each, under the same investment project?</b></p> <p>A: Yes. The threshold is per undertaking and per project.</p> <p><b>Q: How to define depreciation period?</b></p> <p>A: Depreciation period is the economic lifetime of the investment. The selection of the method to apply (ex-ante or claw-back mechanism) is not mandatory, as long as the choice is based on objective, non-discriminatory criteria.</p>
SA rules	Article 46 of the GBER (Investment aid for energy efficient district heating and cooling)
Questions and discussion between participants	<p>After the presentation participants discussed further possibilities for assessing the elements of State aid with the presenter:</p> <p><b>1. Could the infrastructure (owned and operated by public authority) be regarded as local</b> (no effect on trade between MS – no State aid)?</p> <p>The position of the EC was that there are too many activities and that the trade in the energy sector is to be regarded as local.</p> <p><b>2. Is there a legal or natural monopoly?</b></p> <p>No, it is an open market.</p> <p><b>3. Could the rules for the SGEI be used?</b></p> <p>No, the regions explained that this could not be a SGEI. Because there is no public tender and it can be really difficult to use net avoided cost methodology.</p>

<b>Case 13</b>	<b>Biogas project – State aid rules limiting the development of gasification in the transport sector (Finland)</b>
Short summary of the case	<p>A small agricultural studies institution proposed a project with two action lines; the first one foresaw the creation of a biogas plant to enrich biogas to 95-96%; and the second one planned to set up a transport fuel filling station.</p> <p>The project was supported by the regional government that requested ERDF funding from the National Authorities. However, the national government refused to use the GBER, claiming that the procedure was too long, being the only option to opt for funding the initiative via De minimis regulation.</p> <p>However, as the costs associated to the project were much higher than de minimis threshold, the plant could not be built due to the lack of funding. The biogas produced by the farm was used to warm up the school buildings.</p>
SA rules	De minimis aid
Questions and discussion between participants	<p><b>1. The problem is political</b> – disagreement between regional and national government, which refuses to apply GBER Regulation due to its complexity. Regional councils can therefore apply only de minimis rule and are limited in granting EU funds.</p> <p><b>2. Why cannot the regional government use the GBER directly?</b></p> <p>Regional governments are not allowed to use the GBER due to its role as an intermediary body which has to follow the rules set out by the managing authority (national ministry). Other practitioners have never come across such a problem.</p>

<b>Case 14</b>	<b>State aid for Bio-methane plants (France)</b>
Short summary of the case	<p>The local authority would like to provide incentives for Bio-methane plant to favour clean public transport. Funding would be made by national and EU funds (ERDF). The idea is also to attract other local authorities in joining the project. The Bio-methane plant will be built and operated by the local authority itself, that will act as an undertaking. Before the implementation of the project, several questions on how to bring the financing in line with the State aid rules, arose.</p>
SA rules	The possibility to use the rules for Services of general economic interest (SGEI) <sup>47</sup> is being considered.
Questions and discussion between participants	<p><b>1. Is the local authority a large enterprise?</b></p> <p>The position of the EC was that local authority is automatically considered as a large enterprise, in line with the Article 3(4) of the Commission Recommendation on the size of SME.<sup>48</sup> Practitioners discuss the idea that additional category of enterprise should be introduced for the purpose of EU programmes.</p> <p><b>2. How to deal with the self-financing in this case?</b></p> <p>Apparently self-financing of the local authority would be regarded as State aid.</p> <p><b>3. Could the project be regarded as “local”?</b></p> <p>It is difficult to distinguish what is local and what is not. In the energy sector such projects usually do not fall into the “local activity”.</p>

<sup>47</sup> For more information, visit [http://ec.europa.eu/competition/state\\_aid/legislation/sgei.html](http://ec.europa.eu/competition/state_aid/legislation/sgei.html)

<sup>48</sup> COMMISSION RECOMMENDATION of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (notified under document number C(2003) 1422) (2003/361/EC)

### 3.2 Added value of the presentations and discussion

Presentations and discussions touched upon a great variety of topics (financing of energy efficiency, financial instruments, specification of eligible costs, emerging technologies, ESCO models, district heating and cooling system, division between the economic and non-economic activity, etc.). Participants presented information on different energy-related initiatives developed in their MS and shared their ideas on how to face the different challenges around State aid rules. During the discussions, practitioners also shared the questions they have already posed to the EC and the answers provided (directly or on eState aid WIKI). Many questions were common to the different MS, but the answers to them usually differed, finding several possible solutions.

After the 14 presentations and the subsequent debate, it was apparent that State aid is, sometimes, still a twilight zone. Participants considered that GBER has placed enormous responsibility on the MS for correctly applying the State aid rules. At least, before the GBER, the rules applying to State aid were clear. This situation could be even worse with the development of financial instruments, making State aid schemes even more complex to manage.

For the alignment with State aid rules, mostly de minimis regulation was used, GBER being the second option. This is also due to the administrative complexity in applying the GBER, thus many projects that could be eligible do not apply for public financing.

The following **challenges** were discussed at the workshop:

- Division between the economic and non-economic activity

One of the important questions dealt with was the division between economic and non-economic activity. In spite of several decisions of the EC and EU Court, there are still a lot of different interpretations of the division between economic and non-economic activity. In borderline cases, participants did not come to a final conclusion (for example in case of a natural person renting out one property a common understanding was not reached between participants). Practitioners agreed that an additional support from the EC would be needed for clarifying this question. For instance, it was proposed that the EC should prepare a **“Notion of Economic Activity”** document, where all criteria that are important for assessment of economic activity would be listed with practical examples:

- Division between the prerogatives of the State and economic activity.
- When is it important if the payment does not cover the cost of the services (only in the field of education and culture or in general)?
- When and how can the rule 20/80 be used?
- When it is relevant if beneficiary performs economic activity regularly?
- When is it important if market exists?

- EC replies on eState aid WIKI

A lot of the debate was focused on the EC replies on eState aid WIKI and the non-uniformity of the EC responses. Although MS use eState aid WIKI a lot and rely on the answer provided, the practitioners concluded that there are sometimes different responses from the EC, creating confusion. **It is, therefore, recommended that the EC coordinate its responses.** The EC could also collect the eState aid WIKI responses by topics and publish it on a yearly basis on their web pages or in a separate document (for example FAQ on eState aid WIKI).

Practitioners have also considered whether they should draft a new tool for Q&A - CoP Wiki (a new eWIKI among practitioners organised within the CoP to share experiences, questions and answers, also addressing inconsistencies from EC replies).

- Size of the enterprises – local authority

According to the State aid rules, local authority is automatically regarded as a large enterprise (Article 3(4) of the Commission Recommendation on the size of SME) when performing an economic activity. Consequently, the own contribution of local authority (self-financing) is considered as State aid as well, so public authority has to provide “an own contribution” from a private origin (for example a bank loan). To overcome this problem, practitioners discussed the idea of creating an additional category of enterprises (in this case of local authorities) to be included for the purpose of the EU programmes.

- The use of the rules for regional aid (article 14 of the GBER) for energy investments.

GBER seems quite clear about this issue but different EC replies on eState aid WIKI had created some uncertainty among practitioners. Practitioners would welcome additional explanation from the EC, for example in the document **Frequently asked questions (GBER)**.

- Simplification of the State aid rules

Participants have observed that the administrative complexity in applying the State aid rules has prevented that many projects, that could be eligible, finally did not apply for aid and have to be funded from other sources or, at last, abandoned. It was suggested that the State aid rules for the next financial period should be simplified.

- Other areas where practitioners would appreciate additional support and guidance from the EC include:

- ESCO financing model (how to calculate the benefit for ESCO companies, how to determine the indirect advantages).
- Energy efficiency in buildings (how to calculate the amount of aid for tenants).
- Calculation of eligible cost in case of energy investment (conventional investment and counterfactual scenario).
- Ancillary activity (how to measure the capacity of ancillary activity, when can the 20% rule be applicable and its limitations).
- How to assess the Market economy investor principle (MEIP) in capital investments?
- How to calculate the revenues (regarding the time horizon as the revenues could be generated after the programming period)? It was observed that flat rate for revenues exists for research and development projects, however not for energy projects. Practitioners would find it helpful if flat revenues would be possible also in the energy sector.

- Contradiction in the Cohesion policy and Competition policy

Practitioners agreed that Cohesion policy and Competition policy are sometimes contradictory (in cases where Cohesion policy says YES, and State aid policy says NO). Consequently, it is sometimes difficult to implement (and finance) the measures that DG REGIO is providing and at the same time apply the State aid rules. A **closer cooperation between DG COMP and DG REGIO** could help to minimise those incompatibilities and incoherencies and better facilitate the absorption of European funds. For this reason, CoP proposed to identify a **special Champion for inconsistency between different EU policies** with the purpose to identify the problems and to address them to different DGs, especially DG COMP, DG REGIO and DG ENER.

- Consequences of revealing the MS problems to the EC

In questioning how to overcome this problem, practitioners proposed that, instead of exposure the specific MS, the practitioners could, within the CoP, jointly address the State aid questions to the EC. For this reason, it was proposed that the CoP could be recognised by the EC as a legitimate Community.

- Qualification of auditors

The qualification of auditors who are making an ex-post checking of the public funding is another issue discussed between the practitioners. In their opinion, the auditors do not understand the financial mechanisms, because their mentality is mainly set for grants. Practitioners would therefore suggest that more specific training courses are provided to auditors (for example within the CoP or by the EC itself).

### **3.3 Designing the State aid Map(s) in the Energy Sector**

What is a State aid Map and what does distinguish it from other documents and tools? A State aid Map is a schematic representation of the State aid rules, a road map to guide practitioners in the labyrinth of the numerous State aid documents (which documents to use, where to find the legal and non-legal information we need when addressing specific State aid questions). It is a tailor-made tool (made by the practitioners for the practitioners), which addresses questions that arise in the practical work regarding State aid matters. These State aid Maps could help all MS to apply appropriately State aid rules in projects co-financed through the ESI Funds.

#### **3.3.1 Steps in developing the maps**

Before drafting the maps, practitioners had gotten acquainted with the structures and contents of previous State aid maps<sup>49</sup>, listed the relevant documents in the energy sector and decided about the scope of the exercise. It was decided to prepare one general map (transversal) which will cover issues that are common for all sectors of energy and three sectoral maps, covering specific fields of energy (e.g. Energy efficiency/Sustainable buildings, Renewable energy and District heating and cooling). The map on electricity/smart grids could not be drafted as the practitioners present at the workshop were not dealing in practice with the specific topic.

The participants decided on which map they wanted to work on according to their experience. Before drafting the maps, they tried to find the best form for the map to be as transparent and useful as possible for other practitioners.

Then, they identified the most important issues faced in the implementation of public funded projects and grouped the questions regarding the topic. Each group identified one or two main questions. For example:

- When is the activity in the energy sector economic and when non-economic?
- Is there State aid involved?
- How to make State aid compatible?
- Which rules could be used to finance energy investments?
- How to calculate the founding gap?
- What are the convention investment costs?
- How local is "local"?

Following the decision on the questions the map(s) should address, the practitioners tried to find the potential answers in the supporting documents and listed them. In order to be more transparent and divide the documents used according to their nature, different colours were used: green was used for legal documents, pink for non-legal and yellow for the case law.

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<sup>49</sup> State Aid Maps in the RDI Sector, Transport Sector (transversal), Rail sector, Road sector, Maritime Sector and the Aviation sector: <https://regiopractitioners.wordpress.com/state-aid/>

### 3.3.2 Presentation of the maps

After the first draft, each group presented their map. Champions for each map were chosen for further help with the State aid questions for other practitioners dealing with public funding in specific field of energy. The four maps are explained below:

#### 1. Transversal map

The transversal map tries to address questions that are of concerned to all areas of energy.

Two starting questions were proposed: 1) What is an undertaking? 2) Is the public financing for an economic or a non-economic activity? Then, the division regarding the investment aid, operating aid and SGEI is made with the notice which rules could be used when providing public financing to it. As the financial period 2014 -2020 is running out, the map also includes information about the possible changes of the State aid rules (Post 2020). Three documents are important in this regard:

- Fitness check –The EC will review the GBER, de minimis regulation, Guidelines on Regional aid, the Framework on RDI; Guidelines on State aid for Environmental Protection and Energy
- Omnibus regulation 6 July 2018
- Two recent texts: new RES directive<sup>50</sup>, new Market design regulation.

During the workshop, the practitioners also identified some inconsistencies between EU policies (difference between State aid rules and other regulations), therefore questions regarding inconsistency are also included in the map.

#### 2. Energy efficiency (in buildings) map

The main question this map addresses is related how to identify if an aid have to be treated as State aid.

As there are different rules and articles of the GBER regarding the form of the aid, the map is divided into two parts answering the following questions: 1) Which are the rules for financial instruments (FI)? and 2) Which rules apply for grants? The map then addresses questions such as: How to design a financial instrument (FI) scheme for not being considered State aid? Which rules should be used for different level of beneficiaries (owner, operator, users)? When is there a need to notify the measure to the EC?

Some unsolved questions in financing the energy efficiency in buildings are also identified, such as: Is renting of buildings always economic activity? Are tenants the recipients of aid?

As Energy efficiency in general is not included in the map, the map may further evolve in time.

#### 3. Renewable energy sources (RES) map

The renewable energy map is focusing on different practical questions: Why do we want to finance RES? How to prove the incentive effect? Is it a research project? Could we use rules for regional aid?

Practitioners find the corresponding document and cases and sort them to address those questions.

They also address the connections with transversal map regarding the smart grids, storage, batteries, district heating and cogeneration.

#### 4. District heating and cooling map

The map of district heating is not specific, as it does not cover only RES but is applicable also for other sources of energy. The practitioners analysed questions as follows: Is the financing in line with Market economy investor principle (MEIP)? Is there a natural monopoly?

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<sup>50</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018)

# SAM IN ENERGY TRANSVERSAL

Between EU Energy Policy and State aid: The same outcome can potentially be achieved by different routes. There is a risk of conflicting outcomes being pursued through the various routes.

State aids regulation and European energy law (mainly the new Energy Efficiency Directive) are intended to reach with each policy (State Aid and Energy policy)?

There are inconsistencies between State aid rules and cohesion policy rules: Some things which can get EU financing are not allowed by the State aid rules. Other things are allowed under State aid rules, but they are not included for cohesion policy."

Art. 41 & 46 only allow investment costs. Cohesion policy obligates beneficiaries to make communication costs, how can you make those costs eligible. We use de-minimis combined with GBER for this.

Which one of these two different regulations (Funds regulation and State Aid one) we should follow if they are different?

Why are there so many differences between Funds regulation and State Aid one?

Better regulation guidelines

CSRD (2023) - very good guidance on State aid in ESF funds and ERDF funds - 2023

Public funding for non-economic activities is not State aid: non-economic activities need to be clearly separable from economic ones. In the energy sector, most activities are 'economic'. Examples for non-economic activities: Energy production for exclusively own use (e.g. photovoltaic appliances with no feed-in to the grids). Possibly energy efficiency support for private housing.

## I INVESTMENT

Regulation 651/2014 GBER  
AA 48 Invest aid for energy production

Regulation 651/2014 GBER  
AA 49 Invest aid for renewable energy

Investment aid criteria Regulation 651/2014 GBER  
AA 39

Regulation 651/2014 GBER  
AA 46 Invest aid energy efficiency district heating

Regulation 651/2014 AA 45 Invest aid environmental protection (acquisition of a pollutant vehicle)

## III SGEI

Service of General Economic Interest: Altmark judgment (Case 280/00) concept of State aid art 107 TFUE

Altmark judgment (Case 280/00)

Regulation 360/2012 measures to undertake providing SGEI

AA 107 TFUE

(Altmark judgment Commission case)  
Aids for SGEI (art 107(1) TFEU)  
Commission Decision of 2011 public service compensation tests  
Commission Decision of 2011 public service compensation tests (art 107(1) TFEU)

## RATING AID

DG Regio bid on Energy Infrastructure (energy grid)

Energy Key 1404/2013 Memo Investment II Supporting III

## IV Post 2020

Fitness Check Evaluation  
- GBER  
- De minimis  
- Environmental regional aid (ERDF)

Fitness Check Framework of LDI (Evaluation of State aid for environmental protection and energy (ERDF))

Member Regulation 6 July 2018 (on fundamental)

New RES Directive (2018)

New Climate Change Regulation (2018)

36



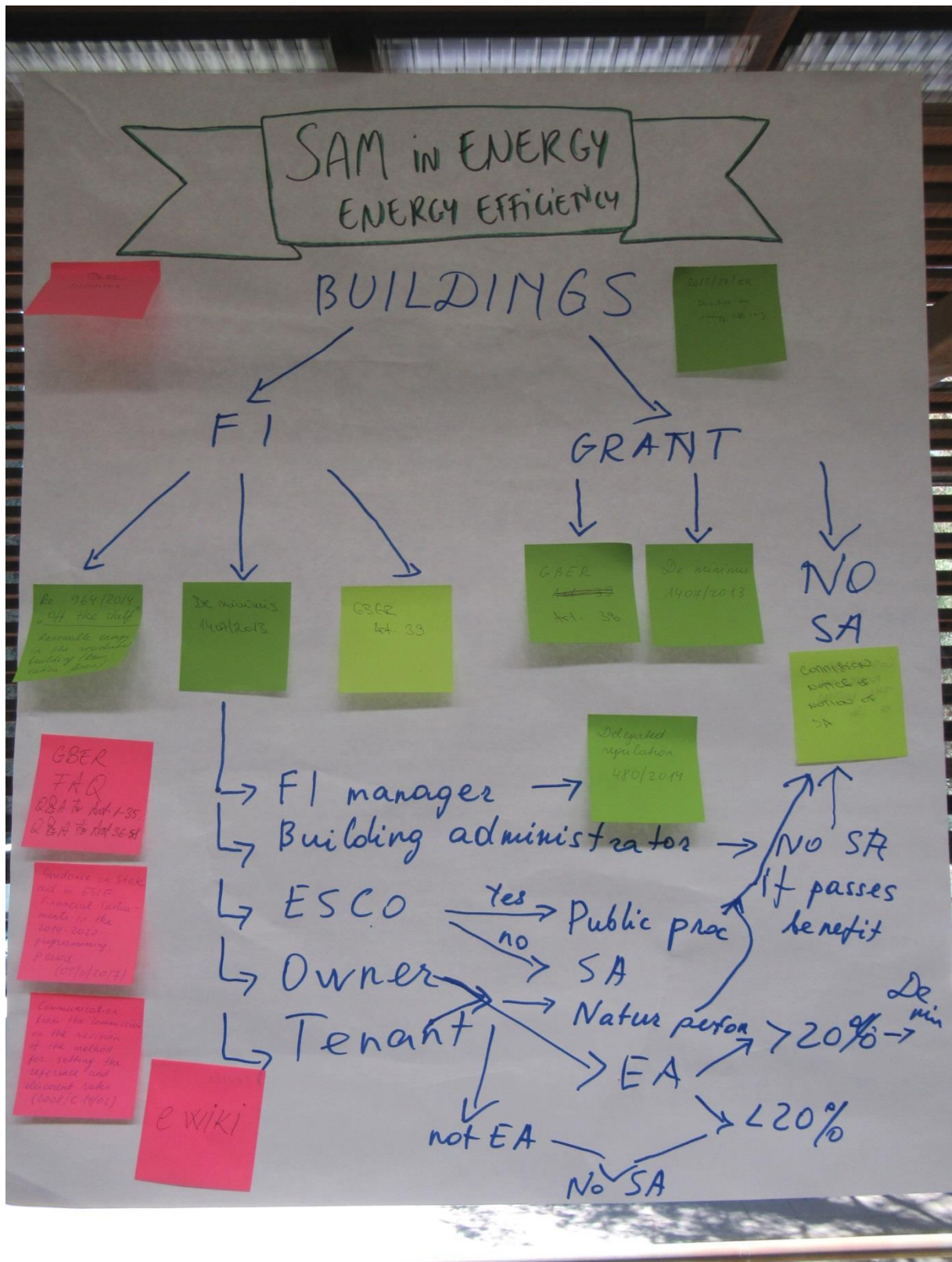


Figure 5: Energy Efficiency map







Figure 7: District Heating and Cooling map

### **3.3.3 Finalisation of the maps and possibilities for further development**

The drafting the maps is an evolving process, which also requires a continuous monitoring and updating. For instance, in the transversal map, there is an issue that will need to be followed post 2020. The EC is making an evaluation of the current rules and will classify the rules in three categories: big changes, small changes or no change at all. It is also possible that there will be an extension of certain rules until 2022. The transversal map could therefore be finished only after the evaluation made by EC.

During the workshop, the attendees decided to convene follow-up webinars and workshops to proceed with the further steps toward an upgraded definition of State aid maps in energy. Among them, amendment of the maps (for example, with additional documents, cases from the EC and the judgments of the EU Court) and preparation of additional maps in the field of energy (i.e. general map on the energy efficiency and the map for electricity grids).

The resulting maps and supporting documents are also available in an electronic form on the CoP web site. All legal documents are collected and organised on one single page (Regulations, Guidelines, Commission Staff Working Documents, Draft Notes, Check lists, etc.): see example of the map for RDI<sup>51</sup>. When dealing with State aid, the non-legal documents are also especially important, since they provide us with the interpretation of the regulations and help to solve many practical problems. Access to this information is granted as well in the CoP website.

Direct links to State aid cases from the EC and the judgments of the EU Court also have an added value for the understanding the grey areas of State aid.

A webinar can also be organised to present the maps in the energy sector to the broader energy Funds Managers Community. The information regarding the map can also be further disseminated to the wider Community via the S3 Platform website, LinkedIn, Facebook, e-mails, etc.

Although the maps were the main output of the workshop, the process of drafting them gave the practitioners additional opportunities to learn along the way. A lot of practitioners got new ideas on how to finance energy infrastructures. They realised, for example, that they are not tied only to the use the de minimis rule or the GBER articles that cover the aid for energy but, instead, it is possible to use State aid rules for local infrastructure, for Services of General Economic Interest, for research, development and innovation, or in some cases also rules for regional aid.

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<sup>51</sup> [https://regiopractitioners.files.wordpress.com/2017/08/30082017\\_state-aid-map.pdf](https://regiopractitioners.files.wordpress.com/2017/08/30082017_state-aid-map.pdf)

## 4 Conclusions

State aid rules are one of the complex areas in the EU legislative framework. The understanding and application of State aid rules in practice is often an unknown territory for EU fund practitioners.

ESI Funds managers for S3 and energy across the EU have also confirmed to the S3PEnergy that the assessment whether their public interventions constitute State aid and whether the measure is compatible with the EU competition law is a constant challenge. The correct application of State aid rules -both in the design and implementation of Cohesion Policy support measures in R&I and energy- is essential for avoiding irregularities and financial corrections after procurement, ensuring therefore the quality of the investments, and hence contributing to optimise the application of EU funds.

For legal certainty, practitioners often turn to the EC for advice. However, DG COMP is not always in the position to address all the practical questions of the practitioners from the different MS. Therefore, the initiative of DG REGIO to create and further support a mutual learning community between State aid practitioners and specific thematic events, like this multicountry workshop on state aid in Energy co-organised by JRC and the region of Andalusia, are very welcomed.

The **workshop on State aid map in the energy sector** offered the practitioners from different MS the possibility to discuss concrete technical and legal problems and challenges that State aid practitioners and Managing authorities encounter on a daily basis regarding public funding to projects in the field of energy. All the presentations made during the workshop and the exchange of perspectives gave the practitioners the chance to learn and recognise (and avoid) mistakes that were done (or could be done) when applying the State aid rules. Some advices from past informal communications held between the participating experts and the EC were also of great value as they are not published anywhere.

The **most common challenges** in the State aid assessment of energy projects that were identified by the practitioners are:

- **Division between the economic and non-economic activity** in case of the natural person and local authorities. Two specific questions were raised: how to measure the benefit for the tenants (natural person performing an economic activity) and why self-financing of local authority (performing an economic activity) is regarded as State aid.
- **Defining local authority (“undertaking”) as a large enterprise** (in line with the article 3(4) of the Commission Recommendation on the size of SME). Consequently, stricter State aid rules apply to its financing capacity.
- **Applicability of the GBER rules for regional aid to energy investments**. Some challenges occurred due to the different EC replies on eState aid WIKI (as seen from the summary of the presentations in chapter 3.1 Case 3).
- **Determination of the counterfactual scenarios** in the case of energy efficiency measures, particularly the establishment of what “the conventional investment” is (see more details in Case 11 of this report).
- **Application of the ancillary activity rule (20%)**, especially how to measure the capacity of ancillary activity.
- **Assessment of the influence on trade between MS** (local effect) in the energy sector where no EC decisions exists yet.
- **Administrative complexity in applying the State aid rules**, which also causes low absorption of EU funds, as companies do not fully apply for public funding.
- **Calculation of the revenues** as, regarding the time horizon, the revenues could also be generated after the programming period.
- **How to calculate the benefit for ESCO companies and the tenants**, the whole amount or just the indirect advantage.

- **Consequences of revealing the MS problems to the EC** and receiving the control of the State aid schemes afterwards.
- **Lack of the qualification of the auditors**, who are making an ex-post evaluation of the public funding.
- **Contradictory replies from the EC on eState aid WIKI**. According to the practitioners, the eState aid WIKI tool is particularly useful and the replies from the EC provide an adequate solution in many cases. Nevertheless, there are some contradictory replies from the EC on eState aid WIKI, which do not contribute to the best possible understanding of the State aid rules.
- **The need of a consistent cross-policy approach**. The practitioners notice some lack of coordination between EU policies (i.e. requirements contradicting regarding the eligibility of the cost, the amount of aid and the application of the funding gap method). Therefore, it can be difficult to balance the different objectives of Cohesion and of Competition policies in the energy sector. According to practitioners, an improvement of the cooperation between different DGs would be appreciated.

### **Proposed actions**

For all the above-mentioned uncertainties and challenges, the practitioners attending the workshop have expressed that they would welcome further clarification and coordination actions. To overcome the difficulties in the State aid assessment of energy projects identified by the practitioners, and improve legal certainty in the application of State aid rules, some additional actions for the practitioners, Communities of Practitioners (CoP) and the European Commission (EC), were proposed:

#### Proposed actions to be carried out by the practitioners (regional/national authorities):

Although, when addressing the challenges regarding State aid that they face in their daily work, the practitioners rely mostly on the opinions of the EC, some actions could be carried out by the practitioners themselves:

- In the situations where there are different EC eState aid WIKI replies or inconsistencies in cross-policy approach, the practitioners could gather those differences and address them to the EC.
- Practitioners could encourage the auditors for conducting an ex-post evaluation of the public funding to carry out additional training courses in the field of State aid.
- Practitioners could engage themselves in further learning and training about the assessment of State aid and share more actively their knowledge and experiences with others (for instance in the frame of the CoP).

#### Proposed actions to be carried out by the Communities of Practitioners (CoP):

With the creation of the CoP, DG REGIO has offered a valuable learning tool among practitioners. The participants of this network expressed that they would appreciate if DG REGIO could continue with this approach and provide further development, as follows:

- Drafting a new tool for Q&A - CoP Wiki. In addition to the share of experiences, questions and answers between the practitioners, CoP WIKI could also gather the inconsistencies between the EC replies.
- Possibility for MS practitioners to address jointly State aid questions to the EC, recognizing the CoP as a legitimate Community.
- Organising additional thematic workshops in the future, for example:
  - Electricity grids,
  - Environmental aid (Union standards, Waste recycling, Environmental taxes),
  - SGEI,
  - Assessment of the size of the enterprises (SME definition),



- Assessment of trade between MS (local effect),
- Specific aid instruments (how to calculate the aid element),
- Broadband infrastructure,
- Regional aid and State aid workshops for auditors.

#### Proposed actions to be carried out by the EC:

In the last financial period, the EC did a great effort to work closer with the MS and support them in their decision-making procedures (simplification of the rules, enlargement of State aids exempted from the prior notification, creation of the eState aid WIKI). At the same time, there are still some areas where additional contributions from the EC would be highly appreciated. The participants of the workshop suggested that the following actions could be carried out by the EC:

- To provide a consistent cross-policy approach and increase the cooperation between DG REGIO, DG COMP and DG ENER.
- To align the requirements in the Structural funds regulations and State aid rules in the energy sector (in terms of eligible cost, the amount of aid and the application of the funding gap method) in cases where the financing from Structural funds represent State aid.
- To consider the inclusion of the additional category of an enterprise for the purpose of EU programmes (in cases of municipalities performing an economic activity) and flat rate for revenues also for energy projects.
- To recognise the CoP as the appropriate body representing the practitioners from all MS and as a channel for communication with the EC.
- To provide further clarifications regarding the division between economic and non-economic activity. The participants have considered whether the preparation of a separate document on the “Notion of Economic Activity” could be possible.
- To review and coordinate the EC replies on the eState aid WIKI, and additionally to consider collecting them by topics and publish them in a separate document (for example a FAQ section on the eState aid WIKI).
- To provide clearer instructions regarding the applicability of the GBER rules for regional aid to energy investments.
- To decrease bureaucracy and consider the possibilities for simplification of the State aid rules.
- To provide further examples of determining the counterfactual scenarios in the case of energy efficiency measures and the use of the 20% rule (ancillary activity).
- For the next financing period, to minimise the bureaucracy and reduce the conditions that the companies have to fulfil when applying for EU funds. Although State aid rules should safeguard the competition in the internal market, at the same time they should not discourage companies from applying for EU financing.

One of the purposes of the CoP is also to provide legal certainty for practitioners. However, this is difficult to achieve only within an informal group of practitioners, who cannot find adequate answers to all questions raised in the workshop(s). Therefore, it was proposed that the open questions could be formally addressed to the EC directly by the CoP. It is suggested that the EC could consider the proposal of the **CoP** to recognise it as the appropriate body representing the practitioners from all MS and as a **channel for communication with the EC**.

In order to contribute to a better understanding and clarity of the State aid rules by the ESI Funds managers in the field of energy, the workshop’s participants have drafted several **State aid maps in the Energy sector**. These maps will be beneficial to the whole community of State aid practitioners as they provide legislation, documents and cases necessary for compatible financing of the energy projects in one place. As practitioners

use different ways of applying the State aid rules, drafting the maps was also a great opportunity to learn about un-official documents, which other practitioners used to find additional information for interpreting the rules. The attendees recognised that the work on the maps itself was a great benefit and an excellent learning method.

Even though this kind of workshops provide a small pebble in a mosaic of tools to understand State aid rules, they are very important for the practitioners. The red thread of this and other previous workshops organised in the framework of the CoP on the preparation of State aid Map was the following sentence: “I’m not alone anymore!” Namely, State aid practitioners in different MS often feel alone and have no one to address their questions and problems. After the workshop, all participants felt relieved, and saw that many colleagues in different MS face similar challenges and that they are now able to discuss these challenges with their peers.

The process of this workshop has not really finished yet. The participants agreed that they wish to organise follow-up interactions between them via e-mails, blog and webinars. Hopefully, the practitioners include this new knowledge in their daily work, maintain the connection with colleagues from other MS, and further share their experience among them and with their regional/national policy makers and EU funds managers responsible for S3 and energy.

Although the concrete output of the workshop are the State aid maps on energy, there is a lot more every practitioner will carry back home, such as the feeling of cooperation, the sharing of ideas and experiences, the solutions to practical problems and lastly, the awareness that we are all connected in this complex world of the State aids.

## List of abbreviations and definitions

CoP	Community of practitioners
CPR	Common Provisions Regulation (Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006)
EC	European Commission
EE	Energy efficiency
ERDF	European Regional Development Fund
ESCO	Energy Service Company
ESIF	European Structural and Investment Funds
eState aid WIKI	IT-tool to facilitate informal exchanges on general State aid matters between the European Commission's services and the Member States and EFTA countries (including the ESA).
EU	European Union
FI	Financial instruments
GBER	General Block Exemption Regulation
IPPA	Innovation Power Purchase Agreement
MS	Member State
NPI	National Promotional Institution
RES	Renewable energy sources
RDI	Research, development and innovation
RIS3	Research Innovation Strategies for Smart Specialisation
S3	Smart specialisation strategy
S3PEnergy	Smart Specialisation Platform on Energy
SA	State aid
SAM	State Aid Modernisation
SGEI	Services of general economic interest
SME	Small and Medium Enterprises
TO	Thematic Objective
TFEU	Treaty on the Functioning of the European Union



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## **Annexes**

### **Annex 1. Agenda of the workshop**

Also available here: <http://s3platform.jrc.ec.europa.eu/-/taix-regio-multicountry-workshop-on-state-aid-map-in-energy-sector>



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# **TAIEX-REGIO**

## **Multicountry Workshop on State Aid Map in Energy Sector**

organised in cooperation with

**Agency for Innovation and Development of Andalusia (Spain)**

**Andalusian Energy Agency (Spain)**

**Smart Specialisation Platform on Energy, Joint Research Centre, European  
Commission**

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**19-20 March 2019**

**Venue:**

**Smart Specialisation Platform on Energy, Joint Research Centre**

Edificio EXPO, Calle Inca Garcilaso, 3

41092 Seville, SPAIN

*Room A30 – 1st floor*



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Organised and funded by the  
**Technical Assistance and Information Exchange Instrument**  
of the European Commission

**TAIEX** SHARING  
EU EXPERTISE  
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## Aim of the Workshop:

The aim of the workshop is to:

- construct a State aid map in the Energy sector;
- create a forum for a fruitful discussion among State aid practitioners and officers from Managing Authorities and Intermediate Bodies working in Energy Sector projects financed by ESIF.

Overall, the workshop will enable to facilitate the application of State aid rules to practitioners from Managing Authorities and Intermediate Bodies implementing support measures to energy related projects under investment priorities related to three thematic objectives (TO):

- TO 1: Strengthening research, technological development and innovation;
- TO 4: Supporting the shift towards a low-carbon economy;
- TO 7: Promoting sustainable transport and improving network infrastructures.

## Day 1: Tuesday 19 March 2019

**Venue: Joint Research Centre, C/ Inca Garcilaso, 3, 41092 Seville - Room A30**

8:30 – 9:00	Registration of participants
09:00 – 09:10	<p>Official Welcome</p> <p><b>Luis Delgado Sancho</b>, Acting Director of the Growth and Innovation Directorate, Joint Research Centre (JRC), European Commission</p> <p><b>Isabel Álvarez Carmona</b>, Director General of European Funds, Regional Ministry of Economy, Knowledge, Enterprise and University of Andalusia (Spain)</p> <p><b>Jorge Jiménez Luna</b>, Managing Director of the Andalusian Energy Agency (Spain)</p>
09:10 – 09:15	<p>Presentation of the aim of this workshop, agenda for the next two days</p> <p><b>Fernando Mérida Martín</b>, Smart Specialisation Platform on Energy (S3PEnergy) coordinator</p> <p><b>Palma Muñoz Morquilla</b>, Agency for Innovation and Development of Andalusia (Agencia IDEA) (Spain)</p>
09:15 – 09:20	<p>Introduction to the workshop within the frame of the DG REGIO Communities of Practitioners</p> <p><b>Marcelline Bonneau</b>, REGIO Communities of Practitioners' Manager</p> <p><b>Bruno Mola</b>, DG REGIO, European Commission</p>
09:20 – 09:25	<p>Presentation of Rapporteur's role</p> <p><b>Jana Rudolf-Mesarič</b>, Slovenian Ministry of Finance, State Aid Monitoring department</p>
09:25 – 09:50	Ice-breaker
09:50 – 10:20	<p>Presentation of State aid rules in the S3: the State aid map as a tool to facilitate the application of State aid rules in the Energy Sector</p> <p><b>Palma Muñoz Morquilla</b>, Agencia IDEA</p>
10:20 – 11:15	<p>State aid and Energy Sector: Exchange on the issues faced by the participants to the workshop</p> <p><u>Renewable energy sources:</u></p> <ul style="list-style-type: none"> <li>• "RES support reduction for energy-intensive users" by <b>Justina Ratkevičiūtė</b></li> </ul>
11:15 – 11:35	Coffee break
11:35 – 12:30	<p>State aid and Energy Sector: Exchange on the issues faced by the participants to the workshop (cont'd)</p> <p><u>Energy efficiency</u></p> <ul style="list-style-type: none"> <li>• "Financial instruments (with energy efficiency) and State aid – a happy end?" by <b>Bernardo Campos</b></li> <li>• Specification of eligible costs for investment aid for the promotion of energy from renewable sources and for investment aid for energy efficiency measures in cases when the counterfactual scenario is applied." By <b>Zsófia Hertelendy</b></li> </ul>
12:30 – 12:50	Break

12:50 – 14:00	<p>State aid and Energy Sector: Exchange on the issues faced by the participants to the workshop (cont'd)</p> <p><u>Financial Instruments</u></p> <ul style="list-style-type: none"> <li>• “The rules and problems encountered in the implementation of State aid in the ROP context in the North-East region (innovation, energy, transport - the three thematic objectives in the invitation); the expected impact of the State aid granted towards the three thematic objectives in the North-East region of Romania.” by <b>Ghimpu-Teodorescu Florin</b></li> <li>• “Experience on Financial Instruments for Energy Sector” by <b>Stefan Mathesius</b></li> </ul>
14:00 – 15:00	<i>Lunch break</i>
15:00 – 16:40	<p>State aid and Energy Sector: Exchange on the issues faced by the participants to the workshop (cont'd)</p> <p><u>Investments</u></p> <ul style="list-style-type: none"> <li>• “Barriers to attracting investment in emerging technologies.” by <b>Ken Cook</b></li> <li>• “The RIS3CAT strategy applied to Catalonia and the issues in the Applications of State Aid threshold to investments”. by <b>Juan Antonio Bas Villalobos</b></li> </ul> <p><u>ESCO Model</u></p> <ul style="list-style-type: none"> <li>• “Quick overview of ESCO market in Croatia“ ” by <b>Ana Markuz and Suada Mustajbegović</b></li> </ul>
16:40 – 17:00	<i>Coffee break</i>
17:00 – 17:45	<p>State aid and Energy Sector: Exchange on the issues faced by the participants to the workshop (cont'd)</p> <p><u>ESCO Model</u> (cont'd)</p> <ul style="list-style-type: none"> <li>• “Energy efficiency measures in buildings” By <b>Renata Padaleviciute</b></li> <li>• “Family houses vs SA rules – how to (in the light of Omnibus package” by <b>Ana Markuz and Suada Mustajbegović</b></li> </ul>
17:45 – 18:00	Wrap-up of the first day

## Day 2: Wednesday 20 March 2019

Venue: Joint Research Centre, C/ Inca Garcilaso, 3, 41092 Seville – Room A30

09:00 – 09:10	Presentation of the work of the second day <b>Fernando Mérida Martín</b>
09:10 – 09:20	Feedback from the first day <b>Palma Muñoz Morquilla</b>
09:20 – 09:40	Tour de table on participants' feedbacks and expectations for the second day <b>Marcelline Bonneau</b>
09:40 – 10:40	State aid and Energy Sector: Exchange on the issues faced by the participants to the workshop (cont'd) <u>Urban heating and cooling system energy efficient</u> <ul style="list-style-type: none"> <li>• “Implementing the art. 41 &amp; 46 of the GBER regulation.” by <b>Stefaan Pennewaert</b></li> <li>• “District heating and cooling and State Aid in France” by <b>Amélie Jouandet</b></li> </ul>
10:40 – 11:40	State aid and Energy Sector: Exchange on the issues faced by the participants to the workshop (cont'd) <u>Biogas</u> <ul style="list-style-type: none"> <li>• “Biogas project - State aid rules limiting the development of gasification in the transport sector” by <b>Eero Purontaus</b></li> <li>• “Rules from small biogas plants (case study)” by <b>Stéphane Peyhorgue</b></li> </ul>
11:40 – 12:00	Coffee break
12:00 – 14:00	<ul style="list-style-type: none"> <li>- Choreography of the State aid Mapping process</li> <li>- Definition of the scope of the map (definition of topics to include and division in different maps: e.g. energy infrastructures, renewables, smart grids, energy efficiency / sustainable buildings...)</li> <li>- Identification of the questions to be addressed via the map</li> <li>- Co-construction of the Map(s)</li> </ul> <p>Moderated by <b>Marcelline Bonneau</b> with the participation of all</p>
14:00 – 15:00	Lunch Break
15:00 – 16:00	Policy Lab with representative from DG REGIO on the REGIO Communities of Practitioners <b>Bruno Mola</b> , DG REGIO and <b>Marcelline Bonneau</b>
16:00 – 16:20	Coffee break
16:20 – 18:00	Policy Lab with representative from DG REGIO on the REGIO Communities of Practitioners (cont'd) <b>Bruno Mola</b> , DG REGIO and <b>Marcelline Bonneau</b>
18:00	Closure of the workshop

## Annex 2: List of legal and non-legal documents to support the assessment of State Aid in the Energy sector

### LEGAL DOCUMENTS

#### 1. State aid

- **Articles 107 and 108 of the Treaty** on the Functioning of the European Union
- **Commission Regulation (EU) No. 1407/2013** on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to **de minimis aid** (OJ L 352, 24.12.2013, p. 1)  
[http://ec.europa.eu/competition/state\\_aid/legislation/de\\_minimis\\_regulation\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf)
- **Commission Regulation (EU) No. 651/2014 (GBER)** on the assessment of certain categories of aid compatible with the internal market pursuant to Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1), amended by EU Regulation 2017/1084 (OJ L 26, 31.1.2018, p. 53)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014R0651-20170710>
- **Commission Regulation (EU) No 360/2012** of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to **de minimis aid** granted to undertakings providing **services of general economic interest** (OJ L 114, 26.4.2012, p. 8)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0360&from=EN>
- **Commission Decision** of 20 December on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of **services of general economic interest** (OJ L7, 11.01.2012, p. 3)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012D0021&from=EN>
- **Commission regulation (EU) N° 1408/2013** 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 in the agriculture sector**. (OJ L 352, 24.12.2013, p. 9)  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0009:0017:en:PDF>
- **Commission regulation (EU) N° 717/2014** of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to **de minimis aid in the fishery and aquaculture sector**. (OJ L 190, 28.3.2014, p. 4)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0717&from=EN>

#### 2. State aid procedure

- **Council Regulation (EU) No. 1589/2015** of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codified text, OJ EU L 248/2015, hereinafter referred to as the Procedural Regulation) (OJ L 248, 24.9.2015, p. 9)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R1589&from=en>

#### 3. Energy sector

- **Article 194 of the Treaty** on the Functioning of the European Union
- **Directive 2010/31/EU** of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13)  
<https://eur-lex.europa.eu/legal-content/SL/TXT/?uri=CELEX%3A32010L0031>



- **Directive 2012/27/EU** of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p.1)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0027&from=EN>
- **Directive 2009/28/EU** of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16)  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0016:0062:en:PDF>
- **Council Directive 2003/96/EC** of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003L0096-20040501&from=BG>
- **Directive 2009/72/EC** of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0072&from=CS>
- Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity (30.11.2016)  
[https://eur-lex.europa.eu/resource.html?uri=cellar:d7108c4c-b7b8-11e6-9e3c-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:d7108c4c-b7b8-11e6-9e3c-01aa75ed71a1.0001.02/DOC_1&format=PDF)

#### 4. Structural funds

- **Regulation (EU) No. 1303/2013** of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Fund for Maritime Affairs and Fisheries, and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Fund for Maritime Affairs and Fisheries and on putting out of effect the Council Regulation (EZ) No. 1083/2006 of 11 July 2006 (OJ EU L 347, 20.12.2013, p. 320)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303&from=en>
- **Regulation (EU) No 1301/2013** of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1301>
- **Regulation (EU) No 1300/2013** of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 (OJ L 347, 20.12.2013, p. 281)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1300&rid=7>

## NON-LEGAL DOCUMENTS

### 1. State aid

- **Commission Notice on the notion of State aid** as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (OJ C 262, 19.7.2016, p. 1)  
[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719\(05\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719(05)&from=EN)
- **Guidelines for State aid for environmental protection and energy** for the period 2014-2020 (OJ EU C 200, 28.6.2014, p. 1)  
[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014XC0628\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014XC0628(01))
- Communication from the Commission, **European Union framework for State aid in the form of public service compensation** (2011) (OJ C 8, 11.1.2012, p. 15)  
[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012XC0111\(03\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012XC0111(03)&from=EN)
- **Notice from the Commission** on the application of Articles 87 and 88 of the Treaty on European Union in the field of **State aid in the form of guarantees** (OJ C 155, 20.6.2008, p. 10) and Corrigendum to the Commission Notice on the Application of Articles 87 and 88 of the Treaty on European Union in the field of State aid in the form of guarantees (OJ EU C 244, 25.9.2008, p. 32)  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:244:0032:0032:EN:PDF>  
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:244:0032:0032:EN:PDF>
- [MEMO/08/313](http://europa.eu/rapid/press-release_MEMO-08-313_en.htm?locale=en): State aid: Notice on state aid in the form of Guarantees - **Frequently Asked Questions**  
[http://europa.eu/rapid/press-release MEMO-08-313\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-08-313_en.htm?locale=en)
- **Introduction to the analytical grids**  
[http://ec.europa.eu/competition/state\\_aid/modernisation/intro\\_grid\\_en.pdf](http://ec.europa.eu/competition/state_aid/modernisation/intro_grid_en.pdf)
- **Infrastructure analytical grid** for energy infrastructure  
[http://ec.europa.eu/competition/state\\_aid/modernisation/grid\\_energy\\_en.pdf](http://ec.europa.eu/competition/state_aid/modernisation/grid_energy_en.pdf)
- **Commission Communication**: Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of **important projects of common European interest** (OJ C 188, 20.6.2014, p. 4)  
[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0620\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XC0620(01)&from=EN)
- **Communication from the Commission** on the application of the European Union State aid rules to compensation granted for the provision of **services of general economic interest** (OJ C 8, 11.1.2012, p. 4)  
[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012XC0111\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012XC0111(02)&from=EN)
- European **Council Conclusions 22 May 2013**: Need to phase out environmentally or economically harmful subsidies (e.g. for fossil fuels) to facilitate investments in new and intelligent energy infrastructure  
[https://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/ec/137197.pdf](https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/137197.pdf)
- **Competition policy brief**: Improving State Aid for Energy and the Environment (issue 16, October 2014)  
[http://ec.europa.eu/competition/publications/cpb/2014/016\\_en.pdf](http://ec.europa.eu/competition/publications/cpb/2014/016_en.pdf)

- **Framework for State aid for research and development and innovation** (OJ C 198, 27.6.2014, p. 1)  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2014:198:FULL&from=EN>
- **R&D&I State aid rules Frequently asked questions**  
[http://ec.europa.eu/competition/state\\_aid/modernisation/rdi\\_framework\\_faq\\_en.pdf](http://ec.europa.eu/competition/state_aid/modernisation/rdi_framework_faq_en.pdf)
- **Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012** (OJ C 158, 5.6.2012, p. 4)  
[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012XC0605\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012XC0605(01)&from=EN)
- **Commission Communication relating to the methodology for analysing State aid linked to stranded costs** – Adopted by the Commission on 26.07.2001  
[http://ec.europa.eu/competition/state\\_aid/legislation/stranded\\_costs\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/stranded_costs_en.pdf)
- **State Aid: The Basics Guide, UK**  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/443686/BIS-15-417-state-aid-the-basics-guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/443686/BIS-15-417-state-aid-the-basics-guide.pdf)
- **THE STATE AID MANUAL, UK**  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/607691/bis-15-148-state-aid-manual-update.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/607691/bis-15-148-state-aid-manual-update.pdf)
- **State Aid in Research, Development & Innovation: A Guide for Universities**  
<https://hvcfp.net/wp-content/uploads/2014/07/AURIL-and-PraxisUnico-State-Aid-Guide.pdf>
- **State aid: guidance**  
<https://www.gov.scot/publications/state-aid-guidance/>
- **European Structural Funds – State Aid Guide for Funding Bodies**  
<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2016/03/esif-state-aid-guidance/documents/2370bed3-c2ad-4149-9716-7416a55fd133/2370bed3-c2ad-4149-9716-7416a55fd133/govscot:document/?inline=true/>
- **State Aid: A Beginner's Guide for Public Bodies in Northern Ireland**  
<https://www.economy-ni.gov.uk/sites/default/files/publications/economy/state-aid-beginners-guide-public-bodies-northern-ireland.pdf>
- **Economics in State Aid**  
<https://www.copenhageneconomics.com/dyn/resources/Publication/publicationPDF/0/460/1538460846/economics-in-state-aid.pdf>
- **State aid law compliance for RIS3 implementation**  
<https://www.onlines3.eu/phase-5-policy-mix/5-4-ris3-administrative-framework-conditions/>
- **The EU rules on State aid**  
<https://www.slaughterandmay.com/media/2536656/the-eu-rules-on-state-aid.pdf>
- **Factsheet 1: State aid in Interreg Baltic Sea Region**  
[https://www.interreg-baltic.eu/fileadmin/user\\_upload/For\\_projects/State\\_aid/State\\_aid\\_factsheet\\_1\\_-\\_State\\_aid\\_in\\_Interreg\\_Baltic\\_Sea\\_Region\\_FINAL.pdf](https://www.interreg-baltic.eu/fileadmin/user_upload/For_projects/State_aid/State_aid_factsheet_1_-_State_aid_in_Interreg_Baltic_Sea_Region_FINAL.pdf)

- **State aid rules for RDI. Selection of questions received from Member States**, Simon Y., Przeor M. (2016), European Commission  
[https://ec.europa.eu/regional\\_policy/sources/conferences/state-aid/rdi/ppt03-1045-1215\\_issues\\_identified\\_simon\\_przeor\\_rdi\\_27012016.pdf](https://ec.europa.eu/regional_policy/sources/conferences/state-aid/rdi/ppt03-1045-1215_issues_identified_simon_przeor_rdi_27012016.pdf)

## 2. State aid procedure

- State Aid Internal DG Competition working documents on procedures for the application of Articles 107 and 108 TFEU  
[http://ec.europa.eu/competition/state\\_aid/studies\\_reports/sa\\_manproc\\_en.pdf](http://ec.europa.eu/competition/state_aid/studies_reports/sa_manproc_en.pdf)

## 3. Energy sector

- Online service for parties applying for financing from the European Regional Development Fund (ERDF) and the European Social Fund (ESF), for the authorities and for all those interested in EU funding.  
<http://www.rakenerahastot.fi/web/en> (Structuralfunds.fi)
- **Commission Staff working paper**: Note on references to Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market in Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market  
[https://ec.europa.eu/energy/sites/ener/files/documents/SWD\\_2012\\_13\\_F1\\_STAFF\\_WORKING\\_PAPER\\_EN\\_V3\\_P1\\_682486.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/SWD_2012_13_F1_STAFF_WORKING_PAPER_EN_V3_P1_682486.pdf)
- **Commission Decision** of 19 November 2008 establishing detailed guidelines for the implementation and application of Annex II to Directive 2004/8/EC of the European Parliament and of the Council (OJ L 338, 17.12.2008, p.55)  
<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008D0952>

## 4. Structural funds

- **Guide to Cost-Benefit Analysis of Investment Projects** Economic appraisal tool for Cohesion Policy 2014-2020 to calculate the revenues  
[https://ec.europa.eu/inea/sites/inea/files/cba\\_guide\\_cohesion\\_policy.pdf](https://ec.europa.eu/inea/sites/inea/files/cba_guide_cohesion_policy.pdf)
- **An introduction to EU Cohesion Policy 2014-2020** (EC, June 2014)  
[https://ec.europa.eu/regional\\_policy/sources/docgener/informat/basic/basic\\_2014\\_en.pdf](https://ec.europa.eu/regional_policy/sources/docgener/informat/basic/basic_2014_en.pdf)
- **Guide to Cost-Benefit Analysis** of Investment Projects Economic appraisal tool for Cohesion Policy 2014-2020 to calculate the revenues  
[https://ec.europa.eu/inea/sites/inea/files/cba\\_guide\\_cohesion\\_policy.pdf](https://ec.europa.eu/inea/sites/inea/files/cba_guide_cohesion_policy.pdf)
- **Operational Programme Competitiveness and Cohesion 2014-2020**  
<https://trimis.ec.europa.eu/programme/operational-programme-competitiveness-and-cohesion-2014-2020>
- **Guidance on State aid in European Structural and Investment (ESI) Funds** Financial instruments in the 2014-2020 programming period Brussels, 2.5.2017 SWD(2017) 156 final  
[https://ec.europa.eu/regional\\_policy/sources/docgener/informat/2014/guidance\\_state\\_aid\\_financial\\_instruments.pdf](https://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_state_aid_financial_instruments.pdf)

- **COMMISSION STAFF WORKING DOCUMENT** Explanatory note of the Commission services on the application of State Aid Rules to national and regional funding schemes that offer alternative support to SME Instrument project proposals with a Horizon 2020 'Seal of Excellence'  
[https://ec.europa.eu/regional\\_policy/sources/docgener/guidelines/2017/application\\_of\\_state\\_aid\\_rules.pdf](https://ec.europa.eu/regional_policy/sources/docgener/guidelines/2017/application_of_state_aid_rules.pdf)
- **Beginner's guide to EU funding** (EC, 25.07.2016)  
<http://www.fedec.eu/file/477/download>
- **Incentives for energy efficiency CEE/SEE region**  
[https://www.tpa-group.hr/wp-content/uploads/sites/9/2018/04/Incentives\\_for\\_Energy\\_Efficiency\\_WEB.pdf](https://www.tpa-group.hr/wp-content/uploads/sites/9/2018/04/Incentives_for_Energy_Efficiency_WEB.pdf)

## 5. Financial Instruments

- Guidance on State aid in European Structural and Investment (ESI) Funds Financial instruments in the 2014-2020 programming period Brussels, 2.5.2017 SWD(2017) 156 final  
[https://ec.europa.eu/regional\\_policy/sources/docgener/informat/2014/guidance\\_state\\_aid\\_financial\\_instruments.pdf](https://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_state_aid_financial_instruments.pdf)

## **Annex 3: List of the relevant decisions of the EC and Court rulings for State Aid in the Energy sector**

### **ENERGY EFFICIENCY / CHP**

**SA.38796 (2014/N) – United Kingdom – Teesside Dedicated Biomass CHP Project**

[http://ec.europa.eu/competition/state\\_aid/cases/255393/255393\\_1709269\\_107\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/255393/255393_1709269_107_2.pdf)

**SA.36518 (2016/NN) – Poland – Certificates of origin for high-efficient co-generation operators**

[http://ec.europa.eu/competition/state\\_aid/cases/262819/262819\\_1848270\\_111\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/262819/262819_1848270_111_2.pdf)

**SA.48816 (2017/N) – The Netherlands – Environmental protection through residual CO<sub>2</sub> delivery to greenhouse horticulture**

[http://ec.europa.eu/competition/state\\_aid/cases/270589/270589\\_1965702\\_106\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/270589/270589_1965702_106_2.pdf)

**SA.49371 Germany – Modernisation of CHP Plant GuD2 in Munich**

The public version of this decision is not yet available

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_49371](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_49371)

**SA.49843 Germany – CHP plant Herne**

The public version of this decision is not yet available

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_49843](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_49843)

**SA.50305 (2018/N) – Poland Individual aid for Płock CCGT (CHP certificates)**

[http://ec.europa.eu/competition/state\\_aid/cases/273170/273170\\_2033798\\_137\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/273170/273170_2033798_137_2.pdf)

**SA.51614 (N/2019) Olsztyn cogeneration installation**

The public version of this decision is not yet available

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_51614](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_51614)

**SA.52174 (2018/N) – The Netherlands – Aid to OCAP CO<sub>2</sub> B.V. for investment in CO<sub>2</sub> pipeline and compressor station – De Kwakel**

[http://ec.europa.eu/competition/state\\_aid/cases/276558/276558\\_2046728\\_107\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/276558/276558_2046728_107_2.pdf)

**SA.45826 (2016/N), SA.45827 (2016/N), SA.46003 (2016/N), SA.46004 (2016/N) – Germany**

**Support to four CHP installations:** Lausward F, Berlin Mitte, München GuD2, and Niehl 3

[http://ec.europa.eu/competition/state\\_aid/cases/266880/266880\\_1964684\\_92\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/266880/266880_1964684_92_2.pdf)

**SA.45768 (2016/N) – Czech Republic Promotion of electricity from high-efficiency combined heat and power generation installations** commissioned since 1 January 2016

[http://ec.europa.eu/competition/state\\_aid/cases/266762/266762\\_1891841\\_115\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/266762/266762_1891841_115_2.pdf)

**N 543/2005 – The Netherlands “MEP stimulating CHP”**

[http://ec.europa.eu/competition/state\\_aid/cases/201939/201939\\_667252\\_25\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/201939/201939_667252_25_1.pdf)

**N 295/2008 – Austria – Investment Aid for co-generation of electricity and heat (CHP) – Mellach of Verbund Austrian Thermal Power GmbH and Co KG**

[http://ec.europa.eu/competition/state\\_aid/cases/226190/226190\\_1097893\\_61\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/226190/226190_1097893_61_1.pdf)

**N 437/2009 – Romania Aid scheme for the promotion of cogeneration**

[http://ec.europa.eu/competition/state\\_aid/cases/232410/232410\\_1040780\\_53\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/232410/232410_1040780_53_1.pdf)

## ENERGY SAVING

**SA.43861 (2015/N) – United Kingdom – Electricity, Demand Reduction Pilot Scheme**

[http://ec.europa.eu/competition/state\\_aid/cases/261788/261788\\_1730472\\_51\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/261788/261788_1730472_51_2.pdf)

**SA.41539 (2016/N) – Lithuania Investment aid for high-efficiency cogeneration power plant in Vilnius, UAB Vilniaus kogeneracinė jėgainė**

[http://ec.europa.eu/competition/state\\_aid/cases/265368/265368\\_1878145\\_130\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/265368/265368_1878145_130_2.pdf)

**SA.37628 Reduced energy tax rates on natural gas for greenhouse horticulture in 2015 – 2024**

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_37628](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_37628)

**SA. 36315 (2013/N) – The Netherlands Botlek Zuid - steam transport pipeline**

[http://ec.europa.eu/competition/state\\_aid/cases/250027/250027\\_1502638\\_67\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/250027/250027_1502638_67_2.pdf)

**SA.35674 (2012/N) – Poland – Individual aid for modernisation of the district heating network in Warsaw**

[http://ec.europa.eu/competition/state\\_aid/cases/246538/246538\\_1442989\\_148\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/246538/246538_1442989_148_2.pdf)

**SA.35486 (N/2013) – Denmark - Aid for electricity generation in industrial combined heat and power plants**

[http://ec.europa.eu/competition/state\\_aid/cases/247668/247668\\_1674026\\_212\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/247668/247668_1674026_212_2.pdf)

**State aid SA.34650 (2012/N) – Spain - Aid for energy saving to Alcoa**

[http://ec.europa.eu/competition/state\\_aid/cases/244392/244392\\_1463633\\_138\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/244392/244392_1463633_138_2.pdf)

**SA.34005 (2012/N) Netherlands – Investment aid for energy savings in horticulture**

[http://ec.europa.eu/competition/state\\_aid/cases/243913/243913\\_1349948\\_42\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/243913/243913_1349948_42_2.pdf)

**SA.32808 (2011/N) – Danmark - Foranstaltninger til fordel for store energiforbrugere - Forlængelse af en eksisterende ordning**

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_32808](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_32808)

**N 95/2006 -United Kingdom - Climate Change Levy: Eligibility of further sectors to Climate change agreements**

[http://ec.europa.eu/competition/state\\_aid/cases/203777/203777\\_560224\\_15\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/203777/203777_560224_15_2.pdf)

**N 639/06 – The Netherlands – “Energy tax exemption for energy intensive end-users”**

[http://ec.europa.eu/competition/state\\_aid/cases/216912/216912\\_667489\\_17\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/216912/216912_667489_17_1.pdf)

**N 465/2008 – Spain - State aids for environment and sustainable energy development**

[http://ec.europa.eu/competition/state\\_aid/cases/227521/227521\\_963920\\_38\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/227521/227521_963920_38_1.pdf)

**N 452/06 – The Netherlands – “Heat Company NV”**

[http://ec.europa.eu/competition/state\\_aid/cases/215857/215857\\_634785\\_7\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/215857/215857_634785_7_1.pdf)

**SA.30382 (N45/2010) – Denmark - Modification of the Electricity Production Grant (DK)**

[http://ec.europa.eu/competition/state\\_aid/cases/235024/235024\\_1630542\\_163\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/235024/235024_1630542_163_2.pdf)

**N 401/2005 – “Subsidy CO<sub>2</sub>-reduction buildings”**

[http://ec.europa.eu/competition/state\\_aid/cases/200490/200490\\_666905\\_18\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/200490/200490_666905_18_1.pdf)

**N 390/2007 - GERMANY - Climate protection in Mecklenburg-Vorpommern – modification of an aid scheme** [http://ec.europa.eu/competition/state\\_aid/cases/220925/220925\\_732528\\_7\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/220925/220925_732528_7_1.pdf)

**N 39/06 – Italy - Incentives for energy saving and renewable energies, Modification of case N296/04**

[http://ec.europa.eu/competition/state\\_aid/cases/203530/203530\\_539584\\_10\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/203530/203530_539584_10_1.pdf)

**N 35/2008 – United Kingdom - Landlord's Energy Saving Allowance (LESA)**  
[http://ec.europa.eu/competition/state\\_aid/cases/223798/223798\\_821284\\_22\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/223798/223798_821284_22_2.pdf)

**N 271/2006 – Denmark - Tax Relief for Supply of Surplus Heating**  
[http://ec.europa.eu/competition/state\\_aid/cases/214953/214953\\_640759\\_33\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/214953/214953_640759_33_1.pdf)

**N 451/2009 – Germany Energy saving by direct strip casting technology for light steels – aid to Salzgitter Flachstahl GmbH**  
[http://ec.europa.eu/competition/state\\_aid/cases/232462/232462\\_1096096\\_39\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/232462/232462_1096096_39_1.pdf)

## **ENERGY INFRASTRUCTURE**

**SA.43735 (2016/N) – Germany ABLAV Interruptibility Scheme**  
[http://ec.europa.eu/competition/state\\_aid/cases/264060/264060\\_1841480\\_86\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/264060/264060_1841480_86_2.pdf)

**SA.50905 (2018/N) Extension of the LNG Terminal in Swinoujscie**  
The public version of this decision is not yet available  
[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_50905](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_50905)

**SA.51023 (2018/N) – Bulgaria and SA.52049 (2018/N) – Greece, State aid for the implementation of Gas Interconnector Greece-Bulgaria**  
[http://ec.europa.eu/competition/state\\_aid/cases/276000/276000\\_2047286\\_133\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/276000/276000_2047286_133_2.pdf)

**SA.42889 – Finland - Individual aid to LNG infrastructure (Hamina)**  
[http://ec.europa.eu/competition/state\\_aid/cases/262353/262353\\_1756400\\_94\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/262353/262353_1756400_94_2.pdf)

**SA.39050 (2015/N) – Poland - Individual Aid Measure for Gas Infrastructure in Poland**  
[http://ec.europa.eu/competition/state\\_aid/cases/258373/258373\\_1677603\\_157\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/258373/258373_1677603_157_2.pdf)

**SA.36290 (2014/N) – United Kingdom - Northern Ireland Gas Pipeline; extension to the West and the North West**  
[http://ec.europa.eu/competition/state\\_aid/cases/252947/252947\\_1580489\\_102\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/252947/252947_1580489_102_2.pdf)

**State aid SA 33.823 (2012/N) – Finland Aid for an electricity cable between mainland Finland and Åland**  
[http://ec.europa.eu/competition/state\\_aid/cases/245052/245052\\_1379492\\_151\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/245052/245052_1379492_151_2.pdf)

**State aid SA.38037 (2014/N) – Romania Grants for investment in electricity and natural gas transmission networks**  
[http://ec.europa.eu/competition/state\\_aid/cases/251869/251869\\_1567793\\_100\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/251869/251869_1567793_100_2.pdf)

**State aid N 629/2009 Grants for investment in electricity and natural gas transmission networks**  
[http://ec.europa.eu/competition/state\\_aid/cases/233848/233848\\_1177808\\_84\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/233848/233848_1177808_84_2.pdf)

**SA.34359 - Poland - Aid for the construction of the oil pipeline Brody-Adamowo**  
[http://ec.europa.eu/competition/state\\_aid/cases/245930/245930\\_1430503\\_212\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/245930/245930_1430503_212_2.pdf)

**SA.39515 - Finland - Individual aid to LNG infrastructure (Pori)**  
[http://ec.europa.eu/competition/state\\_aid/cases/259680/259680\\_1708691\\_97\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/259680/259680_1708691_97_2.pdf)

**SA 36740 (2013/NN) – Lithuania - Aid to Klaipėdos Nafta-LNG Terminal**  
[http://ec.europa.eu/competition/state\\_aid/cases/250416/250416\\_1542635\\_190\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/250416/250416_1542635_190_2.pdf)



## RENEWABLE ENERGY

**SA.36023 (2014/NN) – Estonia Support scheme for electricity produced from renewable sources and efficient cogeneration**

[http://ec.europa.eu/competition/state\\_aid/cases/254765/254765\\_1614362\\_64\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/254765/254765_1614362_64_2.pdf)

**N 87/2008 – Deutschland – Änderung und Verlängerung der Beihilferegelung „Förderung der Nutzung erneuerbarer Energien“**

[http://ec.europa.eu/competition/state\\_aid/cases/224335/224335\\_852083\\_39\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/224335/224335_852083_39_2.pdf)

**N 640/2005 – Spain – Modification of the renewable energy scheme in the Rioja region**

[http://ec.europa.eu/competition/state\\_aid/cases/202569/202569\\_554820\\_13\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/202569/202569_554820_13_1.pdf)

**SA.40171 2006 RES support scheme – Czech**

[http://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_40171](http://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_40171)

**SA.48642 Soutien par appel d'offres au développement d'installations de production d'électricité innovantes à partir de l'énergie solaire – France**

[http://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_48642](http://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_48642)

**State aid N 55/2009, Aid for constructing and modernisation of electricity connection networks for renewable energies in Poland**

[http://ec.europa.eu/competition/state\\_aid/cases/229627/229627\\_976404\\_32\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/229627/229627_976404_32_1.pdf)

**N 57/2008 “Operating aid for biofuels”**

[http://ec.europa.eu/competition/state\\_aid/cases/224067/224067\\_995586\\_77\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/224067/224067_995586_77_1.pdf)

**SA.38406 (2014/N) – Croatia Renewables support scheme in Croatia 2014-2015**

[http://ec.europa.eu/competition/state\\_aid/cases/251965/251965\\_1886499\\_157\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/251965/251965_1886499_157_2.pdf)

**SA.44840 (2016/NN) – Bulgaria Support for renewable energy generation in Bulgaria**

[http://ec.europa.eu/competition/state\\_aid/cases/263396/263396\\_1780804\\_103\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/263396/263396_1780804_103_2.pdf)

**N 94/2010 – United Kingdom Feed in Tariffs to support the generation of renewable electricity from low carbon sources**

[http://ec.europa.eu/competition/state\\_aid/cases/235526/235526\\_1104588\\_39\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/235526/235526_1104588_39_2.pdf)

**Case C-379/98 PreussenElektra AG v. Schleswig AG.**

**Case C-262/12, Association Vent de Colère**

**Case C-329/15 ENEA S.A. v Prezes Urzędu Regulacji Energetyki**

## CAPACITY MECHANISMS, STRATEGIC RESERVE

### **SA.39621 2015/C - French country-wide capacity mechanism**

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_39621](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_39621)

### **SA.35980 – UK – Electricity Market Reform – Capacity market**

[http://ec.europa.eu/competition/state\\_aid/cases/277359/277359\\_2054365\\_76\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/277359/277359_2054365_76_2.pdf)

Related court case(s): T-788/14, T-793/14

### **SA.42955 (2016/N-2) – Germany Network Reserve**

[http://ec.europa.eu/competition/state\\_aid/cases/265043/265043\\_1872192\\_91\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/265043/265043_1872192_91_2.pdf)

### **SA. 35974 (2012/N) – Greece Telemetering Pilot System**

[http://ec.europa.eu/competition/state\\_aid/cases/247191/247191\\_1481504\\_131\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/247191/247191_1481504_131_2.pdf)

### **SA.44475 (2016/N) - United Kingdom Supplementary Capacity Auction**

[http://ec.europa.eu/competition/state\\_aid/cases/265707/265707\\_1850846\\_123\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/265707/265707_1850846_123_2.pdf)

### **SA.40454 Tender for additional capacity in Brittany**

[http://ec.europa.eu/competition/state\\_aid/cases/261325/261325\\_1903489\\_674\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/261325/261325_1903489_674_2.pdf)

### **SA.44464 (2017/N) – Ireland Irish Capacity Mechanism**

[http://ec.europa.eu/competition/state\\_aid/cases/267880/267880\\_1948214\\_166\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/267880/267880_1948214_166_2.pdf)

### **SA.44465 (2017/N) – United Kingdom – Northern Irish Capacity Mechanism**

[http://ec.europa.eu/competition/state\\_aid/cases/268118/268118\\_1948215\\_123\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/268118/268118_1948215_123_2.pdf)

### **SA.50152 (2018/N) - Greece New Transitory electricity Flexibility Remuneration Mechanism (TFRM)**

[http://ec.europa.eu/competition/state\\_aid/cases/275343/275343\\_2009943\\_90\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/275343/275343_2009943_90_2.pdf)

### **SA.48648 (2017/NN) - Belgium - Strategic Reserve**

[http://ec.europa.eu/competition/state\\_aid/cases/272020/272020\\_1964726\\_118\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/272020/272020_1964726_118_2.pdf)

### **SA.45852 (2017/N) – Germany Capacity Reserve**

[http://ec.europa.eu/competition/state\\_aid/cases/269083/269083\\_1890897\\_10\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/269083/269083_1890897_10_2.pdf)

### **SA.42011 (2017/N) – Italy – Italian Capacity Mechanism**

[http://ec.europa.eu/competition/state\\_aid/cases/270875/270875\\_1979508\\_218\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/270875/270875_1979508_218_2.pdf)

### **SA.46100 (2017/N) – Poland – Planned Polish capacity mechanism**

[http://ec.europa.eu/competition/state\\_aid/cases/272253/272253\\_1977790\\_162\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/272253/272253_1977790_162_2.pdf)

## DISTRICT HEATING AND COOLING

**N 485/2008 – Austria Aid Scheme for District Heating and Cooling Infrastructure and Cooling Installations (AT)** [http://ec.europa.eu/competition/state\\_aid/cases/227666/227666\\_968158\\_39\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/227666/227666_968158_39_1.pdf)

**SA.34363 (2013/N) – Austria Danube line construction phases I & II in the framework of the Act on the Extension of District Heating and Cooling Infrastructure**

[http://ec.europa.eu/competition/state\\_aid/cases/248410/248410\\_1562682\\_93\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/248410/248410_1562682_93_2.pdf)

**SA.38249 (2014/N) – Austria Prolongation of the Scheme for District Heating and Cooling Infrastructure and Cooling Installations**

[http://ec.europa.eu/competition/state\\_aid/cases/251639/251639\\_1550705\\_92\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/251639/251639_1550705_92_2.pdf)

**SA.32830 (2011/N) – Poland – Aid for modernising the district heating network in Krosno**

[http://ec.europa.eu/competition/state\\_aid/cases/240228/240228\\_1348990\\_94\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/240228/240228_1348990_94_2.pdf)

**SA.32113 (2010/N) – Italia - Aid schemes for energy savings, district heating and electrification of remote areas in Alto Adige/Südtirol**

[http://ec.europa.eu/competition/state\\_aid/cases/238795/238795\\_1384153\\_123\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/238795/238795_1384153_123_2.pdf)

**N707/2007 – Estonia - Individual Aid to Company AS Sillamäe SEJ for Reconstruction of District**

**Heating Infrastructure** [http://ec.europa.eu/competition/state\\_aid/cases/223165/223165\\_825872\\_34\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/223165/223165_825872_34_1.pdf)

#### **STATE AID FOR ELECTRICITY-INTENSIVE UNDERTAKINGS**

**SA.44863 (2016/N) - Denmark Amendment to the scheme regarding the reduced contribution to the financing of RES support for energy-intensive users**

[http://ec.europa.eu/competition/state\\_aid/cases/266687/266687\\_1851227\\_61\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/266687/266687_1851227_61_2.pdf)

**SA.42424 Reduced contribution to financing of RES support for energy-intensive users – Denmark**

[http://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_42424](http://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_42424)

**SA.52530 Reductions for EIUs from CHP charge – Poland**

[http://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_52530](http://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_52530)

**SA.52413 Reduced RES and HECHP financing contribution for EIUs in Greece**

[http://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_52413](http://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_52413)

**SA.45861 Support to energy intensive users in Bulgaria**

[http://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_45861](http://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_45861)

**SA.39042 RES support reduction for energy-intensive users – Romania**

[http://ec.europa.eu/competition/elojade/iseef/case\\_details.cfm?proc\\_code=3\\_SA\\_39042](http://ec.europa.eu/competition/elojade/iseef/case_details.cfm?proc_code=3_SA_39042)

**SA. 37345 (2015/NN) - Poland Polish certificates of origin system to support renewables and reduction of burdens arising from the renewables certificate obligation for energy intensive users**

[http://ec.europa.eu/competition/state\\_aid/cases/261395/261395\\_1832252\\_133\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/261395/261395_1832252_133_2.pdf)

**C 24/2009 (ex-N 446/2008) – Austria - The Austrian Green Electricity Act – Aid to the Producers of Green Electricity and Aid to Large Electricity Consumers**

[http://ec.europa.eu/competition/state\\_aid/cases/232434/232434\\_1041305\\_23\\_1.pdf](http://ec.europa.eu/competition/state_aid/cases/232434/232434_1041305_23_1.pdf)

#### **SERVICES OF GENERAL ECONOMIC INTEREST (SGEI)**

**State Aid SA.45779 (2016/NN) – Malta Delimara Gas and Power Energy Project**

[http://ec.europa.eu/competition/state\\_aid/cases/264986/264986\\_1870314\\_62\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/264986/264986_1870314_62_2.pdf)

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Publications Office  
of the European Union

doi:10.2760/33767

ISBN 978-92-76-24548-3