How State aid rules affect access to finance for SMEs and enterprises

STUDY

European Economic and Social Committee

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Study

General information

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LIST OF ABBREVIATIONS

BA	Business Associations
CEMA	Committee on Economic and Monetary Affairs
CF	Cohesion Fund
CMU	Capital Markets Union
CPR	Common Provisions Regulation
DG	Directorate General
DG COMP	Directorate General Competition
DG REGIO	Directorate General Regional and Urban Policy
EAFRD	European Agricultural Fund for Rural Development
EC	European Commission
ECA	European Court of Auditors
EESC	European Economic and Social Committee
EFSI	European Fund for Strategic Investments
EIB	European Investment Bank
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds
EU	European Union
FI	Financial Instrument
GBER	General Block Exemption Regulation
GDP	Gross Domestic Product
HLG	High Level Group on Simplification
MA	Managing Authority
MFF	Multiannual Financial Framework
MS	MS
NA	National Authority
NGO	Non-governmental organization
NoA	Notice on the Notion of State aid
OP	Operational Programme
RDI	Research, Development and Innovation
SAAP	State aid Action Plan
SBA	Small Business Act
SAM	State aid Modernization
SMEs	Small and medium-sized enterprises
TFEU	Treaty on the Functioning of the European Union

ABSTRACT

This Study aims at making a comprehensive overview of the EU State aid rules and their impact on SMEs in the period 2014-2018 with the goal to identify which policy issues create the greatest challenges for SMEs (incl. social partners and NGOs), and what are the best practices available to tackle the issues. The Study is prepared on the basis of a literature review, survey among relevant stakeholders from the 27 EU MSs and five case studies from countries, chosen on the basis of objective methodology, as to showcase both problematic areas and best practices - namely Bulgaria, Greece, Hungary, Italy and Finland. The results demonstrate that despite the efforts for modernization, EU State aid rules still pose some challenges and are not completely clear for both Managing Authorities and business in many MSs. Difficulties are encountered in many MSs regarding the way State aid rules are applied in terms of SME financing. In many cases, lack of sufficient expertise is detected, in terms of both the preparation and experience of the experts responsible for the application of the State aid rules and in terms of their number in the MSs' administrations. Efforts to improve the current rules are needed, such as raise the thresholds and clarify specific definitions. There is a need for EC to provide regular opportunities for exchange of experience and best practices between MSs.

EXECUTIVE SUMMARY

A. Introduction

State aid represents the granting of state resources in order to benefit certain firms or industries. Article 87 of the EC Treaty establishes the general rule that certain criteria must be fulfilled for aid to be considered as State aid:

- there has been an intervention by the State or through State resources which can take on a variety of forms (e.g. grants, interest and tax reliefs, guarantees, government holdings of all or part of a company, or providing goods and services on preferential terms, etc.);
- the intervention gives the recipient an advantage on a selective basis, for example to specific companies or industry sectors, or to companies located in specific regions;
- competition has been or may be distorted;
- the intervention is likely to affect trade between MSs.

However, some aid is exempted from this prohibition up to a specific amount (de minimis), or for certain actions that are crucial for the European economy (e.g. those activities that are specified in the General Block Exemption Regulation – GBER) and that address genuine market failures and limit distortions i.e. the benefits outweigh any negative effects on competition. Services of general interest also are subject to a separate set of state aid rules – the so called "Almunia" Package. The new SGEI package aims at providing clarification and introducing a diversified and proportionate approach in the assessment of state aid to public service providers and has been subject to an extensive consultation process. It applies to all authorities (national, regional, local) that grant compensation for the provision of SGEI.

If neither exemption applies and the "four-part test" finds that the particular activity qualifies as State aid then the Commission must be notified of the proposal. Article 108(3) of the TFEU says that the notification must come in sufficient time in order for the Commission to submit its comments. If it believes that the proposal is not compatible with the internal market it will take action and the country must not act on its proposed measures until a final decision has been made.

The assessment whether a measure constitutes State aid and whether the aid is compatible with EU rules can be complex. Each measure is different and needs to be assessed individually. State aid assessments require specialized legal and economic knowledge and their application to specific situations.

Still, at the European level, there is not comprehensive data and through analysis of the State aid rules' practical effect over SMEs.

Therefore, the Employers' Group of the EESC has commissioned the conduct of the current Study on "How the State aid rules affect the access to finance for SMEs and enterprises" to Explica Ltd., an independent research-based consultancy company from Bulgaria on the basis of Service contract № CES/CSS/09/2018/26859.

B. Study aim and objectives

The core aim of the study is to examine if and how State aid rules affect access to finance for SMEs and enterprises.

In an objective manner, the Study aims to:

- reveal the main areas that may cause uncertainty or pose challenges as well as to identify in which direction they should be amended and to search for potential solutions to them;

- provide information and figures regarding the impact of State aid on companies, including SMEs;
- identify possible recommendations to the European Commission on how to simplify State aid rules to ease the access to finance, especially for SMEs, thus fostering growth in the EU;
- identify possible recommendations to be addressed to other stakeholders (decision-makers at appropriate level, business organizations and other stakeholders, etc.);
- identify best practices from MSs showing success in complying with State aid rules while facilitating access to finance for SMEs;
- propose methodological actions that are applicable in all 27 MSs to enable better access to finance for enterprises, including SMEs in the framework of State aid rules.

The study also:

- evaluates what challenges the State aid rules pose for the SMEs, including by types – e.g. sole and micro companies;
- examines if there are problems that MSs are faced with in relation to their financial instruments geared towards one-person companies, micro and small companies (thus, excluding medium and big companies);
- identifies how loans, grants, guarantees or co-financing are interlinked and integrate into/comply with State aid.

The study covers the period of 2014-2018.

C. Methodology

The Study methodology[1] utilises a combination of quantitative (online survey/phone interviews) and qualitative methods (desk research and case studies). Extensive list of research papers, materials and policy positions, opinions and declarations produced by highly trusted European and international institutions was subject to an in-depth review. The desk review was complemented by questionnaires among BAs (37 representatives) and MAs (36 representatives) from the 27 MSs to assist the research team in identifying concrete examples from countries where access to finance for SMEs (incl. social partners and NGOs) is successfully facilitated and the State aid rules are efficiently applied. In order to enrich and deepen the results of the desk research and the survey, 5 case studies were developed. Data was gathered based on a case study methodology through in-depth interviews (13 interviews in total) with relevant stakeholders from 5 EU MSs – Bulgaria, Finland, Greece, Hungary and Italy.

D. Main findings

The in-depth interviews conducted pointed the application of State aid rules at national level to be the most serious challenge. **This challenge is aggravated in many cases by lack of sufficient expertise, both in terms of the preparation and experience of the experts responsible for the application of the State aid rules and in terms of their number in the MSs' administrations.** The State aid rules in many cases are not well understood, hence not applied in their whole variety. This is due to lack of understanding, but also the need to clarify and increase the level of knowledge of SMEs regarding which rules are suiting best the different needs of financing tools.
On the basis of the interviews, it can be stated that difficulties are encountered in majority of the MSs regarding the way State aid rules are applied in terms of SME financing. However, where there is a better understanding of the rules in the MSs, the results of State aid progress and expenditure reports are

[1] Detailed methodology could be found in the Annexes section -*Appendix A. Detailed methodology of the Study*

higher. In these countries, despite the identification of individual problems, the reasons and the ways to deal with them are clearly understood and applied in favour of SMEs.

An important observation based on the in-depth interviews is that even in countries where there are well-prepared experts, their own assessment indicates that there is a shortage of human resources (they need more experts).

In countries where there are clearly identified impediments to SMEs due to the State aid rules application, the need for better expertise is a very categorical and highly stated issue. Need for more regular training and exchange of experience is also reported, together with ambiguities in regulations; too general responses given by the Commission to inquiries; the non-mandatory nature of available information resources; and the fact that cases are studied with and dealt with after their implementation rather than in the planning of the measures/programs.

The MAs are rather learning-by-doing, in the course of applying the rules, as the rules are well-grounded and legally precise, but there are no guidelines for their practical application and in some cases the definitions are not very clear/well-defined. Some of the MAs say they do not find accurate and timely solutions to individual cases. In some cases, there is a delay in the Commission's decisions. The MAs also are not in a position to obtain ready-made decisions by the Audit Authorities, which subsequently assess the rationale of their decisions to apply State aid rules. All these factors model the behaviour of the MAs to be more cautious and conservative and they tend to decide in a restricted manner, which affects negatively the beneficiaries which are in the margins of the non-clear State aid rules.

With regard to the SME responses to the survey, some of them share they have difficulties in declaring State aid, including difficulties and uncertainties regarding understanding and applying the definition of affiliated enterprises, the accumulation of State aid and the declaration of eligible costs, the ceilings set for the various State aid regimes.

E. Conclusions and recommendations

CONCLUSION	RECOMMENDATION
***De minimis* thresholds are too low and outdated.** It is noteworthy that *de minimis* aid should be regularly updated in accordance with changes in economic conditions, which negatively affects the business (ex: *de minimis* for agriculture was last updated in 22.02.2019, but the *de minimis* for SMEs was last updated in 2013).	Increase the *de minimis* limits for the period (concrete suggestion from BA is *to either make it EUR 300,000 for 3 years, or if it stays EUR 200,000 to decrease the period to 2 years*).
There is lack of practical guidelines on the State aid rules application. Good detailed guidelines are needed in order to facilitate and assist the operators of public resources to implement adequate and uniform rules.	Development and timely updating of practical guidance with particular examples and explanations of case-law on the application of State aid rules (could be drawn up at the national level with the assistance of the Commission – especially geographical units) for the MAs and separately for Business.
There is insufficient expertise of MAs on State aid rules application. All the errors and risks are at the expense of the beneficiaries, even if they can prove that they have received written	The recommendation is for the EC to provide regular opportunities for exchange of experience and best practices between MSs on the

CONCLUSION	RECOMMENDATION
instructions by the MA. This practice is further complicated by the fact that the MAs are supposed to have better expertise and more in-depth knowledge, as compared to the beneficiaries.	application of State aid rules. The regulation should also protect the good-willed beneficiaries when they act upon a written instruction of the MAs.
Lack of knowledge and understanding of the State aid rules among SME representatives. Simplification of the rules and more tailored approach towards different categories SMEs is needed.	Development of an on-line consultation platform for MAs, but also for SMEs, through which they could receive consultation from competent experts.
One of the problems with State aid for SMEs is related to the extension of the aid to affiliated enterprises. Verification and coordination in the cases of holding companies and related enterprises represents serious impediment for MAs, especially in cases of acquiring a new company with all its assets and liabilities from another enterprise or holding structure.	Development of more detailed definitions for affiliated enterprises, including examples of different cases and studies – recommendations coming from MAs and BAs. Practical guidelines for how to check and verify the criteria.
It is not clear what action should be taken when the acquirer and the newly acquired enterprise have already reached the maximum amount of State aid. This problem is often encountered when applying for operational programmes where two companies within a holding structure apply separately for different programmes (or even one) and their projects are eligible and approved for funding. The limitations imposed on the basis of physical persons involvement are even more biased (SMEs linked through natural persons).	Improving flexibility in terms of aid cumulation among linked enterprises and development of SME Statements on State aid and further detailed clarifications on how to fill them out. Providing more precise guidance in cases of links based on physical persons. Setting thresholds of importance – e.g. percentage of ownership – 25% or higher.
The imposition of State aid at the date of commissioning the contract or receiving a certain relief of subsidy, not at the date of its effective absorption is impediment for SMEs. Moreover, in the majority of cases the amount of the contract is higher than the effectively absorbed amount. Thus, businesses feel deprived of access to other similar funding and the inability to reduce the amount of aid received in proportion to the real needs of the enterprise. For example, if an enterprise applies with two project proposals under two programmes, the approval of both projects does not allow the company to request cumulative aid by indicating what percentage of each project they would like to receive within the framework of the *de minimis* aid in order to execute them both.	Registering, or making precise clearance, the *de minimis* aid upon successful implementation of the aid not upon contracting. Development of an on-line consultation platform for MAs, but also for SMEs, through which they could receive consultation from competent experts on how to plan their State aid possibilities. Providing the applicants with the opportunity to deduct the amount above the allowed State aid threshold from their applications instead of canceling the whole application.
MAs face difficulties determining which State aid regime to use.	The periods of EC's responses to requests sent by managing authorities

Conclusion	Recommendation
MSs have the opportunity to decide for themselves which State aid regime should be applicable to a certain scheme. In most cases, if advice is needed, the guidance given by the EC is not entirely clear, which leads to incorrect or too cautious decisions. Very often *de minimis* is the safest harbour, to the detriment of the beneficiaries, since the application of GBER is more difficult, complex and time consuming.	of MSs should be shortened. The responses must also outline possible alternatives whenever relevant, so that the MAs can benefit from the EC expertise.
There is no unified practice of State aid rules application among the MSs. The vague and contradictory practice of different MSs and their institutions for management of funding programmes that support same activities, but in a different way, create many risks – incorrect application of EU legislation, unequal treatment, incorrect transfer of responsibility to operators and beneficiaries, different standards and approaches of application of the State aid rules etc.	Introduce a more detailed/in-depth examination of the inquiries put forward by the MAs in the MSs in practice with a view to drawing up more concrete and practical answers from the EC. Providing compendiums of good practices for the most frequent asked questions.
Same activities are treated differently (as State aid or not) depending on who manages the funds – the EC or the MSs. EU funding managed by the EC, which is not directly or indirectly under the control of a MS, is not treated as State aid, unlike the same activities and beneficiaries, which are financed under the operational programmes.	Align the rules on operational programmes with those managed by the EC in order to avoid unequal treatment of beneficiaries and activities.

I. INTRODUCTION

State aid represents the granting of state resources in order to benefit certain firms or industries. Article 87 of the EC Treaty establishes the general rule that certain criteria must be fulfilled for aid to be considered as State aid:

- there has been an intervention by the State or through State resources which can take on a variety of forms (e.g. grants, interest and tax reliefs, guarantees, government holdings of all or part of a company, or providing goods and services on preferential terms, etc.);
- the intervention gives the recipient an advantage on a selective basis, for example to specific companies or industry sectors, or to companies located in specific regions;
- competition has been or may be distorted;
- the intervention is likely to affect trade between MSs.

However, some aid is exempted from this prohibition up to a specific amount (de minimis), or for certain actions that are crucial for the European economy (e.g. those activities that are specified in the General Block Exemption Regulation – GBER) and that address genuine market failures and limit distortions i.e. the benefits outweigh any negative effects on competition. Services of general interest also are subject to a separate set of state aid rules – the so called "Almunia" Package. The new SGEI package aims at providing clarification and introducing a diversified and proportionate approach in the assessment of state aid to public service providers and has been subject to an extensive consultation process. It applies to all authorities (national, regional, local) that grant compensation for the provision of SGEI.

If neither exemption applies and the "four-part test" finds that the particular activity qualifies as State aid then the Commission must be notified of the proposal. Article 108(3) of the TFEU says that the notification must come in sufficient time in order for the Commission to submit its comments. If it believes that the proposal is not compatible with the internal market it will take action and the country must not act on its proposed measures until a final decision has been made.

The rules specifically state that an aid measure should not be implemented prior to notification and a positive response from the Commission has been received. This is known as the suspension obligation.

To clarify which measures can constitute State aid DG COMP prepared and published a 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 262/011 (on 19 July 2016). This document further discusses the criteria for determining State aid and presents Acquis Communautaire related to State aid that has been collected over the years.

The assessment whether a measure constitutes State aid and whether the aid is compatible with EU rules can be complex. Each measure is different and needs to be assessed individually. State aid assessments require specialized legal and economic knowledge and their application to specific situations.

Still, at the European level, there is not comprehensive data and through analysis of the State aid rules' practical effect over SMEs.

However, according to a recent study assessing the effectiveness of the EU's SME policies[2] the **State aid regulations are quoted as one of the key burdens in terms of both access to finance, and better regulation**. **They impede access to finance** because of their very complex nature, complicated reporting and calculation, their great deal of uncertainty and high risk of financial corrections. **They also complicate reporting and monitoring procedures of the MSs, enterprises and public services**. A report by the European Court of Auditors found that the majority of national audit authorities consider the EU's legal framework for State aid to be at least fairly complex. More than 35% of them cited the volume of legislation as the biggest factor for the complexity. Another 35% stated that they had difficulty in applying legislation in practice[3]. The opinion is expressed not only by the SMEs and their representative associations, but also by the MSs' institutions.

The main reason is the great deal of uncertainty they bring because of the margins of discretion left to the MS, which are too wide, lack of clear rules and instructions on how they must be applied in practical terms and the vague unbinding answers given by the services to particular questions. This is reflected in the conservative approach taken by some MSs institutions resulting in restricting the area of potential beneficiaries, as well as in unnecessary financial corrections, paid mainly by the beneficiaries – mostly SMEs, but also NGOs, municipalities etc.

As mentioned by the High Level Group on Simplification[4], discussion on simplification is taking place at a time when other fundamental issues would also have to be addressed, including the fundamental decision on the future of Europe, the need for contents of the EU's post-2020 strategy, and uncertainties such as Brexit, which will affect the Commission's proposal on the Multiannual Financial Framework and European Structural and Investment Funds. According to HLG members, a much simpler and more focused delivery system is possible, with less legislation and guidance on ESIF, mainly if the beneficiaries' point of view is fully and coherently adopted. It needs to be accompanied by a full alignment of horizontal rules with other EU instruments: such as State aid and simplified cost options (which should treat similar projects in the same way, irrespective of the mode of management). Such simplification will not adversely impact the effectiveness and accountability of public funds but given the proven capacity of effective controls in more and more MSs and regions, it would rebuild trust and allow the Commission and the MSs to focus on key issues, freeing up resources currently spent on lengthy and detailed controls or unnecessary tasks.

Nevertheless, at the European level, there is not much data and analysis of the State aid rules' practical effect over SMEs.

Therefore, the Employers' Group of the EESC has commissioned the conduct of the current Study on "How the State aid rules affect the access to finance for SMEs and enterprises" to Explica Ltd., an independent research-based consultancy company from Bulgaria on the basis of Service contract № CES/CSS/09/2018/26859.

[2] EESC study "Assessment of the effectiveness of the EU's SMEs policies 2007-2015" (January 2017) https://www.eesc.europa.eu/sites/default/files/resources/docs/qe-02-17-762-en-n.pdf?fbclid=IwAR2y0Y8FNKWiNAfD02pL6xlBpA5fowuHFBQL9QgWQ4aCoodhC8qIQ2Z0Ssk

[3] ECA's Special Report: More efforts needed to raise awareness of and enforce compliance with State aid rules in cohesion policy https://www.eca.europa.eu/Lists/ECADocuments/SR16_24/SR_STATE_AIDS_EN.pdf

[4] Final conclusions and recommendations of the High Level Group on Simplification for post 2020, 11/07/2017

II. STUDY AIM AND METHODOLOGY

Study aim

The aim of the current study is to examine how the State aid rules affect the access to finance for SMEs and enterprises.

Study objectives

- To reveal the main areas that may cause uncertainty or pose challenges as well as to identify in which direction they should be amended and to search for potential solutions to them;
- To provide information and figures regarding the impact of State aid on companies, including SMEs;
- To identify possible recommendations to the European Commission on how to simplify State aid rules to ease the access to finance, especially for SMEs, thus fostering growth in the EU;
- To identify possible recommendations to be addressed to other stakeholders (decision-makers at appropriate level, business organizations and other stakeholders, etc.);
- To identify best practices from MSs showing success in complying with State aid rules while facilitating access to finance for SMEs;
- To propose methodological actions that are applicable in all 27 MSs to enable better access to finance for enterprises, including SMEs in the framework of State aid rules.

Research questions

The study examines the following:

- To what extent the current rules – including funding thresholds, application period and others – for the application of the different State aid regimes are limiting factor, and the degree of burden for the MSs and their relevant managing authorities and SMEs, especially in the light of the rapidly evolving socio-economic conditions, new technological solutions and their market price?
- In which areas and forms the bottlenecks and deficiencies exist, what are the reasons for these bottlenecks and if they are of EU or national nature, and what are the consequences?
- What are the best practices to manage the uncertainty in applying State aid regulations without harming the interests of the SMEs?
- To what extent the current rules for application of the different State aid regimes are applied when MSs are providing funding to business?

The study also:

- Evaluates what challenges the State aid rules pose for the SMEs, including by types – e.g. sole and micro companies.
- Examines the problems MSs are faced with in relation to their financial instruments geared towards one-person companies, micro and small companies (thus, excluding medium and big companies).
- Identifies how loans, grants, guarantees or co-financing are interlinked and integrate into/comply with State aid.

Study period

The study covers the period of 2014-2018.

Respondents

- Business associations (incl. SMEs, but also social partners and NGOs) from 27 EU MSs;
- State aid Managing authorities from 27 EU MSs.

Methodology used

The Study methodology[5] utilises a combination of **quantitative (online survey/phone interviews) and qualitative methods (desk research and case studies)**. The desk research constitutes a leading research method used for the assessment of State aid rules and their impact on SMEs. Multiple research papers, materials and policy positions, opinions and declarations produced by highly trusted European and international institutions were subject to an in-depth review. The desk research exercise was conducted on the basis of a desk research methodology that secures the well-structured and systematic review of the identified information sources.

The desk review was complemented by 73 interviews carried-out with relevant stakeholders from the 27 EU MSs – 36 with representatives of MAs and 37 with representatives of business associations (incl. SMEs but also social partners and NGOs).

The questionnaires assisted the research team in identifying concrete examples from countries where access to finance for SMEs (incl. social partners and NGOs) is successfully facilitated and the State aid rules are efficiently applied. In order to enrich and deepen the results of the desk research and the survey, 5 case studies are developed as follows:

- 2 case studies on good practices from MSs showing success in complying with State aid rules while facilitating access to finance for SMEs and enterprises – Hungary and Finland;
- 3 case studies on impediments in terms of access to finance generated by State aid rules application – Bulgaria, Greece and Italy.

Data is gathered based on a case study methodology through in-depth interviews with relevant stakeholders from the 5 aforementioned EU MSs.

A total of 13 interviews were carried out between May and June of 2019, distributed as follows: Hungary (3 interviews); Finland (2 interviews); Bulgaria (3 interviews); Greece (3 interviews); and Italy (2 interviews). The results achieved allowed the research team to identify which policy issues create the greatest challenges for SMEs (incl. social partners and NGOs), and what practices available are the best to tackle these issues.

[5] Detailed methodology could be found in the Annexes section -*Appendix A. Detailed methodology of the Study*

III. Conclusions

Based on the Study results, it can be concluded that the application of the State aid regime is an extremely useful tool that protects competition and provides for an even playing field not only at MS but also at EU level. This, to a large extent, serves the aim of providing equal opportunities to SMEs when it comes to their access to finance. However, proper implementation of the rules should not impede State aid administrators (MAs), and like any other regime, **State aid regime should be flexible and regularly updated in order to respond to the dynamic socio-economic changes.**

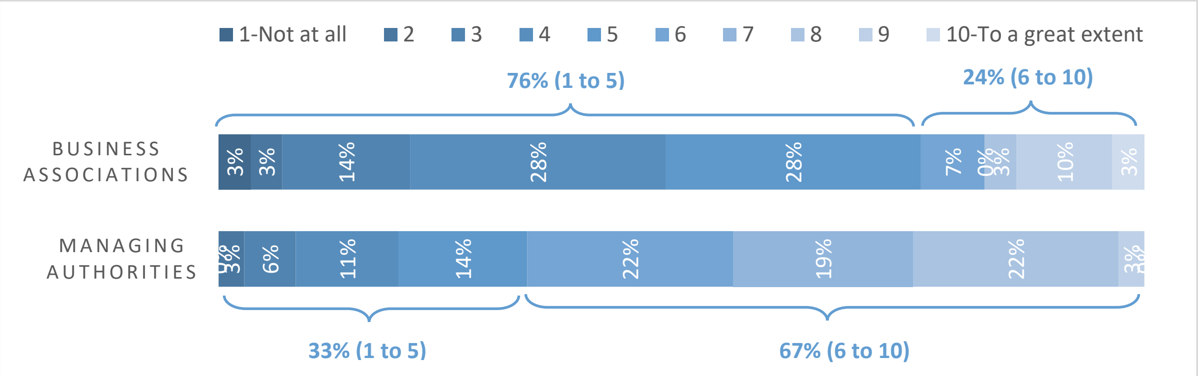
A. Findings addressing the research questions

1. To what extent are the current rules for application of different State aid regimes a limiting factor, and what is the degree of burden for MSs and their relevant MAs and SMEs?

*Some major challenges are detected with regard to the application of State aid rules at the national level. **This challenge is aggravated in many cases by lack of sufficient expertise both among the SMEs and the MSs'administrations** (both in terms of the preparation and experience of the experts responsible for the application of the State aid rules and in terms of their number in the administrations). The State aid rules in many cases are not well understood, hence not applied in their whole variety, because of lack of understanding and the need to clarify and increase the level of knowledge regarding the application of to SMEs and which rules are suiting the best different needs of financing tools.*

According to the current survey results, 67% of MAs representatives claimed that the national State aid schemes do generate burdens for companies (fig. 1). 1/3 of them assess the extent of burden as being very high or great. However, only 24% of BAs share the opinion that the national State aid schemes generate burdens for them. Possible reason for this discrepancy is that BAs are not familiar with the State aid rules and do not recognize them as a cause for impediments.

Figure 1. On a scale from 1 to 10 where 10 is "To a great extent" and 1 is "Not at all", to what extent do national State aid schemes generate burdens to companies (incl. SMEs but also social partners and NGOs) in terms of access to finance?



On the basis of the interviews, it can be stated that difficulties are encountered in most of the MSs regarding the way State aid rules are applied in terms of SME financing. However, where there is a better understanding of the rules in the MSs, the results of State aid progress and expenditure reports are higher. In these countries, despite the identification of individual problems, the reasons and ways of dealing with them are clearly understood and applied in favour of SMEs.

One of the consequences of a recent judgment of the Court of Justice[6] ruled that aid recipients must make sure that aid is granted to them correctly, respectively they cannot rely on the assurances of public authorities. It is strange to pose higher expectations to the beneficiaries in terms of knowledge and expertise, compared to those of the MAs. It should be tackled further, in order to provide for certainty for those good-willed beneficiaries in cases where they apply written instructions of the MAs. However, it is difficult for SMEs to comply with that ruling since they have neither the expertise, nor the capacity to do it. It is therefore advisable for the EC to rethink its policy of not making the answers it provides to MSs public on questions of interpretation of the GBER. Furthermore, **the SMEs reported that they do not have the capacity to assess if the aid is granted to them correctly or if they reported the aid received correctly**. Part of SMEs suggested an on-line consultation platform to be developed not only for MAs, but also for SMEs through which they could receive real consultation from competent experts.

The MAs are rather learning-by-doing, in the course of applying the rules, as the rules are well-grounded and legally precise, but ***there are no guidelines for their practical application*** *and in some cases the definitions are not very clear/well-defined.*

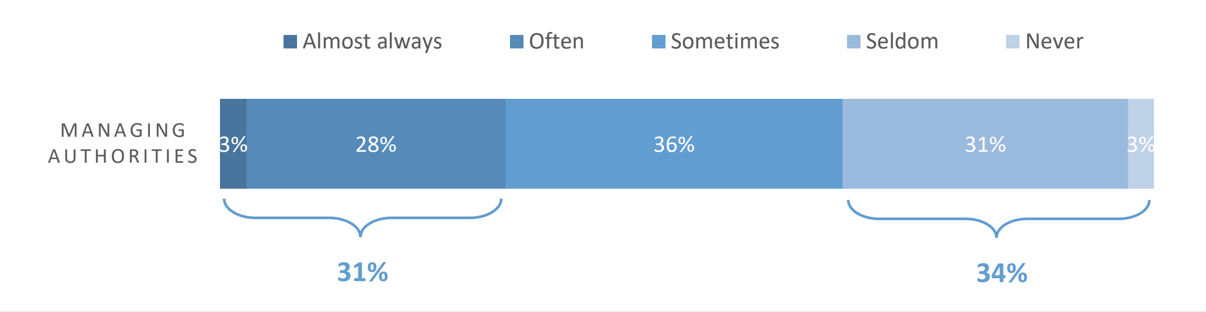
Some of the MAs say they do not find accurate and timely solutions to individual cases. In some cases, there is a delay in the Commission's decisions. The MAs are also not in a position to obtain ready-made decisions by the Audit Authorities, which subsequently assess the rationale of their decisions to apply State aid rules.

In the same time, the beneficiaries of programmes are obliged to ensure compliance of the project proposal with the applicable State aid rules and to provide relevant evidence for this. In cases where the project proposal applies for funding falling under State aid regime statutes, the beneficiary is required to provide evidence that the notification obligations to the obligatory coordinate minister and the EC have been met and that there is a positive EC decision (if applicable).

The **needs of simplification and/or capacity buildings in the State aid rules** are visible from the frequency of additional clarifications the MAs representatives need from the European Commission when applying State aid rules. Over 30% of them said that they contacted EC for support almost always or often (fig. 2).

[6] Case C-349/17 http://curia.europa.eu/juris/document/document.jsf?text=&docid=211287&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=5170353

Figure 2. How often do you need additional clarification from the European Commission when applying State aid rules?



One of the major limiting factors regarding State aid for SMEs, MSs and their relevant MAs appears to be the ***accumulation of support****, when the financial contribution is received from different sources (a national programme, regional programme, or European fund) for the same "eligible costs" of a corresponding project and the individual benefits that are collected (including the benefits for coordinating beneficiaries and benefits for project partners).*

It is important to correctly identify the intensity of the eligible aid, and it is important that the total intensity does not exceed allowance intensity for the type of aid concerned.

Usually, the application periods are different for different State aids, including project grants with competitive procedures. This causes difficulties for SMEs and/or MAs to calculate accumulated aids with respect to the same eligible costs during the assessment process. The SMEs need to put resources and efforts into the preparation of project proposals. Then they should decide which of their approved projects are of a higher priority for their sustainable development taking into account the thresholds for the various State aids support. This is a limiting factor with a high impact and degree of burden for the MSs and their relevant SMEs and MAs, especially in light of rapidly evolving socio-economic conditions, new technological solutions and their concurrent market price.

However, it is important that the application of the various State aids is tailored to reflect the differences between State aid assessments and merger control or antitrust investigations as a limiting factor for the MSs.

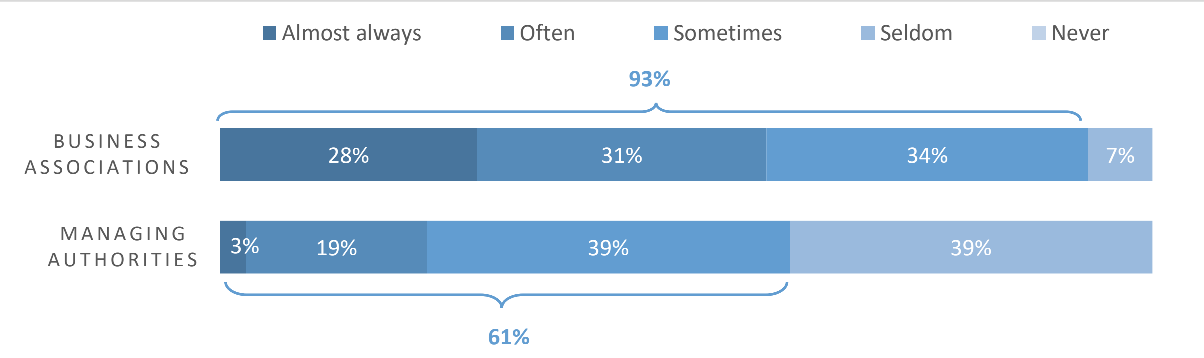
According to MAs it is necessary to ensure clearer elaboration and communication of the State aid rules to enterprises and the public and to clarify (some) categories of eligible costs and to widen the eligible costs categories. Sometimes there is also a need of support through training and additional expertise to beneficiaries who are also State aid administrators, to avoid burdens caused by State aid rules, and to foster successful project implementation.

2. **In which areas and forms do bottlenecks and deficiencies exist, what are the reasons for these bottlenecks, are they of EU or national nature, and what are the consequences?**

According to BA there are two main reasons for the burdens State aid rules application generate to companies – an ***overly complex national legislation for reporting and declaring State aid*** *(incl. insufficient guidance and information)* ***and low thresholds of State aid****.*

BA representatives share the same opinion, as 93% (fig. 3) of them claimed that the **national and/or regional rules almost always, often or sometimes add administrative burden** rather than only ensure that minimum State aid regimes (European) requirements are addressed.

Figure 3. In your opinion do the national and/or regional rules add administrative burden rather than only ensure that minimum (European) requirements are addressed?



Almost half of the BAs respondents of the current survey finds the *de minimis* thresholds low and outdated (which are easily reached by the SMEs), which creates additional problem for their further development, especially in the fields of investments in new capacities, development of innovations (incl. with scientific institutes) and development of new services and /or products.

Such opinion is shared by all BAs representatives who specified that some of their members had reached the limits of the aid (45% of the group).

A little over 1/3 of the BA respondents who have applied for funds constituting State aid in the past 5 years, have not received any. The reasons behind the unsuccessful applications in 39% of cases were the State aid rules, mainly due to reach of the *de minimis* threshold as a single undertaking or linked enterprises.

The *de minimis* rule only concerns State aid accruing under schemes/measures declared under this rule. Thus, part of the measures and procedures under the programmes set an aid threshold and require the applicants to declare the received other *de minimis* aid for a certain period. The amount of the threshold varies for some of the sectors (see *Appendix E. Definitions/Glossary* for details).

SMEs declare only the grant received under such schemes, regardless of the programme under which they have received their financial support. According to the principles governing it, *de minimis* aid is considered to be granted when the SMEs have legal rights to receive it (from the date of entry into force of the financing agreement, and not from the actual date of the bank transfer). **In the survey data the majority of SMEs recommended to register the *de minimis* aid upon successful implementation**

of the aid, rather than upon contracting, or at least to provide certain mechanism of clearance of actual State aid received.

The *de minimis* rule allows for State aid relevant activities, but only those that are of minimal financial importance, up to a threshold during a rolling three-year period, subject to certain administrative steps being taken. The amounts of *de minimis* aid granted per MS to a single undertaking within the last 3 financial years cannot exceed EUR 200,000. **Both BAs and MAs support the idea to increase the *de minimis* aid limits.**

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*The MA representatives group claims that the **European Commission's State aid guidelines are complex and unclear** (incl. those concerning eligible beneficiaries and activities): regulations are ambiguous; the responses given by the Commission to inquiries are too general; the nature of available information resources is non-mandatory; cases are studied with and dealt with after their implementation rather than during the planning of the measures/programmes.*

An important observation based on the in-depth interviews is that even in countries where there are well-prepared experts, their own assessment indicates that **there is a shortage of human resources** (they need more experts).

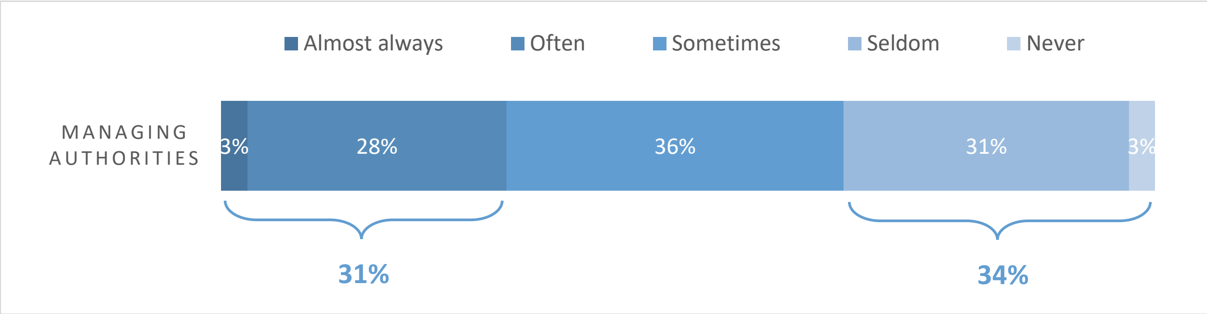
In countries where there are clearly identified impediments to SMEs due to the application of State aid rules, the **lack of expertise is a very categorical and highly stated issue**.

The State aid modernisation that was launched in 2012 has resulted in a significant decline in the number of notifications to the Commission – which reduces administrative costs for MSs – but has also led to an increase in the ex-post checks by the Commission. These outcomes mean that the increased use of the GBER and the "decentralisation" of State aid implementation coupled with a more systematic ex-post control by **the Commission have increased the responsibility of MSs to comply with State aid rules**.

The Commission has taken actions to simplify the applicable State aid legislation which has resulted in a reduction of administrative burdens and more transparency but has also increased MSs' responsibilities for designing and implementing aid measures. MSs burdened with more responsibility risks increasing the number of State aid errors. All MAs respond that **they need more capacities and expertise, on-line consultations, exchanges of experience, good practices and know-how** of State aids aiming at minimising the errors, as they also affect the national and EU budgets, especially for projects under grant schemes. The additional effect and consequences are that the MAs focus only of the *de minimis* rules which supports the SMEs because it is more clear for them, and does not generate problems and risks with the EC and other relevant authorities.

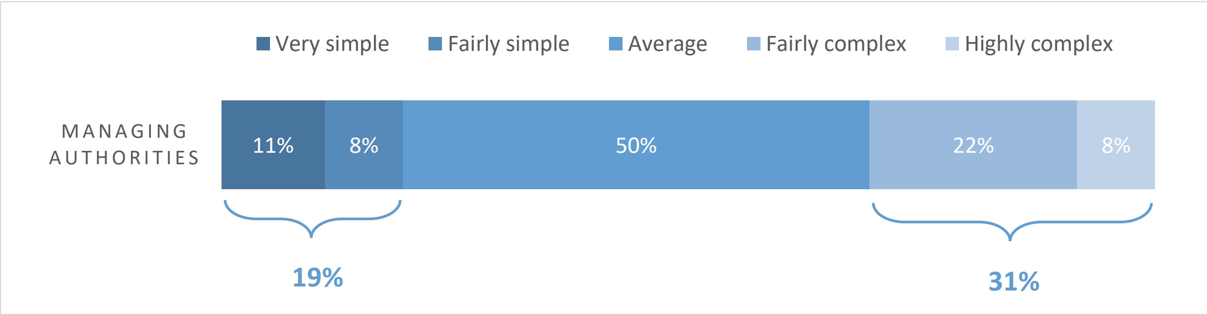
According to the survey results the need of some simplification in the State aid rules is visible from the frequency of additional clarifications the MAs representatives need from the European Commission when applying State aid rules. **Over 30% of them said that they contacted EC for support almost always or often.** However, each third claimed that they seldom or never needed support (fig. 4).

Figure 4. How often do you need additional clarification from the European Commission when applying State aid rules?



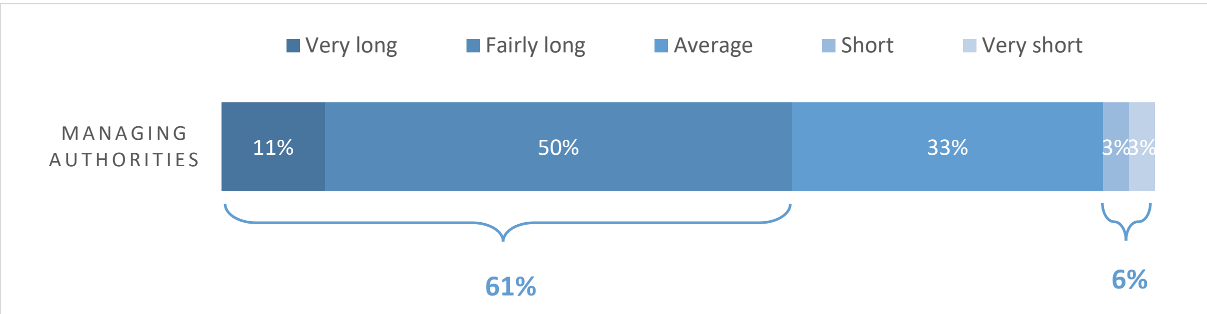
Additionally, **31% of the MAs claimed that the process of notifying State aid was highly or fairly complex**. The opposite point of view (that the process of notifying State aid is simple or very simple) was supported by 19% of the MA representatives (fig. 5).

Figure 5. How would you assess the simplicity of the process of notifying State aid?



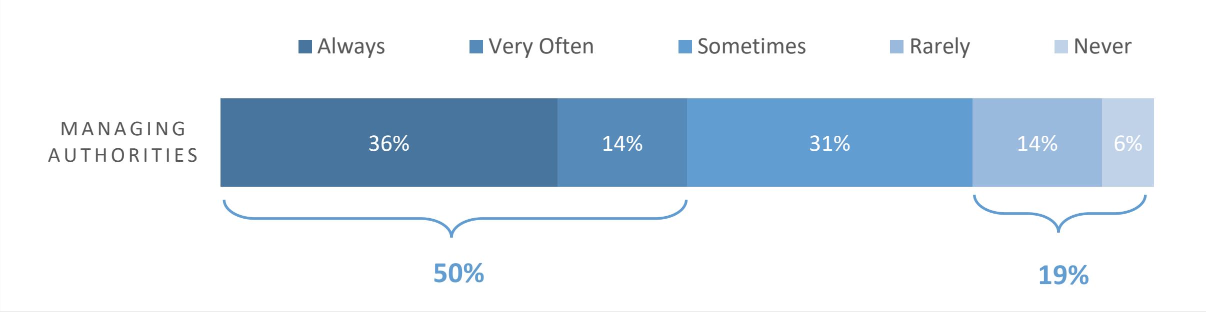
A significant share of the MAs group (**61%**) **also admitted that the duration of the notification process is very or fairly long** (fig. 6).

Figure 6. How would you assess the duration of the notification process?



The final indication that the notification process needs improvement is that, **according to half of the MAs representatives, it always or very often required additional correspondence with EC** (fig. 7).

Figure 7. How frequently does the notification process require additional correspondence with the EC?



The prolonged notification process reflects on the SMEs as there is sometimes shortening of the application processes afterwards in order to still allow the MAs to meet the overall deadlines of the schemes.

*The **rules on partner and linked enterprises are complex and difficult to understand and apply** and the subject **"single economic entity" is not included and defined in the regulations**.*

The single undertaking definition under *de minimis*, as well as the definition of undertaking in difficulty under GBER, create confusion in both business and MAs. It appears to be hard for the MAs to look into the details of how the undertakings are connected and what those connections constitute. In addition, the different definitions for a single undertaking under the *de minimis* rules, the different definition to establish SME status, and the unclear third definition under Regional aid (it is based on cases of the European court), could be very confusing both for an aid granter and the beneficiaries.

***The impact of aid** on competition varies according to the type of aid. At the same time relative size of the aid, breadth of the aid and frequency of the aid are the same for SMEs (including the affiliated enterprises and sole traders).*

This generates bottlenecks and deficiencies in the MSs when designing the common frameworks applicable to a range of aid measures for SMEs. These aids include, among others, environmental aid, regional development aid, research, development and innovation aid, aid under the SGEI scheme, and rescue and restructuring aid.
It is necessary to assess the relative amount of the aid for micro, small and medium sized companies. It is difficult for the MSs to decide whether the amount of aid is small compared to the EU and regional and national market sizes and if the aid would cause distortion of competition on the markets depending of the GDPs of different MSs. It is important to take into account the effect of the different State aid, including the effect of *de minimis* aid on annual turnovers, investment cost and benefits of the SMEs depending on its volume on the markets and depending on the services provided from them, including the social impact such as creation of new jobs and environmental impact in different MSs. Data on State

aid (State aid scoreboard) do not shed much light on the distribution of aid across the size categories within the SME definition, since MSs do not report on this aspect.
Another important issue is that some aid schemes which cover a number of companies in the same industry or market are more likely to affect competition than aid granted to only one company. Equally, granting aid to a company serving the majority of the market may have a stronger impact on competition than granting aid to a company serving a smaller proportion of the market.
In cases of sector-supporting schemes, some also argue on how the supported sectors are chosen.
The frequency of the aid, according to the MAs is also important when assessing the impact of State aid on the markets and relatively depends of the size of the enterprises. The medium sized companies might not only have a big market impact, but also possess more management experience for managing and receiving the aid. It is also important if the aid is granted on a yearly basis or on a continuous basis.

Part of the MAs face ***difficulties identifying whether the particular service is of general economic interest****. According to our survey results they need more skills and expertise including training with practical cases, but not only those related to the decisions of the Court of Justice.*

The Treaty does not define a service of general economic interest. The Community has retained the right of MSs themselves to define these services on a case-by-case basis. In principle, these are services, which the market does not provide, or does not provide in the amount or quality that the MSs need. These are services provided to all citizens and not to a particular industry or enterprise.
SGEIs are targeted at services, which are related to the supply of electricity, gas, telecommunications, public radio and television broadcasting services, public transport and postal services. In any cases **when defining the SGEIs, the MAs reach the bottlenecks and deficiencies even in the situation when there is no more than one respective beneficiary**. In this case, for MAs it may not always be necessary to undertake a detailed assessment of the impact of aid on competition in all of the relevant markets: both EU and regional. This may be the case, for example, where the magnitude of the aid granted is small relative to the size of the affected market(s). Then, the measure is unlikely to have an appreciable effect on competition.

3. **Which are the best practices to manage the uncertainty in applying State aid regulations without harming the interests of the SMEs?**

Survey results and in-depth interviews showed that in the MSs ***where the government is supportive and has taken a series of measures*** *(like education, capacity building, development of handbooks/ learning materials and other supportive instruments) in order to facilitate access to finance for SMEs,* ***State aid rules application is most successful and doesn't harm the interests of the SMEs****.*

According to the cases studied, there are practices, which guarantee better application of State aid rules while facilitating access to finance for SMEs, such as:

- Existence of good expertise and trainings on State aid in order to correctly implement the State aid rules;
- Preparation of clear guidelines in order to minimise possible errors;
- Provision of clear guidance to beneficiaries in order to be able to submit well prepared data;
- Existence of a State aid monitoring office, which gives clear instructions to operators and MAs;
- Supporting SMEs by carrying out all preliminary checks.

According to the MAs representative who participated in the current survey, the biggest share of the funds was allocated under the GBER and the *de minimis* aid (more than 70%). However, differences may arise when the assessment is undertaken on an ex-post rather than an ex-ante basis. The factual and counterfactual scenarios in ex-ante assessments can remain changed as the factual scenarios are unknown (what happens with the aid) and the counterfactual is known (what happens if the aid is not granted) but uncertain. In addition, in ex-ante assessments and especially in determining the incentive effects of the aid, the counterfactual describes the predicted performance of the companies if it does not receive the aid (e.g. profitability, sales, investment levels, knowledge and management and administrative expertise). On the contrary, in ex-post assessments the counterfactual describes the performance of the SMEs and the market had the aid not been granted. Therefore, in the short term, the aid might have benefited SMEs, while in the medium term, the available options, at least for some SMEs, might have declined. Therefore, it is possible that the impact of the aid could have differing effects regarding the short term versus the long-term period assessment.

If several effects occur at the same time as administrative procedures, strong project scoring which predefined the type and size of SMEs, eligible for applications and others which can influence the interests of the SMEs, there are examples of best practices among the MSs for successful management of the uncertainty in applying State aid regulations without harming the interests of the SMEs.

When considering the possible effects of an aid measure on sustainable economic development of SMEs, it could be helpful to put the size of the measure (in monetary terms) into the context of the size of the affected SMEs and sectors together with the impact on the markets. The smaller the size of the measure and the possibility of distorting competition in the affected markets is, the bigger the impact on the SMEs and their sustainable development is.

It is also important to highlight the importance of the design of the aid scheme with regard to avoiding the uncertainty in SMEs to apply State aid regulations and without harming the interests of the SMEs.

"Online interconnection of the public authorities in order for the granting authority (in compliance with the data protection provisions) to have direct access to the data consisting prerequisite for State aid application (e.g. access to the Register of Companies, the Tax Department), instead of these data being collected and submitted by the applicants. Informative activities (e.g. seminars, leaflets/guides) targeting companies for opportunities for State aid approval procedures. Public

consultation with Chambers in order to collect needs." ***Example of existing good practice given by MA representatives.***

The MAs representatives shared some good practices in complying with State aid rules while facilitating access to finance for companies (extracts presented below as direct quotes):

- Many grants under the Danish structural funds' programmes are provided under *de minimis* regulation, which have very limited administrative impact on beneficiaries. If GBER is more beneficial for an operation (or perhaps a combination of GBER and *de minimis*), this of course is also an option and we provide the beneficiary with all information needed.
- Online interconnection of the public authorities in order for the granting authority (in compliance with the data protection provisions) to have direct access to the data consisting prerequisite for State aid application (e.g. access to the Registrar of Companies, the Tax Department), instead of these data being collected and submitted by the applicants. Informative activities (e.g. seminars, leaflets/guides) targeting companies for opportunities for State aid approval procedures. Public consultation with Chambers in order to collect needs.
- The application of simplified cost options as introduced in the GBER for ESIF supported measures.
- The application of simplified cost options such as the application of lump sums and flat rates.
- We consider all our support measures compliant with State aid rules; e.g. grants (for industrial premises and infrastructure) and financial instruments (guarantees).
- We have good experiences with DGCOMP. All of the units dealing with State aid and financial institutions are constructive in the assessment of the SME access to finance cases.

4. To what extent are current rules for the application of different State aid regimes applied when MSs provide funding to business?

The current rules for the application of the different State aid regimes are characterized with ***stronger conditions in some MSs as the MAs are insured against a possible refund of funds****. This affects access to finance for businesses and may produce restrictions in the areas of funding and the sectors for which support is possible.*

Sometimes description of the aid beneficiaries to be provided from MAs should reflect to the clear identification of both – the likely magnitude of the aid's impact in comparison of the type of the SMEs, and the potential markets where the aid might have had an impact. To identify the boundaries of the markets where the impact of the aid is likely to be greater, the relevant geographic and product markets need to be defined, together with the impact of SMEs of such markets. The extent of selectivity measure refers to whether the aid was granted to all of the companies in the sector/regions, or to a sub-sector/region. In other cases, selectivity or granting criteria enables assessing the extent to which incentives have been modified and whether some companies are likely to have enjoyed an advantage over others.

The form of the aid matters, as aid that reduces the marginal costs of production may be more likely to lead to distortions to competition than aid that affects fixed costs. In theory, lump-sum government funding (e.g. an airport receiving a grant of EUR 1 million per year for a three-year period) is not expected to distort the recipient's incentives to operate in a commercial manner, as the grant will not have a significant impact on its marginal costs and therefore prices (in theory, companies set prices with reference to marginal or variable costs, not fixed costs). Variable subsidies, such as the direct covering of any losses made by a company or subsidies that depend on the volume of output produced by the recipient, can have a greater effect on market outcomes, and may be more likely to distort competition.

The type and amount of aid are also important for the MAs and SMEs. In many cases, the preconditions that certain aid characteristics may have greater potential to distort certain aspects of competition encourage MAs to use/apply only *de minimis* aid.

5. What challenges do State aid rules pose for SMEs, including by type?

In many cases, including the EU programmes, the sole companies are not eligible beneficiaries. In other cases, the micro or new companies meet burdens with many strong application and ranking criteria. Some of them report that aid for one-person companies and micro enterprises have a very limited effect on their development, because of small amounts of financial support (EUR 15,000-25,000). The micro-support schemes under the ESF in some MSs help overcome this[7].

The Commission has the right to approve the so-called Regulation for Block Exemption in the area of State aid. It announces specific categories of aid, meeting the criteria for preliminary notification and authorization originating in the Commission. In this way, every MS can provide State aid, meeting the regulations laid down in criteria without formal procedure for notification, while providing the Commission only with information about the provided aid. Similar regulations are in place about the aid for training, aid for SMEs, aid for jobs and National Regional Investment Aid.

When the aid falls into the area of block exemption, it is obligatory to be coordinated in advance with the obligatory coordinate minister.

Small and medium-sized enterprises play a crucial role for the establishing of new places for employment and for introducing innovative solutions. Limited access to credits and bank warranties, as well as to information and new technologies prevents their activity. Therefore, exemption from duty for notification for State aid for SMEs aims to assist the overcoming of difficulties and to encourage development of SMEs.

The granting of aid can commonly be viewed from the MAs of the MSs as an "event" that creates a risk in the market. The magnitude of the risk largely depends on the nature of this "event" that is

[7] For example, in Bulgaria a lump-sum is granted under simplified costs rule to such companies in order to co-finance important consultancy services for their business development – around 2 500 euro, which can cover business plan development and accountancy/tax advice over a period of 1 year.

dependent on the characteristics of the aid. To characterize the possible risks MAs describe the form, the type and amount of aid granted, including the aid instrument, the number of private and public companies and/or type of organization.

For MAs the impact of aid on competition is likely to differ depending on the circumstances of each case, but also of the size of enterprises and their financial and management capacities. In addition, it is hard for micro and small firms to be eligible and competitive beneficiaries in some cases/ programmes and measures. Therefore, **it is important that the State aid assessment reflects the specifics of each case, but also the specific characteristics of the SMEs**.

Micro-enterprises – with fewer than ten employees and craft professions (e.g. carpenter, butcher, baker, roofer, metal worker or information technician) form the heart of Europe's local communities. They produce mainly within their local base, ensure jobs and vocational training for both young and old alike, and make an essential contribution to innovation in the European economy. The heads of such enterprises are fully involved in all steps of business and they remain in direct contact with customers.

Craft and small enterprises face particular problems due to their small size and limited resources, both with current expertise and knowledge pertaining to project development and implementation along with the understanding and reporting of State aid taking into account the eligible amounts of funds and limitation of State aid rules. The globalisation of the economy and enlargements of the EU have also considerably changed the challenges that such enterprises face. Starting up a new business and getting the required capital is a challenge, as is finding the right kind of finance to expand an established business. **Due to their limited resources, these enterprises suffer more from "red tape" and administrative burdens than larger enterprises.** They often struggle to keep up with new developments in information and communication technologies, and encounter difficulties finding qualified staff as well as providing them with adequate training and education. Moreover, finding successors for retiring business owners can also be problematic. **They need more information (handbooks) in their local languages about State aid rules, applications and reporting of aid with examples for different real cases.**

6. **What problems are MSs faced with in relation to the State aid rules application to their financial instruments geared towards one-person companies, micro and small companies?**

There is a need to simplify and introduce more flexibility of State aid rules. ***The rules are too complex, and the administrative charge is too high*** *especially for very small enterprises, one-person companies and micro companies.*

According to SAFE Report 2018, the extent to which SMEs in the EU28 consider various funding sources relevant to them is presented and grants and subsidised bank loans are mentioned by 32% of the respondents as being relevant in 2018.

The shortage of funds for micro-enterprises and sole traders (one person companies) is the greatest. As the financial instruments with the shared management are considered part of the national or regional budgets, they are potentially subject to State aid control. When implementing the financial instrument, MAs must ensure compliance with State aid rules.

SMEs also find it difficult to access funding. In the majority of cases when applying for programmes, they should first assess the project costs, and part of these costs are mainly funded by commercial banks. In addition, a large number of beneficiaries benefiting from the guarantee facility are micro-enterprises. **Some SMEs typically benefit from receiving grants to the fullest extent in the form of grants and are unable to receive support in the form of financial instrument when it falls under the *de minimis* or other State aid regime**.

Equity and capital equity investment instruments support start-ups and business ventures at a very early stage of their development. Investments from this fund amount to between EUR 25,000 and EUR 200,000 and are scheduled for the start of a business venture when a group of enthusiasts want to develop their business idea. Up to EUR 1 million can be given to start-ups that are slightly more advanced in their business concept. These funds are invested in the capital of a newly created or existing company in return for partial ownership in their capital. In this type of investment, besides financing itself, the mentoring and strategic assistance that fund managers provide to companies is very important.

The problem with the financing of micro and one-person companies *is* ***related to difficulties in attracting private sector investors to financial instruments****, both in shared and central government management. Other problem for MSs related to skills and knowledge of Fund managers and investors (financial institutions, commercial banks) are that they are often not fully aware of State aid rules.*

Other types of financial instruments also available for micro and one-person companies are those for microcredit. That is, through these financial instruments, credits are available between EUR 2,500 and EUR 25,000, but these are loans to micro-companies and start-ups, companies with up to 2-3 years of history, which generally have no access to the banking market as they have no bank history. The purpose of these small loans is investment, they can also be working capital and can also target people from vulnerable groups - unemployed for over half a year, young people up to 29 years old, as well as people with disabilities. **The problem that MSs are faced with in relation to State aid rules application (that their financial instruments are geared towards) is that the different financial instruments must be designed to be in line with State aid rules for SMEs.** Other recommendation from MSs related to the simplification of the State aid rules for all of co-financed projects is targeting the differences of interpretation (which are very important).

In addition, SMEs have the same problems as described above with financial instrument support regarding to their relations to State aid obligations: ***accumulation of State aid among linked enterprises and the limitations of de minimis rules****.*

Financial instruments are a delivery tool to provide financial support from the EU budget to SMEs. The main types of financial instruments supported by the EU budget are loans, guarantees, equity and quasi-equity[8].

The EU budget can be implemented through shared management (i.e. in cooperation with MSs such as in cohesion policy), through direct management by its departments, through executive agencies, through indirect management by entrusting budget implementation tasks to third countries or to different entities. The latter two are collectively referred to as centralised management. There are not reported problems with a centralised management funds and state aids.

In shared management, financial instruments can be set up as standalone funds or as sub-funds of a holding fund. A holding is fund sometimes also referred to as a ‘fund of funds’: it is a fund set up with the objective of managing different types of instruments. It also allows for the making of contributions from one or more OPs to one or several financial instruments. According to the survey some MAs noted that “*State aid for start-ups for example should be extended with aid via fiscal instruments”*. In the same survey the MAs and BAs reported that it is necessary to “*simplify state aid regime for R&D&I projects where SMEs are cooperating with research institutions (i.e., align state aid rules with EC central instruments, EFSI/InvestEU)*”. According to the respondents, it is also necessary to “*set “no aid” threshold for very small grants/vouchers for start*-*ups or small R&D&I projects because investment is too small to distort competition, nevertheless creates administrative burden to manage it according to state aid rules.*”

In terms of State aid rule according to the MAs they meet the same problems as they do in the case of grants. All of them reported that **it is trouble to attract SMEs with sufficient financial instruments as they prefer to apply for project grants**. It seems that the project with *de minimis* is more attractive for SMEs, because *de minimis* aid is really clear and understandable for them.

The MSs should make their funding mechanisms simpler, more transparent and more targeted to the individual needs of small businesses*. There is also a needs to increase the availability of microloans through its financial instruments for micro, woman and one-person companies, as to ensure a wider access to finance for all types of SMEs and micro companies.*

Financial instruments are generally managed by private or public-sector banks or other financial intermediaries rather than public administrations. EU funds under shared management are considered part of the national or regional budgets and as such are potentially subject to State aid control. When implementing the financial instrument, MAs must therefore ensure compliance with State aid rules. This compliance should be checked at the level of fund management, at the level of investors and at the level of the final recipients. The relevant State aid rules applicable for financial instruments are contained in the GBER and in the Commission’s guidelines for risk finance[9].

[8] European Commission (2015). Guidance for Member States on Financial Instruments – Glossary.
Source: European Commission and EIB, FI Compass — Financial instrument products: Loans, guarantees, equity and quasi-equity, p. 3.
[9] Guidelines on State aid to promote risk finance investments 2014/C 19/04
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XC0122%2804%29

For each ERDF and ESF financial instrument, the MA has to provide evidence that it is either:

- conforming with normal market practice (which in practice means that the management of the fund has been selected following an open, transparent and non-discriminatory process); or
- covered by the *de minimis* regulation; or
- an exempted aid, as it falls under the GBER or falls under a notified aid scheme in accordance with the Commission's guidelines for risk finance.

Centrally managed financial instruments, which do not use national or regional resources and thus are not part of MS budgets fall outside of the scope of the EU's State aid rules, because the main condition of Article 107 TFEU which are for the budget/funds granted by a MS or through state resources' is not fulfilled.

For most small and medium-sized enterprises, the administrative burden related to application for financial insturments (such as development of business plan and preparation of documents) is a problem. *The cost of administrative procedures for a small company can be up to ten times higher than for a large company making this burden disproportionately heavy for small businesses.* ***Access to appropriate finance is the second largest problem facing EU small and medium-sized enterprises.***

The conditions for application for financial instruments cause strong company management and administrative capacity together with the ability to represent business plans and take State aid into consideration. This respected MSs and faced problems in relation to the implementation of financial instruments towards one-person companies, micro and small businesses.

In addition, investors and banks often shy away from financing start-ups or young SMEs due to the risks involved, which (combined with the entrepreneurs who sometimes have limited understanding of investors' or banks' concerns) makes it harder for the SMEs to find the financial backing they need.

The financial instruments cover SMEs' different needs, whether start-up or established companies:

- the High Growth and Innovative SME Facility provides risk capital for innovative SMEs in their early stages and in their expansion phase;
- the SME Guarantee Facility provides loan guarantees to encourage banks to make more debt finance available to SMEs, including microcredit and mezzanine finance, by reducing the banks' exposure to risk.

Microloans (loans of less than EUR 25,000) have a significant impact on micro and small enterprises (if they are able to receive them). However, there is a short supply of microloans, which particularly affects business creation by those who are unemployed, women or from an ethnic minority. Still, **it is necessary to increase the financial instruments and funds when taking into account local conditions and particular companies' needs**. Thus, more funds will be made available to SMEs, while tailoring them more specifically to local conditions and their financial needs. In addition, the administrative burdens and EU rules could be applicable to different (micro and small) SMEs, as in many MSs the documentations and application packages are the same for all type of SMEs. The MSs should make their funding mechanisms simpler, more transparent and more targeted to the individual needs of small businesses, and therefore needs to increase the availability of microloans through its financial instruments for micro, woman and one-person companies.

7. How are loans, grants or co-financing interlinked and integrated into with State aid?

State aid legal base determines the entire design of financial instrument and MAs need to choose the State aid legal base first as eligibility criteria, maximum amount per final recipient, minimum private investment, financial and governance parameters and finally develop the financial instruments. All of this should be done at all levels of financial instrument's recipients and public funds.

As mentioned above, when financial contributions are received from different sources (national programmes, regional programmes, European funds) for identical eligible costs of a corresponding project (e.g. for investments projects) and the individual benefits are collected (including the benefits for coordinating beneficiaries and benefits for project partners) it is important to correctly identify the intensity of the eligible aid. It is also important that the total intensity does not exceed the intensity allowed for the type of aid concerned.

According to European Parliament resolution of 31 January 2019 on the Annual Report on Competition Policy[10] the EU has established a strong competition policy in order to protect SMEs against unfair practices by other enterprises. The Commission is updating the rules to encourage national and regional governments to re-channel public subsidies further. The aim is to continue reducing controversial and competition-distorting handouts instead of supporting measures which really contribute to boosting growth and creating jobs.

One particular area in which the Commission focuses is preventing dominant firms from abusing their market power to stifle smaller competitors. This kind of anticompetitive practice is forbidden under EU law. Mergers that create or strengthen a dominant position are also prohibited, in order to safeguard a sufficiently high degree of competition. Only mergers exceeding certain thresholds have to be notified to the European Commission for clearance. Therefore, mergers between SMEs are generally not subject to EU procedures. In terms of State aid legislations, the mergers between SMEs have to be in line with the common rules despite that these are not subject to EU procedures. When there is a merger between SMEs subject to grants or financial instruments supports and both companies are under State aid regimes this should be in line with State aid legislation.

National and regional governments have to focus their financial interventions in the private sector on promoting jobs and growth. Since SMEs have a great role to play in employment and growth, public support is targeted at addressing the market failures of SMEs. Therefore, State aid may be present at several levels, it is not enough for all economic operators involved and to be compliant with State aid rules at the final recipient level. **The MAs have to develop their financial instruments and take care of State aid regimes aimed at private investors, financial intermediary – bank/investment**

[10] European Parliament resolution of 31 January 2019 on the Annual Report on Competition Policy http://www.europarl.europa.eu/doceo/document/TA-8-2019-0062_EN.html

fund/guarantee society, etc. fund managers and final recipients (SMEs), which are not aware of the State aid rules.

State aid legal base determines the entire design of financial instrument and MAs need to choose the State aid legal base first as eligibility criteria, maximum amount per final recipient, minimum private investment, financial and governance parameters and finally develop the financial instruments. All of this should be done in close consultation and while taking into consideration the needs and views of financial instrument's recipients and public funds.

A public investment that fulfils the criteria of the market economy operator test does not constitute aid and there is no need for notification and prior approval before implementation.

The Commission will consider whether the proposed measure is more appropriate than alternative State aid instruments addressing the market failure. According to the Communication from the Commission – Guidelines on State aid to promote risk finance investments (2014/C 19/04)11 there is a general presumption that financial instruments are less distortive than direct grants and therefore constitute a more appropriate instrument.

*For SMEs, **grant schemes are clearer and more acceptable** in terms of absorption, reporting and contractual relationship rules. Therefore, many SMEs prefer funding opportunities through grant schemes, which in some cases are de minimis regimes, and they have limitations because of the financial ceilings imposed.*

State aid which aims to facilitate the provision of risk finance can be granted in various forms, such as selective fiscal instruments or sub-commercial financial instruments, including a range of equity, debt or guarantees instruments with different risk-return characteristics, as well as various delivery modes and funding structures, depends on the nature of the targeted undertakings and the funding gap. The Commission will assess whether the design of the measure provides for an efficient funding structure, taking into account the investment strategy of the fund (so as to ensure sustainable operations).

Financial intermediaries have to pass on the benefit to the final recipients to the maximum extent possible.

Standard terms and conditions combining both State aid and ESIF criteria have caused problems for MAs as they should ensure that they comply with the State aid on the one hand and created financial instruments to be attractive and acceptable for SMEs on the other.

ESIF contribution to central financial instruments does not have to comply with State aid laws when contributed to centrally-managed financial instruments. Instead of compatibility, State aid consistency applies, i.e. rules of the central financial instruments. MS does not impose any additional conditions as to the use of the contributions other than in relation to the geographic area.

[11] Communication from the Commission/ Guidelines on State aid to promote risk finance investments (2014/C 19/04) http://ec.europa.eu/competition/consultations/2019_gber_deminimis/guidelines_risk_finance_aid.pdf

Some SMEs suggested that all financial instruments should be centrally managed*, because of the State aid regimes, Investment between public and private investors needs to cover the same terms and conditions as risk reward, and the same level of subordination in the same risk class.*

In market-conformity loans and guarantees the legal presumption of no aid determines the conditions of market-conformity investments, though there are guidelines to quantify for aid, which should be clearer for SMEs and their structures. **Even the clear definition for SMEs in the financial difficulty needs to be done.**

The guarantee does not cover more than 80% of the outstanding loan and a market-oriented price is paid for the guarantee as *de minimis* aid, which in turn is a burden for SMEs in terms of EUR 200,000 over a period of three fiscal years. If the ceiling is exceeded the SME's cannot benefit from the entire amount. Again, these rules are valid per single undertaking and cause burden for affiliated SMEs.

B. Conclusions and recommendations

Based on the in-depth interviews and responses to the survey, but also following-up on the main findings addressing Study's research questions there is conclusion that **a revision of State aid regulations in the following main areas is strongly encouraged**: more frequent assessment of thresholds and periods of State aid with regard to respond/ reflect to actual social-economic conditions, e.g. – revision to be taken every three years, along with mid-term evaluations and updates; the EC should provide clearer and more specific guidelines that do not lead to ambiguous and different interpretations by individual MSs, i.e. there should be a clear audit trail for the application of individual regimes of State aid; cases of non-aid should be clearly separated and updated with respect to public relations.

Following is a summary of the main conclusions of the Study and respective recommendations.

CONCLUSION	RECOMMENDATION
***De minimis* thresholds are too low and outdated.** It is noteworthy that *de minimis* aid should be regularly updated in accordance with changes in economic conditions, which negatively affects the business (ex: *de minimis* for agriculture was last updated in 22.02.2019, but the *de minimis* for SMEs was last updated in 2013).	Increase the *de minimis* limits for the period (concrete suggestion from BA is *to either make it EUR 300,000 for 3 years, or if it stays EUR 200,000 to decrease the period to 2 years*).
There is lack of practical guidelines on the State aid rules application. Good detailed guidelines are needed in order to facilitate and assist the operators of public resources to implement adequate and uniform rules.	Development and timely updating of practical guidance with particular examples and explanations of case-law on the application of State aid rules (could be drawn up at the national level with the assistance of the Commission – especially geographical units) for the MAs and separately for Business.
There is insufficient expertise of MAs on State aid rules application. All the errors and risks are at the expense of the beneficiaries, even if they can prove that they have received written instructions by the MA. This practice is further complicated by the fact that the MAs are supposed to have better expertise and more in-depth knowledge, as compared to the beneficiaries.	The recommendation is for the EC to provide regular opportunities for exchange of experience and best practices between MSs on the application of State aid rules. The regulation should also protect the good-willed beneficiaries when they act upon a written instruction of the MAs.
Lack of knowledge and understanding of the State aid rules among SME representatives. Simplification of the rules and more tailored approach towards different categories SMEs is needed.	Development of an on-line consultation platform for MAs, but also for SMEs, through which they could receive consultation from competent experts.

CONCLUSION	RECOMMENDATION
One of the problems with State aid for SMEs is related to the extension of the aid to affiliated enterprises. Verification and coordination in the cases of holding companies and related enterprises represents serious impediment for MAs, especially in cases of acquiring a new company with all its assets and liabilities from another enterprise or holding structure.	Development of more detailed definitions for affiliated enterprises, including examples of different cases and studies – recommendations coming from MAs and BAs. Practical guidelines on how to check and verify the criteria.
It is not clear what action should be taken when the acquirer and the newly acquired enterprise have already reached the maximum amount of State aid. This problem is often encountered when applying for operational programmes where two companies within a holding structure apply separately for different programmes (or even one) and their projects are eligible and approved for funding. The limitations imposed on the basis of physical persons involvement are even more biased (SMEs linked through natural persons).	Improving flexibility in terms of aid cumulation among linked enterprises and development of SME Statements on State aid and further detailed clarifications on how to fill them out. Providing more precise guidance in cases of links based on physical persons. Setting thresholds of importance – e.g. percentage of ownership – 25% or higher.
The imposition of State aid at the date of commissioning the contract or receiving a certain relief of subsidy, not at the date of its effective absorption is impediment for SMEs. Moreover, in the majority of cases the amount of the contract is higher than the effectively absorbed amount. Thus, businesses feel deprived of access to other similar funding and the inability to reduce the amount of aid received in proportion to the real needs of the enterprise. For example, if an enterprise applies with two project proposals under two programmes, the approval of both projects does not allow the company to request cumulative aid by indicating what percentage of each project they would like to receive within the framework of the *de minimis* aid in order to execute them both.	Registering, or making precise clearance, the *de minimis* aid upon successful implementation of the aid not upon contracting. Development of an on-line consultation platform for MAs, but also for SMEs, through which they could receive consultation from competent experts on how to plan their State aid possibilities. Providing the applicants with the opportunity to deduct the amount above the allowed State aid threshold from their applications instead of canceling the whole application.
MAs face difficulties determining which State aid regime to use. MSs have the opportunity to decide for themselves which State aid regime should be applicable to a certain scheme. In most cases, if advice is needed, the guidance given by the EC is not entirely clear, which leads to incorrect or too cautious decisions. Very often *de minimis* is the safest harbour, to the detriment of the beneficiaries, since the application of GBER is more difficult, complex and time consuming.	The periods of Commission's responses to requests sent by managing authorities of MSs should be shortened. The responses must also outline possible alternatives whenever relevant, so that the MAs can benefit from the EC expertise.

CONCLUSION	RECOMMENDATION
There is no unified practice of State aid rules application among the MSs. The vague and contradictory practice of different MSs (and their institutions) for management of funding programmes supporting same activities but in a different way, create many risks. Some of them are incorrect application of EU legislation, unequal treatment, incorrect transfer of responsibility to operators, beneficiaries, different standards and approaches of application of the State aid rules etc.	Introduce a more detailed/in-depth examination of the inquiries put forward by the MAs in the MSs in practice with a view to drawing up more concrete and practical answers from the Commission. Providing compendiums of good practices for the most frequent asked questions.
Same activities are treated differently (as State aid or not) depending on who manages the funds – the Commission or the MSs. EU funding managed by the Commission, which is not directly or indirectly under the control of a MS, is not treated as State aid, unlike the same activities and beneficiaries which are financed under the operational programmes.	Align the rules on operational programmes with those managed by the Commission in order to avoid unequal treatment of beneficiaries and activities.

There are additional areas of improvement recommended by the BA and the MA representatives, which could further lower the burden on the SMEs and better facilitate their access to finance. Part of them are applicable at European level, while others lie into the national competences.

At European level it is strongly advisable to:

- Clarify and simplify definitions: the SME definition, the definition of *single undertaking*, *affiliated enterprises* and *undertaking in difficulty*.
- Better align the fund specific rules and State aid rules (DG AGRI – DG REGIO – DG COMP coordination should be better).
- Clarify the requirements ("Some requirements are quite abstract, and even a theoretical practice is lacking in how it will be implemented, making it difficult for MSs. The rules of difficulty should be clearly laid out. We are definitely having difficulty implementing them correctly").
- Clarify (some) categories of eligible costs and to widen the eligible costs categories.
- Apply the rules set for individual investors with respect to the whole group in which it participates and to explicitly record it in Regulation 651/2014.
- Reduce the number and type of aids in order to avoid artificial separation of activities on different types of aids.
- Use the same rules regardless of the funds source.
- Simplify State aid regime for R&D&I projects, where SMEs are cooperating with research institutions (i.e. align State aid rules with EC central instruments, EFSI/InvestEU).
- Set a "no aid" threshold for very small grants/vouchers for start-ups or small R&D&I projects (investment is too small to distort competition, nevertheless it creates administrative burden to manage it according to State aid rules).
- Set clearer definitions for "economic activity" for universities and ("The concept of economic activity is difficult when aid is granted to universities or such organisations. When it is

considered to be economic activity? Universities and other educational institutions are often beneficiaries. If aid is granted as de minimis, the ceiling is too low if the activities are considered economic").

- Develop a set of document models and set of good practices for SMEs for declaring State aid.

Therefore, as the measures should be taken to motivate and incentivise the MSs as to:

- Further decrease bureaucracy and simplify application and reporting procedures, incl. not to require documents that can be delivered electronically or through official channels.
- Redesign, whenever applicable, the national formulas for SME State aid and integrate them into a universal one.
- Widen the scope of coverage for certain block exempted or notified businesses.
- Improve access of SMEs to information and new technologies with a view to implementing projects with scientific institutions partnership and with State aid, using the capacity of the business associations.
- Minimize the risk for SMEs of repayment of unlawful State aid and similar cases to be further considered before the decision is that the expenses return should be from the final beneficiaries.

IV. METHODOLOGY FOR DECISION-MAKING IN THE APPLICATION OF STATE AID RULES WITH REGARD TO STATE FUNDING SCHEMES FOR SMES

Within the current study, a survey among representatives of managing authorities and business associations in all 27 MSs was conducted. As a result, some bottlenecks and impediments with regard to the application of State aid rules are outlined – e.g. the ambiguity of some of the regulations and the uncertainty of the managing authorities when selecting a particular State aid regime to be applied to particular schemes. This ambiguity often results in the application of only one (de minimis) regime or a very limited range of regimes, which on one hand minimizes the possibility of administration mistakes by the managing authorities, but on the other hand limits the funding opportunities for SMEs.

In response to this challenge, in the framework of the current study, a draft of a Methodology for decision-making in the application of State aid rules with regard to state funding schemes for SMEs is proposed. The overall aim of the Methodology is to assist managing authorities in the implementation of State aid legislation while supporting access to finance for SMEs. By its nature, the Methodology is a method for identifying and verifying the aid, following the logic of rejection or acceptance of a statement, and giving instructions for the next steps of the process.

Regarding the application of the State aid rules, the Methodology offers the possibility of promptly assessing whether the aid is compatible or not and whether it falls within the scope of the most used State aid regimes when financing SMEs.

Due to differences in State aid legislation throughout the MSs and in view of the applicability of the Methodology at the level of all MSs, the methodology is the first step in the process of providing access to finance for SMEs. The Methodology provides the State aid assessment basis by including short and precise questions (steps) that can be answered unequivocally with a positive or negative response. The questions are focused on identifying aid and within the scope of which most common aids for SMEs it falls.

№	DESCRIPTION OF VERIFICATION POSITIONS	ANSWER		
		yes	no	n/a
1	**Does State aid exist - are the conditions of Art. 107, para 1 of TFEU in place?** If the answer is negative, the other questions are inapplicable, it is clear that the aid is **"Not State aid and is not a de Minimis aid"** If you have a positive answer to this question, please go to the next questions	☐	☐	☐
2	**Does State aid fall into categories that are compatible under the TFEU or the Regulation?** If this answer is affirmative, it may be necessary to notify the EC, the aid is **"Compatible State aid, the de Minimis rule does not apply"** If you have a negative answer to this question, please go to the next question	☐	☐	☐
3	**How far the State aid can be declared compatible under Art. 107, para 3 of TFEU?** If the answer is negative, the aid appears to be **"Incompatible State aid or not granted or, if provided, the recipient must return the money"** If you have a positive answer to this question, please go to the next question	☐	☐	☐

№	DESCRIPTION OF VERIFICATION POSITIONS	ANSWER		
		yes	no	n/a
4	**Does State aid fall within groups (Altmark test or Regulation 2014)?** If the answer is affirmative and if the aid is approved by the EC it is **"Compatible State aid, the de Minimis aid does not apply"** If you have a negative answer to this question, **"Incompatible State aid or not granted or, if provided, the recipient must return the money"**	☐	☐	☐
5	**Is there a minimum aid under Regulation 1407/2013?** If this question is answered in the affirmative, it is **'Compatible State aid, the de minimis rule applies'** *The amount of funding for the particular recipient is up to EUR 200,000 or up to EUR 100,000 if the recipient makes land freight transport for hire or reward. Please move on to the next question* If the answer is negative, **„State aid is either not granted or, if provided, the recipient must return the money"**	☐	☐	☐
6	**Does the recipient of funding fall within the scope of Regulation 1407/2013, Art. 1?** (Check the subject of SME activity) If you have a positive answer to this question, please go to the next question If the answer is negative, **„State aid is either not granted or if provided, the recipient must return the money"**	☐	☐	☐
7	**Does the total amount of the aid payable to the beneficiary (and all persons related to it, which constitute the same undertaking within the meaning of Article 2 of Regulation 1407/2013) under this project, combined with the aid received by the same enterprise during a previous 3-year period, fall within the eligible cumulated amount under the applicable minimum aid regulation (Regulation 1407/2013 and Regulation (EU) No 360/2012) as per the activities funded?** Acceptable thresholds are as follows: • In the case of aid for services of general economic interest under Regulation (EU) No 360/2012: up to EUR 500,000; • In the case of undertakings performing road freight transport: up to EUR 100,000; • In all other cases: up to EUR 200,000; If you have a positive answer to this question, please go to the next question. In the negative, **'State aid is reduced to the eligible thresholds described above'.**	☐	☐	☐
8	**Is the minimum aid compatible with Regulation (EU) No 360/2012 on the application of Art.107 and 108 of the TFEU to minimum aid to undertakings providing services of general economic interest (SGEI)?** For a positive answer to the question, the following conditions must be met simultaneously: • The service is in the public interest and has the defined special task	☐	☐	☐

№	DESCRIPTION OF VERIFICATION POSITIONS	ANSWER		
		yes	no	n/a
	• The financial analysis (prepared from the point of view of the service operator) proves that the operator does not perform and / or would not perform the service under the same conditions at his / her own risk without the defined compensation (including the program funding) • There is an administrative fixed price for using the service If you have a positive answer to this question, please go to the next question. If the answer is negative, **„State aid is either not granted or if provided, the recipient must return the money“**			
9	**The aid complies with the requirements of Commission Decision of 20.12.2011 on the application of Article 106 (2) TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.** If this question is answered in the affirmative, the aid is an aid for the provision of services of general economic interest within the scope of the Commission Decision of 20.12.2011. If the answer is negative, **State aid is either not granted or if provided, the recipient must return the money**	☐	☐	☐

V. APPENDIXES

A. Detailed methodology of the Study

Desk research

The desk research comprises of identification, collection and in-depth analysis of literature and other sources, including the research and materials produced by major international and European research institutions and think tanks, as well as relevant national and European business and employers` organizations, such as EC Treaty, regulations (old and new), decisions, studies, annual reports by country, European Parliament reports, Court of Auditors, and other relevant.
In the initial phase of the desk research Explica made a non-exhaustive review of the State aid legislative framework, and reliable research and policy documents published by highly trusted European and international institutions.

Quantitative interviews

The desk review was complimented by 73 5-minute phone interviews carried-out with relevant stakeholders from the 27 EU MSs – 36 representatives of MAs and 37 representatives of BAs.
The questionnaires assisted research team in identifying concrete examples from countries where access to finance for SMEs is successfully facilitated through compliment with State aid rules; and where State aid rules generate real issues in terms of access to finance. Based on the results from the questionnaires and the data gathered through the desk research, 5 cases from MSs were studied in-depth. The final decision on the exact countries to be included in the case studies was taken in consultation with EESC. Two questionnaires for the interviews were developed based on the data gathered through the desk research – one for each of the target groups (See Annex 1a/b: Questionnaire).
The results achieved during the initial phase allowed the research team to identify which policy issues create the greatest challenges for SMEs, and what are the best practices available to tackle the issues. A comparative analysis of the available data on the experience in the implementation of the rules and procedures for State aid granted to the enterprises, including SMEs, was used as a basis for selecting MSs, in which targeted interviews among appropriate stakeholders to be carried out using tailor-made questionnaires.

Case studies

The desk research method was combined and enriched by 5 case studies as an illustrative tool in the assessment of the experiences of MSs in the way the State aid rules affect their access to finance. The 5 case studies describe the positive and negative output from implementing these rules and procedures demonstrated via examples and stories of appropriate stakeholders.
The preliminary choice of countries for the case studies was based on combination of the following criteria, and made in consultation with EESC:

1. Country data on both access to finance and potential part of the state budget affected by State aid rules to be considered;
2. Sectoral and geographical balance to be sought;
3. At least one country which joined the EU after 2004 to be included due to the need of considering the administrative capacity factor;

4. At least one representative of unitary state, devolved state, federacy to be included since it is important to study on how many and what levels is the State aid applied;
5. An overview to be made on the size, population, allocated, EU budget; etc.

When it comes to the SMEs and their access to finance it is also important if the MS is part of the euro area as a space with additional guarantees of stability, relatively low interest rates, convergence and further facilitated capital movement.

However, it is not possible to identify the cases to be studied only based on a desk research. Thus, the decision on the final list of MSs/cases was also based on an additionally developed instrument – the **State aid rules application index**.

The index was calculated using the quantitative data gathered from the target groups. It is a combination of four questions, which allowed the researchers to achieve an objective evaluation even on the basis of small number of interviews. The index was used in the further data analysis for the preparation of the study report as well.

- Question 5 from the questionnaire for BAs, and question 9 from the questionnaire for MAs: On the scale from 1 to 10 where 10 is "To a great extent" and 1 is "Not at all", to what extent State aid rules generate issues/burdens to companies (incl. SMEs but also social partners and NGOs) in terms of access to finance

For easier understanding the scale was converted to symmetric one, as following:

10	9	8	7	6	5	4	3	2	1
-5	**-4**	**-3**	**-2**	**-1**	**1**	**2**	**3**	**4**	**5**

The scale enter the index as absolute values (from 5 to -5), assuming that the lower the values, the more the State aid rules generate issues/burdens to the companies in terms of access to finance.

- Question 5a from questionnaire for BAs, and question 9a from the questionnaire for MAs: *What is the reason for your answer? (multiple answers possible)*

The questions enter the index as absolute number as well, as number of negative answers if the answer to questions 5/9 is scaled between 10 and 6

This approach gives the opportunity to calculate the index as follows:

State aid rules application index = (-5 to -1 scale for BAs) + (-5 to -1 scale for MA) **-** (number of negative answers for BAs) **-** (number of negative answers for MA)

The index was calculated for each MS and is presented in a summary chart.

The MSs with highest indices were further analysed of the best practices, and the MSs with the lowest indices were further analysed of the burden when it comes to access to finance through State aid.

The index was used alongside the other criteria in order to assure objectivizing the country selection approach.

The final decision on the 5 MSs' cases to be studied (including in-depth interviews to be held) was taken in consultation with and in view of EESC preferences since EESC has broader and deeper knowledge and overview of the different practices in the MSs, when it comes to application of State aid rules.

Qualitative/In-depth interviews (structured)

Necessary information for the case studies was gathered through a combination of data collection techniques – in-depth phone interviews and in-depth face-to-face interviews at the working place with relevant stakeholders.

The length of each interview was not more than 30 minutes and was carried out using an interview guide with key discussion points and open-ended questions developed for each of the target groups (See Annex 2a/b: Interview guide).

The in-depth interviews, in combination with information from other sources (such as country data, surveys, relevant legislation, analysis, statistical and other) were used for development of 5 in-depth case studies (2 case studies on successfully facilitated access to finance of SMEs; and 3 case studies on issues in terms of access to finance generated by State aid rules).

Annex 1a: Questionnaire for business associations (incl. SMEs, social partners and NGOs)

1. **State aid is financial support that is provided by the State to business organisations. Generally, State aid is prohibited and unlawful. However, there are number of exemptions, which, if they apply, render the State aid lawful and permitted. Therefore, State aid rules exist to avoid public funded interventions distorting competition within the European Union. State aid rules can (among other things) apply to grants, loans, tax breaks, including enhanced capital allowances, the use or sale of a state asset for free or at less than market price. Within the last 5 years have you orany of your members applied for public funds falling under the State aid regime?**
   - Yes
   - No
2. **If YES, did you/they receive the funds?**
   - Yes (go to Q4)
   - No (go to Q3, then jump to Q12-14 and end the interview)
   - Some of them - yes, other - no (go to Q3, then Q4 and continue with the questionnaire)
3. **If you/ they did not receive the funds, was the reason related to the State aid rules?**
   - Yes, please specify (Go to Q12)
   - No (Go to Q12)
4. **In which sector/objective you/your members have received State aid?**

   a. Non-agricultural aid

   of which (by objective)
   - Closure aid
   - Compensation of damages caused by natural disaster
   - Culture
   - Employment
   - Environmental protection, incl. Energy saving
   - Heritage conservation
   - Promotion of export and internationalisation
   - Regional development
   - Rescue & Restructure
   - Research and development, incl. Innovation
   - Sectoral development
   - SME, incl. risk capital
   - Social support to individual consumers
   - Training

- Other

of which (by aid instrument)

- Equity participation
- Grant
- Guarantee
- Soft loan
- Tax deferral
- Tax exemption
- Other

of which

- Co-financed
- Not co-financed

b. Agricultural aid

- Agriculture and rural development
- Aid granted to fisheries and aquaculture

c. Transport aid (excluding railways)

- Road
- Maritime transport
- Inland water transport
- Air transport
- Other transport

d. I am not sure

5. On the scale from 1 to 10 where 10 is "To a great extent" and 1 is "Not at all", to what extent national State aid schemes generate burdens to companies (incl. SMEs but also social partners and NGOs) in terms of access to finance?

10	9	8	7	6	5	4	3	2	1

6. (When answer falls in 10-6) What is the reason for your answer? (multiple choice) Please start with the most limiting issue/burden (multiple choice)

- Too complex EU rules for reporting and declaring State aid (incl. unsuficient guidance and information)
- Too complex national legislation for reporting and declaring State aid (incl. unsuficient guidance and information)
- Similar ESIF projects are not treated in the same way as those funded from EFSI and programmes directly managed by the EC
- Under the regimes requiring co-financing, micro and small enterprises are struggling to find the resources if no advanced payments are allowed
- Too long accumulation period of State aid (3/7 years)
- The extension of the State aid to affiliated/linked enterprises/ persons is impediment for companies
- The entire amount of subsidy under de minimis is registered upon signing of contract instead of upon the successful completion of the project
- Low tresholds of State aid

- High co-financing rate under some of the State aid regimes
- Other….

7. Have you been exempt from State aid within the last 5 years?

- Yes
- No

8. Have you/some of your members ever reached the limits of de minimis aid?

- Yes
- No

9. If YES, did this cause any burdens for further development of the companies? Please specify (multiple answers)

- Recruitment of new employees
- Investments in new capacities
- Development of new services and products
- Expanding market share
- Introducing innovation
- Other…

10. In your opinion do the national and/or regional rules add administrative burden rather than only ensure that minimum (European) requirements are addressed?

- Almost always
- Often
- Sometimes
- Seldom
- Never

11. What would be the one thing you would change in the State aid rules which lower the burden on the SMEs or larger companies in terms of access to finance?

For example: Simplify the notification/approval procedure; introduce flexibility in terms of cumulation of the aid among linked enterprises/ persons; shorten the period of de minimis; increase the de minimis limit for the period; register the de minimis aid upon successful implementation on the aid not upon contracting.

12. You represent:

- Business association (please specify)
- SME
- NGO/ Social partner
- Other (please specify)

13. Which country is your entity registered in?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark

- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

14. Your organization is settled in a (according to EC's categories):

- Developed region
- Less-favoured region (incl. rural areas and other areas with restrictions)

Annex 1b: Questionnaire for managing authorities

1. **How do you asess the clarity of the State aid rules?**
   - Very clear
   - Clear
   - Fairly clear
   - Slightly clear
   - Not clear
2. **In your oppinion do the national and/or regional rules add administrative burden rather than only ensure that minimum (European) requirements are addressed?**
   - Almost always
   - Often
   - Sometimes
   - Seldom
   - Never
3. **How often do you need additional clarification from the European Commission when applying State aid rules?**
   - Almost always
   - Often
   - Sometimes
   - Seldom
   - Never
4. **Which of the State aid rules have you applied within the current programming period? (multiple choice)**
   - De minimis
   - GBER
   - No aid
   - Specific State aid rules/individual sectors (agriculture, electricity…)
   - SGEI (postal services, public transport…)
5. **Which of the State aid rules stated in your previous answer represents biggest portion of the State aid applied within the current programme period?**
   - De minimis
   - GBER
   - No aid
   - Specific State aid rules/individual sectors (agriculture, electricity…)
   - SGEI (postal services, public transport…)
6. **How would you assess the simplicity of the process of notifying State aid?**
   - Very simple
   - Fairly simple
   - Average
   - Fairly complex
   - Highly complex
7. **How do you assess the duration of the notification process?**

- Very long
- Fairly long
- Average
- Short
- Very short

8. How frequently the notification process requires additional correspondence with EC?

- Always
- Very Often
- Sometimes
- Rarely
- Never

9. On the scale from 1 to 10 where 10 is "To a great extent" and 1 is "Not at all", to what extent the current State aid rules generate issues/burdens to companies (incl. SMEs but also social partners and NGOs)?

10	9	8	7	6	5	4	3	2	1

10. When answer falls in 10-6) What is the reason for your answer? Please start with the most limiting issue/burden (multiple choice)

- The European Commission's State aid guidelines are complex and unclear (incl. eligible beneficiaries and activities)
- Guidance provided by the European Commission are only informal and cannot create legal certainty or legitimate expectations
- The EU rules for reporting and declaring State aid are too complex (incl. unsuficient guidance and information)
- The national legislation for reporting and declaring State aid are too complex (incl. unsuficient guidance and information)
- Similar ESIF projects are not treated the same way as those funded from EFSI and programmes directly managed by the EC
- Period of State aid accumulation is too long (3/7 years)
- The rules on partner and linked enterprises seem complex and difficult to understand and apply. The subject "single economic entity" is not included and defined in the regulations
- The current SME definition creates prerequisites for limiting the access of SMEs to funding constituting State aid
- The entire amount of subsidy under de minimis is registered upon signing of contract instead of upon successful completion of the project
- Ceilings of State aid are low
- Co-financing rate under some of the State aid regimes is too high
- Requirements at national level bring significant complexity to the application of State aid
- The Commission's responds to State aid related inquiries are not clear and concrete
- The individual regimes are too restrictive and obstruct the application of the regulations
- Other…

11. Would you give an example of a good practice in complying with State aid rules while facilitatibg access to finance for companies?

12. **What would be the one thing you would change in order to be better facilitating access to finance for companies (incl. SMEs but also social partners and NGOs) in your country while complying with State aid rules?**

For example: Simplify the notification procedure; introduce flexibility in terms of cumulation of the aid among linked enterprises; shorten the period of de minimis; increase the de minimis limit for the period; register the de minimis aid upon successful implementation on the aid not upon contracting.

13. **Which institution do you represent?**
14. **Which country does your institution operate in?**
    - Austria
    - Belgium
    - Bulgaria
    - Croatia
    - Cyprus
    - Czechia
    - Denmark
    - Estonia
    - Finland
    - France
    - Germany
    - Greece
    - Hungary
    - Ireland
    - Italy
    - Latvia
    - Lithuania
    - Luxembourg
    - Malta
    - Netherlands
    - Poland
    - Portugal
    - Romania
    - Slovakia
    - Slovenia
    - Spain
    - Sweden
15. **Which sector/objective is under your management? (please mark all applicable)**
    a. Non-agricultural aid

    of which (by objective)
    - Closure aid
    - Compensation of damages caused by natural disaster
    - Culture
    - Employment

- Environmental protection, incl. Energy saving
- Heritage conservation
- Promotion of export and internationalisation
- Regional development
- Rescue & Restructure
- Research and development, incl. Innovation
- Sectoral development
- SME, incl. risk capital
- Social support to individual consumers
- Training
- Other

of which (by aid instrument)

- Equity participation
- Grant
- Guarantee
- Soft loan
- Tax deferral
- Tax exemption
- Other

of which

- Co-financed
- Not co-financed

b. Agricultural aid

- Agriculture and rural development
- Aid granted to fisheries and aquaculture

c. Transport aid (excluding railways)

- Road
- Maritime transport
- Inland water transport
- Air transport
- Other transport

16. Do the regional/local authorities participate in the process of administration of State aid?

- Yes
- No

Annex 2a: Interview guide for business associations (incl. SMEs, social partners and NGOs)

Profile

1. Please briefly present your company/organization – name, year of founding, category (NGO, social partner, business company – micro/small/medium-sized enterprise), country of registration, sector of operation.

General assessment of the State aid rules and its applicability

2. State aid is any aid granted by a MS which distorts or could distort competition by giving certain companies an advantage, provided that it affects trade between MSs. State aid rules can (among other things) apply to grants, loans, tax breaks, including enhanced capital allowances, the use or sale of a state asset for free or at less than market price. Within the last 5 years have you/some of your members applied for any funds constituting State aid for your business? Did you/they receive the funds? If yes, please provide details (what kind of aid, under which scheme, what amount, etc.). If no, what was the reason?
3. Do the current State aid rules affect the access to finance for companies? How?

Challenges & needs in relation to access to finance

4. Would you say that the State aid rules generate any issues/burdens in terms of access to finance for SMEs? If yes, could you give some concrete examples?
5. Can you outline a single burden as the most crucial SMEs are facing when applying for any funding falling under State aid regime? Why is it an obstacle? Can you give concrete examples?
6. Can you point the 3 main areas in applying State aid rules that cause uncertainty? How do they affect the access to finance for companies (incl. SMEs but also social partners and NGOs)?
7. Have you/some of your members ever reached the de minimis threshold? If so, what were the consequences for the company/organization?
8. Have any financial corrections related to non-compliance with State aid rules ever been made to your project/project of your member? If so, why and what rate? How did this affect your company?
9. Specifically, which current State aid rules are limiting factor and burden for the beneficiaries of aid? If they are of EU or national nature, and what are the consequences?

Recommendations

10. What specific changes to State aid rules would you suggest in order to maximise the benefit of available funding for companies (incl. SMEs but also social partners and NGOs)?
11. What should be the role of the EU and the national government? What are the applicable measures that should be initiated by national and EU institutions regarding State aid rules in order to respond to the SMEs needs?
12. Do you have any other suggestion(s) or remarks?

Annex 2b: Interview guide for managing authorities

Managing authority profile

1. Please briefly describe the Managing Authority that you represent – managed programme/s, funds, and regulatory responsibilities?

General assessment of the State aid rules and its applicability

2. Do the current State aid rules affect the access to finance for companies? How?
3. What are the pros and cons of the different types/regulations of State aid in the context of companies (incl. SMEs but also social partners and NGOs)?

Main issues with State aid rules

4. Can you outline a single administrative burden as the most crucial MAs are facing when dealing with the State aid rules? Why?
5. Would you say that the State aid rules generate any issues/burdens in terms of access to finance for SMEs? If yes, could you give some concrete examples?
6. The EU legislator has deliberately left room for minimum standards to be implemented by MSs in line with EU treaty principles. How do you asses it – like obstacle or facilitation? Why?
7. Can you point-out 3 main areas that cause uncertainty? How do they affect your work? How do they affect the access to finance for companies (incl. SMEs but also social partners and NGOs)?
8. Specifically, which current State aid rules are limiting factor and burden for you as a Managing Authority and for the companies as beneficiaries of funds? Are they of EU or national nature, and what are the consequences for both parties? Could you identify in which direction those rules should be amended in order to find potential solutions?

Good practices

9. Do you have any good practices showing success in complying with State aid rules while facilitating access to finance for companies (incl. SMEs but also social partners and NGOs)? Can you point some of them/give examples? Are they applicable to any or all MSs?
10. Who is best positioned to give guidance? How can good practices be more widely known? Do you have your good practices published and shared publicly (link)?

Recommendations

11. What specific changes to State aid rules would you suggest in order to maximise the benefit of available funding for companies (incl. SMEs but also social partners and NGOs)?
12. Imagine that you can propose on your own a methodology applicable in all 27 MSs to enable better access to finance for companies (incl. SMEs but also social partners and NGOs) in the framework of State aid rules. How it would look like? Basic rules? Limits?
13. Do you have any other suggestion(s) or remarks?

B. Background

EU SMEs – key facts and main challenges

Companies classified as SMEs are defined officially by the EU[1] *as those with fewer than 250 employees and which are independent from larger companies. Furthermore, their annual turnover may not exceed EUR 50 million, and their annual balance sheet cannot exceed EUR 43 million. This definition is critical in establishing which companies may benefit from EU programmes aimed at SMEs, and from certain policies such as SME-specific competition rules.*

SMEs have been proclaimed to be the most valuable segment of the EU economy and have become one of the main focuses of EU development policies. Over the last decade, access to finance for SMEs has been a long-standing topic of the EU policy agenda.

European Parliament's Committee on Economic and Monetary Affairs (CEMA) in its report acknowledges the diversity of SMEs, including micro-enterprises and sole companies in the MSs. This is reflected in their business models, size, geographical position, socioeconomic environment, stages of development, financial structure, legal form and different level of entrepreneurial training. All this shall be taken into account when evaluating accesses to finance and the impact of the State aid rules on SME's sustainable development. CEMA also recognizes the challenges that SMEs are facing, owing to differences in financing conditions and the particular needs and challenges for SMEs between MSs and regions, notably with regards the quantity and cost of available funding. These are influenced by factors specific to SMEs and to the country and regions in which they are established, and they include economic volatility, slow growth and higher financial fragility. SMEs also face other challenges such as access to customers and the fact that capital markets are fragmented and regulated differently across the EU. The need for diverse and improved public and private funding options for SMEs also does not end after the start-up phase of the companies and it continues throughout their lifecycle.

SMEs in the EU have generated substantial growth in recent years, but the implementation of the Small Business Act for Europe is not yet complete. Large policy gaps remain in areas where SBA recommendations still have not been implemented (just to mention the consequent application of "SME-tests" or SME-envoys' functioning). The SBA's annual progress is reviewed by the SME Envoy Network, but much work is needed to ensure that this information actually reaches SMEs and their representative organisations. In addition, application of the "SME test" in practice is extremely limited as it reliant on the good will of the MS, rather than specific criteria. Also, at this stage its implementation focuses on SMEs as a whole (without taking into account the specific characteristics of the different SME subgroups).

SMEs comprise all types of firms ranging from one-person businesses to co-operatives. Whilst some SMEs offer very traditional services or craft products, many others are fast-growing high-tech companies. Despite their differences, though, Europe's SMEs share many challenges as administrative and regulatory burdens, access to finance, taxation, lack of skills, access to public procurements, unfair/too strong competition, labour law, access to the Single Market, access to EU programmes, access to information and advice and how SME is specifically defined.

It is important to increase the knowledge of SMEs about the complementing market-based funding sources. Enabling SMEs to understand the costs, benefits and the associated risks of these often complex forms of external finance is the most important. The taxation system has a strong influence on the

[1] Commission Recommendation from 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, 2003/361/EC

internal finance capacity of SMEs. The simple and fair taxation system, which ensures a level-playing field for all enterprises is in turn a way to ensure the development of SMEs. Both corporate taxation and income taxation play an important role for SMEs.

SMEs are currently facing multiple challenges – harsh competition, a shortage of skilled labour, new forms of work and of consumption, an increasingly complex and concentrated flow of information, limited resources for innovation, constant downgrading of the entrepreneur's role, volatile financial markets, complicated access to finance and high dependence on the external environment, as well as limited bargaining power. The SMEs situation is further aggravated by an overly complex process of technical standardisation, intellectual property and general data protection rules, market abuses by global actors, and impeded participation in EU/national public contracts and in global value chains. More efficient solutions should be designed, especially where the SMEs are negatively affected by structural problems and market failures.

Digitalisation and the technological developments it entails (including e-commerce) present not only valuable opportunities for SMEs but also pose important challenges, prompting them to change their culture, activities and business models. It would be highly desirable for the economic sectors and regions that are most critical for SMEs to be involved more closely in "Industry 4.0".

According to a recent study commissioned by the EESC[2], the European economy loses over 2% of its productivity per year due to a mismatch of skills. Companies in most of the EU's MSs are witnessing a growing shortage of workers with skills tailored to their needs. The way skills mismatches affect European companies includes additional spending on employee training, loss of competitiveness and innovation capacity and slower recruitment processes.

Despite the sustained efforts at the EU level to minimise the administrative burden the complexity of administrative rules is still prevalent in EU SME policies and the current support mechanisms. The majority of EU support mechanisms seem unsuited to respond to SMEs' pressing needs for fast, clear and effective solutions.

In its opinion[3] EESC stresses that SMEs are being confronted with increasingly serious challenges of various kinds:

- constantly intensifying competition and globalising markets;
- new business models as a result of the development of new technologies, such as widespread digitalisation (Industry 4.0), the circular economy and the sharing economy;
- shortage of skilled and qualified manpower as a result of the demographic crisis in Europe, population ageing, and migration.

According to Survey on the Access to Finance of Enterprises (SAFE) - the main monitoring tool of the European Commission to track developments in SMEs' access to finance, for 2018, the availability of skilled staff and experienced managers is the most pressing problem experienced by SMEs in the EU28. In addition, all MSs now have funding dedicated to starting up a business, innovation, proof-of-concept and commercialisation, as well as national grants and risk capital to support SMEs and start-ups and bank loans/guarantee schemes to improve access to finance. EU-based funds for SMEs can be accessed relatively easily in most MSs. Most MSs also have business angel funds and venture funds established.

[2] Skills Mismatches – An Impediment to the Competitiveness of EU Businesses, EESC July 2018

[3] EESC Opinion INT/787 Effectiveness of policies for SMEs

Fund-of-funds for alternative equity and debt financing are present in most MSs, as is knowledge on the impact of microfinancing activities.

However, a recent study[4] has revealed that EU SME policies and current support mechanisms treat the large number of SMEs in Europe as a homogeneous group and do not distinguish between the different needs of the numerous sub-groups of enterprises falling under the definition of SMEs. Using a "*one size fits all"* approach to develop EU SME policies is a challenge that prevents policies from achieving their desired effects. The specific needs of microenterprises, family and "traditional" businesses, social enterprises, liberal professions, self-employed people and all other specific sub-groups that have quite different legal forms and models of operation remain unattended. These specified needs for a diversified, tailor-made approach in terms of regulations and initiatives for SMEs need to be supported, and even more so since there is no one-size-fits-all model of finance.

The variation of SMEs along with country specific factors as legal framework and cultural issues almost affect the productivity, profitability as well as the risk profile of SMEs. Given these multiple factors, it is difficult to assess the influence of a single factor such as State aid impact on the success of the financial support.

Therefore, the European Commission is currently preparing for an evaluation and possible revision of some aspects of the SME definition, as over time some specific issues have been identified.

The overall objectives of the revision of the EU SME definition are to:

- ensure that available support and special measures to reduce the administrative burden are focused on those enterprises that need it the most;
- increase business predictability and legal certainty for enterprises by making the SME definition clearer and leave less room for interpretation;
- create a level playing field for EU-based SMEs within the Internal Market by fostering equal treatment for SMEs throughout the EU with regards to their access to public support and finance.

The specific objectives are to:

- ensure that the SME definition is fit for this purpose and is updated to the current economic conditions;
- provide clear legal certainty and avoid companies that in practice do not face the difficulties of typical SMEs to use loopholes in the definition to benefit from SME status;
- ensure that sector-specific particularities are sufficiently considered when identifying SMEs.

Furthermore, in its recommendation[5] the EU Council calls on the Commission to consider updating the Small Business Act for Europe and, where appropriate, the SME definition provided by Recommendation 2003/361/EC, taking into account recent developments and new challenges, and focusing on good framework conditions for SMEs, with a view to include a new "digital principle".

According to EESC, SMEs can be differentiated on the basis of their size, lifecycle stage, location, type of ownership, sector of activity, etc. and their needs for support are quite varied depending on which sub-segment a given SME is in. A special group that requires specific treatment is constituted by the "mono-entrepreneurs" (almost 50% of all SMEs), which are all but excluded from the scope of the

[4] EESC study: "Assessment of the effectiveness of the EU's SMEs policies 2007-2015" (January 2017)

[5] Council's recommendation - 9706/19 COMPET 433 IND 185 MI 476 Outcome of Proceedings From: General Secretariat of the Council On: 27 May 2019 To: Delegations No. prev. doc.: 9263/19 COMPET 398 IND 173 MI 434 Subject: An EU Industrial Policy Strategy: a Vision for 2030 - Council conclusions (adopted on 27/05/2019).

support measures. In addition, against this backdrop, formulating promotion policies based only on the size of the supported companies might be outdated, too broadly targeted and fail to consider the different needs of different groups of SMEs.

EU legislation vs. national legislation – the "gold-plating" phenomenon

The European Competition policy is of strategic importance for the EU in a highly competitive globalised economy and is one of the only four policies that fall within the exclusive competence of the European Union. It seeks to ensure that companies compete with each other on an equal footing without receiving unfair advantages. Since the EU's single market guarantees free trade in goods and services across the Union, competition policy is regulated at the EU level. State aid rules are one of the key aspects of the EU's competition policy.

Over the years, European institutions have developed a large body of secondary legislation and guidelines in order to ensure benefits for society as well as to minimise the negative impact of the distortion of competition. To date the number of EU legislation in force related to SMEs and State aid has grown to 305 acts[6]. However, rather than helping, the rules are now undermining the trust in the ability of beneficiaries and regional and national administrations to manage and use the funds in a sound and efficient manner.

European SMEs have to comply with regulations at both the national and European level while non-European ones do not. In the light of subsidiarity and proportionality and in line with EU law, it is the MSs' sole competence to introduce additional measures other than those foreseen by the EU (minimum) requirements in order to reflect their specific characteristics. According to EESCs' recent opinion[7], it is often found that additional rules and complexity are added at the MSs and regional levels. When transposing EU legislation, MSs sometimes introduce more stringent or advanced measures than those set out by requirements in EU legislation (mainly directives) or they do not use the options offered by the directive for possible simplification. This phenomenon in many documents is called *"gold-plating"*. In the first case it is considered as "active gold-plating" in the second case as a *"passive gold-plating"*. For some stakeholders it is seen as an excess of norms, guidelines and procedures accumulated at national, regional and local levels, which creates unnecessary administrative burden and interferes with the expected policy goals to be achieved by transposed regulation. However, other stakeholders are of the opinion that the use of the stigmatised term *"gold-plating"* would risk questioning some advanced MSs' standards adopted democratically and introduced into their legal systems, particularly in the fields of labour, consumer and environmental law, as well as regarding the free professions.

Distorted transposition of EU law at the national level undermines the Single Market, increases costs and hampers development. Numerous MS governments use the transposition process as an opportunity to address domestic political issues which results in *"gold-plating"*. This trend has a negative impact on business and should be avoided to the furthest possible extent.

The EESC reiterates that the principle of subsidiarity allows the MSs to introduce more stringent measures, exercising their right to ensure the achievement of different goals (e.g. economic, social or environmental) and to demonstrate their commitment to a high level of protection, to the specific

[6] EUR-Lex, Directory of EU legislation, aggregated number of links to consolidated documents (only legislation into force) by policy subject as by 7.04.2019: https://eur-lex.europa.eu/search.html?textScope0=ti-te&qid=1554641639833&VV=true&DTS_DOM=EU_LAW&CT_CODED=AIDE&type=advanced&lang=en&andText0=small%20and%20medium-sized%20enterprises&SUBDOM_INIT=LEGISLATION&DTS_SUBDOM=LEGISLATION

[7] EESC Opinion INT/848 Subsidiarity and gold plating

character of legal instruments such as "directives", as well as to certain limits of competences. According to the EESC, such more stringent commitments should only be taken after a transparent and inclusive debate with the social partners and stakeholders and in a spirit of mutual understanding and a balanced decision-making process.

State aid Modernisation and simplification of State aid rules

In recent years State aid legislation has undergone a number of important changes. In 2012, EC launched the State aid Modernisation reform, whose purpose is to streamline the State aid rules and allow MSs to quickly implement State aid measures that foster investment, economic growth and job creation, leaving the Commission to focus its actions on the most distortionary types of State aid. At the same time, measures that might seriously harm competition or fragment the Single Market are subject to more careful scrutiny and a number of new initiatives have been introduced, in particular transparency, ex-post evaluation and increased monitoring.

The objectives of the modernisation of State aid control were threefold:

1. to foster sustainable, smart and inclusive growth in a competitive internal market;
2. to focus the Commission's ex-ante scrutiny regarding cases with the biggest impact on the internal market;
3. to streamline the rules and thereby foster faster decisions.

In order to achieve the objective of promoting growth the EC has proposed to[8]:

- identify and define "common principles applicable to the assessment of compatibility of all the aid measures carried out by the Commission";
- undertake "revision and streamlining of State aid guidelines, to make them consistent with those common principles";
- pursue a "more systematic assessment of the potential negative effects of State aid - notably in terms of distortions of allocative and dynamic efficiency, subsidy races and market power".

In regard to the objective of focusing Commission *ex-ante* scrutiny on cases with the biggest impact on the internal market, the Commission proposed to review the *de minimis* Regulation and to extend the GBER.

In relation to the objective of streamlined rules and faster decisions, the EC proposed better explanation of the notion of State aid and revision of the Procedural Regulation with regards to complaint-handling and market information tools.

The Commission has adopted:

- A NoA[9] clarifying the types of public support that do not involve State aid. This is the case, for example, for funding of economic activities on market terms, investments in infrastructure such as railways, motorways, inland waterways and water distribution systems which do not compete with similar infrastructures, investments in small-scale infrastructures and funding of essentially local services.

[8] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU State aid modernisation (SAM), Brussels, 8.5.2012 COM(2012) 209 final

[9] 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.

- A GBER[10] allowing MSs to implement a wide range of State aid measures without prior Commission approval which are unlikely to distort competition. More than 96% of newly implemented State aid measures fall under the GBER and, therefore, are implemented without prior Commission approval[11].
- A revised Procedural State aid Regulation, including rules regarding complaint-handling and market information tools to target State aid control in cases which are most liable to distort competition in the Internal Market[12].
- A series of decisions in specific cases confirming that MSs can support many small-scale projects without State aid control, due to their local nature and very limited impact on the Internal Market[13].

Currently, since the State aid rules reformed under the State aid modernisation (SAM) package mostly expire by the end of 2020, the Commission is undergoing a "fitness check" to analyse the relevance, effectiveness, efficiency, coherence and EU-added value of these State aid rules; and to evaluate and assess their contribution to achieving EU 2020 policy objectives.[14] This fitness check covers the General Block Exemption Regulation; *de minimis* Regulation; Regional aid Guidelines; Research, Development and Innovation Framework; Communication regarding State aid for important projects of common European interest; Risk finance; Airport and Aviation Guidelines; Energy and Environmental Aid Guidelines; Rescue and Restructuring Guidelines; (although it also covers Railways Guidelines) as well as the short-term export credit Communication. It will assess if these State aid rules are still "fit for purpose" taking into account the general SAM objectives, the specific objectives of the legal framework (including the "future" legislation already adopted), the current and (already known) future challenges and whether the objectives of SAM have been met.

The current situation pertaining to State aid across the EU is set out in the latest 2018 State aid Scoreboard[15] published by the Commission, which confirms the benefits of the modernisation, showing the positive role of State aid in steering public aid towards common interest objectives, while minimising the negative impact of State aid on competition:

- In 2017, MS spent EUR 116.2 billion, i.e. 0.76% of EU GDP, on State aid, compared to EUR 106.6 billion, i.e. 0.72% of EU GDP, in 2016. About 53% of total spending was attributed to State aid towards environmental and energy savings, largely due to the approval and implementation of numerous renewable energy initiatives in many MS;
- In 2017, about 94% of total State aid spending was allocated to horizontal objectives of common interest, such as environmental protection, research, development and innovation and regional development;

[10] Commission Regulation (EU) No. 651/2014 of 17 June 2014, OJ L 187, 26.06.2014, p. 1-78, as further amended by the Commission Regulation (EU) 2017/1084 of 14 June 2017, OJ L 156, 20.6.2017.

[11] Commission State aid Scoreboard 2018

[12] Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union , OJ L 248, 24.9.2015

[13] See Commission Press Release, State aid: Commission gives guidance regarding local public support measures that do not constitute State aid, IP/16/3141, 21 September 2016; Commission Press Release, State aid: Commission gives guidance on local public support measures that can be granted without prior Commission approval, IP/15/4889, 29 April 2015.

[14] http://ec.europa.eu/competition/consultations/2019_gber_deminimis/roadmap_guidelines.pdf

[15] State aid Scoreboard 2018: Results, trends and observations regarding EU28 State aid expenditure reports for 2017, COMP.A3 Brussels, 07 January 2019

- State aid control does not prevent MS governments from focusing aid on their own legitimate policy objectives and priorities. In 20 MSs, environmental protection and energy savings represent one of the two main policy objectives for which they spent the most in 2017, followed by regional development in 9 MSs; research, development and innovation in 9 MSs and culture in 6 MSs;
- Since 2015, more than 96% of new measures for which expenditure has been reported for the first time fell under the GBER - an absolute increase of about 28p.p. compared to 2013. This development is in line with the Commission's approach to be 'big on big things and small on small things' – to focus on delivering more and faster, while doing less where it is perceived not to have any added value;
- Total expenditure on measures falling under the GBER in the EU represented about EUR 41.7 billion in 2017, a remarkable increase of about EUR 7.8 billion compared to 2016. For the first time, spending under GBER increased for all possible objectives. In particular, GBER spending strongly increased for broadband and local and multi-recreational infrastructures (+129%), for aid to SMEs and risk finance (+81%), for social support to individual consumers (+ 56%), for research, development and innovation (+30%), for aid to culture and heritage conservation (+28%) and for employment (+21%);
- The growing share of spending falling under GBER implies that, on average, State aid measures can be implemented much more quickly than in the past by MSs. The estimated average duration before possible implementation decreased from about 3.3 months before State aid modernisation to about 2.8 months over the period 2016-2017 - a decrease of 15%;
- At the same time, notified State aid measures tend to cover bigger budgets and spending than in the past, in line with the Commission's approach to be 'big on big things and small on small things'. In 2017, the average annual budget of notified measures implemented was about 230 million EUR, an increase of about 18% and 126% compared to 2015 and 2013, respectively;
- The State aid Modernisation did not lead to any 'deep-pocket distortions' between wealthier and less wealthy MSs. The correlation between State aid spending per capita and GDP per capita more than halved between 2010 and 2017;
- The level of State aid to the financial sector, both approved and used, was at its lowest level since the beginning of the financial crisis, except for capital aid instruments where around EUR 12.1 billion were employed to address legacy cases requiring recapitalisation aid. The European banking sector relies less and less on government guarantees, as shown by the reduced use of liquidity aid support. This continuing decrease of State aid used shows that legacy issues are being addressed, while the European banking sector is able to find more and more of the necessary liquidity to keep it afloat on the market.

Because of MSs' efforts and the Commission's support, the number of State aid errors has decreased in the last years. For 2015 the ECA found that State aid represented only 6% of the overall error rate[16], and 2016 was the first year in which any errors regarding State aid rules[17] were quantified. This is interpreted as a sign that the Commission's actions in the field start bringing in results.

[16] European Court of Auditors, Annual reports concerning the financial year 2015, 2016/C 375/01
[17] European Court of Auditors: Annual Report on the Implementation of the Budget (2017/C 322/01)

The Commission is also working to simplify the procedural rules regarding State aid: the threshold, beneath which public support for an SME is considered too small to pose a threat to competition, has been raised from EUR 100,000 to EUR 200,000 (calculated over a period of three years). This makes it easier for governments to support SMEs. The existing exemptions relating to SMEs were consolidated and extended, and notification obligations lightened when a single general 'block exemption' was adopted in July 2008. This also set out the new rules concerning higher aid intensities for small and medium sized enterprises (20% higher aid proportion allowed for small enterprises, and 10% higher for medium sized enterprises) as well as incentives for the creation of start-ups. Finally, it simplifies the granting of aid to SMEs for innovation and environmental protection purposes. All of these measures are intended to make it easier and quicker to provide State aid to small and medium-sized enterprises.

Ex-ante conditionalities

In order to ensure that the framework conditions are in place for the efficient and effective investments of the ESIF, the Common Provisions Regulation for the period 2014-2020 introduced ex-ante conditionalities. One of the general ex-ante conditionalities requires the existence of arrangements for the effective application of EU State aid rules in the field of ESIF. The ex-ante conditionalities arrangement provided the Commission with a mandate to request improvements in the administrative capacity of MSs with persistent weaknesses in the State aid area. The criteria for the assessment of the ex-ante conditionalities on State aid are as follows:

- Arrangements for the effective application of EU State aid rules;
- Arrangements for training & dissemination of information for staff;
- Arrangements to strengthen the administrative capacity in MAs.

By mid-2017 all MSs fulfilled ex-ante conditionalities for State aid.

State aid Action Plans

In 2015 DG REGIO and DG COMP agreed on a first common State aid Action Plan for 2015 and 2016 setting out a set of actions aimed at raising awareness and knowledge of State aid rules among ESIF stakeholders (including staff of the ESIF DGs). In 2017, the two DGs agreed to extend and further strengthen the common SAAP for the 2017-2018 period.

The Action Plan for 2018-2022 takes into account previous experience and discussions between both DGs, updating the previous Action Plan and extending its scope, both in time and concreteness:

- The period covered by the Action Plan is extended to five years (2018-2022). This aims to enable the two DGs to build up State aid knowledge and expertise of local regional and national authorities involved in the preparation, implementation and control of the ESIF operation not only for the current programming period, but also for the post-2020 period. It aims also to make it easier to take full account of State aid policy principles in the preparation of post-2020 ESIF operations.
- The scope of the Action Plan is extended. Firstly, the actions aim to target a wider audience than in the past, e.g. special training for auditors. Secondly, the emphasis shifts from the more traditional one-directional "training" activities towards more interactive events offering more room for sharing experiences and exchanging good practices between participants.

Additionally, since 2016, the Commission has taken several steps to further clarify the notion of State aid with the aim of helping public authorities and companies to identify when public support measures can be granted outside the remit of State aid control and approval by the EC, in particular with the adoption of the Notice on the notion of State aid[18].

General Block Exemption Regulation

GBER has introduced a new tool to evaluate ex-post the effect of aid schemes with an annual budget exceeding 150 million EUR[19]. MSs are responsible for the evaluation with a view of weighing the positive effects against the negative effects of an aid scheme.

The main objective of SAM was not only to broaden the scope of the GBER, but also to provide a better scheme for the evaluation of measures falling outside the scope of the regulations. Various soft law documents were adopted to reach its objectives: regional aid guidelines, guidelines pertaining to environmental protection and energy, guidelines pertaining to rescue and restructuring or the framework for State aid for research and development and innovation, etc. The coexistence of hard and soft law results in a framework, where larger scale aid measures or ones sensitive to MSs (e.g. Rescue and Restructuring) are assessed under soft law.

Generally, the GBER is a complex regulation with 143 definitions and almost 60 articles, and it is unclear how MSs understand and implement it. Realising that the interpretation and application of the GBER is a challenge, the Commission issued a practical guide[20] to offer guidance concerning the implementation of the rules. However, the monitoring covers only a small minority of State aid measures, naturally the large or novel ones. That does not mean that other measures are designed and implemented correctly, and the cumulative impact of small errors may be significant. The possibility for making mistakes due to misinterpretation of all of the definitions has increased.

In addition, if MSs have any uncertainty, they have the possibility to ask the Commission for clarification. However, these contacts between MSs and the EC remain private, as the Commission's answers are not mandatory spread to all MSs. Any guidance the Commission is giving is nonbinding and it is provided with the aim to facilitate compliance with the rules. Some of these answers are put into the Frequently Asked Questions on the GBER document, which is posted on DG COMP's website. However, not all questions are included in the document, it is not updated frequently, and does not identify any errors or mistakes. In any event, only the EU Courts can interpret the Treaty and the EU legislation and only those interpretations are binding for all MSs.

Phedon Nicolaides mentions[21] that increased use of the GBER has reduced legal certainty in several ways:

- MSs are less sure about the legality of a significantly larger number of their State aid measures;
- There is a legal conundrum of whether aid recipients can claim legitimate expectations if they receive aid on the basis of GBER. Although EU courts have repeatedly stated that legitimate expectations can be entertained only on the basis of assurances given by EU institutions, it is not clear what their position would be in relation to GBER-related aid since, by definition, such aid is not supposed to be notified to the Commission;

[18] 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, C/2016/2946

[19] Article 1(2) of the 2014 GBER. The categories are regional aid, aid for SMEs and for access to finance for SMEs, aid for R&D&I, aid for environmental protection and aid for broadband infrastructures

[20] General block exemption regulation Frequently asked questions, date of publication Q&A to Articles 1 to 35: July 2015, Q&A to Articles 36 to 58: March 2016

[21] The EU's State aid Modernisation – Taking stock of its initial results, Phedon Nicolaides, CEPOB #12 (July 2016)

- GBER-related aid should in principle be actionable before national courts. In this regard, national courts would have to determine whether the aid is legally granted, which implies that they would have to interpret the provisions of GBER. This may inadvertently lead to uneven application of GBER across the EU;
- MSs have not stopped notifying measures to the Commission. As the Commission is reluctant to proceed to full-blown assessments, it sends 'comfort letters' to MSs, assuring them of the aid's compatibility on the basis of the information submitted to it. The legal value of such comfort letters is controversial as they may provide some assurance to MSs but since they are a symptom of the increased reliance on GBER, they too have contributed to lowering the common understanding of the application of State aid rules.

Code of Best Practices

In 2018 the EC published a Code of Best Practices for the Conduct of State aid Control Procedures on its website[22] which aims to provide guidance to MS and undertakings on how State aid procedures work in practice: by making procedures *"as transparent, simple, clear, predictable and timely as possible"*. The code of best practices clarifies how the EC can handle formal complaints. The document focuses on the following issues:

- Pre-notification;
- Case portfolio approach and mutually agreed planning;
- Preliminary examination of notified measures;
- Streamlined procedures in straightforward cases;
- Formal investigation procedure;
- Investigations into sectors of the economy and into aid instruments;
- Evaluation plans.

Financial instruments available to SMEs across Europe

Cohesion policy is one of the main spending areas in the EU budget. For the 2014-2020 period it focuses on boosting jobs, growth and investment. Substantial amounts of ESIF allocations are directly linked to economic activities, which supporting is likely to constitute State aid. For the 2014-2020 programming period the total budget for the ERDF, the CF and the ESF amounts to 352 billion euro. According to Commission estimates, ERDF/CF and ESF spending accounted for more than one-quarter of State aid granted in the EU in the 2007-2013 period. Until the end of 2017 based on EFSI operations up the Juncker Plan has supported more than 750,000 jobs with the figure set to rise to 1.4 million jobs by 2020. 700,000 small and medium-sized businesses (SMEs) are benefiting from improved access to financing. The Commission proposed to extend duration and capacity of the EFSI given the success in mobilising investment across the EU and to boost investment further. The so-called EFSI 2.0 entered into force on 30 December 2017. It:

- extends the lifetime of the guarantee from mid-2018 to end-2020;
- increases its investment target from EUR 315 billion to at least EUR 500 billion;
- has a greater focus on financing small businesses;

[22] OJ C253, 19 July 2018. The Code of Best Practices can be accessed at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2018.253.01.0014.01.ENG&toc=OJ:C:2018:253:TOC

- puts more emphasis on sustainable projects and sectors;
- provides more advisory support at a local level.

For the post-2020 programming period, expectations are that ESIF resources will focus even more on measures aimed directly at promoting economic activities and stimulating the modernisation of businesses in less developed regions (increased focus on measures to encourage innovation and job creation).

Under the ESIF MAs are responsible for ensuring that all co-financed projects are eligible for EU funding and that declared project expenditures comply with eligibility conditions, including with State aid rules. Certifying authorities carry out checks on project expenditure claims received from MAs and submit them to the Commission for reimbursement. Audit authorities undertake checks and report to the Commission through annual control reports and audit opinions. In addition, in almost all countries there also are national State aid units. They can verify compliance of aid schemes at the national level (whether or not co-financed by the EU) or can be consulted in cases of doubt about the availability of aid or its compatibility. State aid units exist at a central level in all MSs with the exception of Belgium, which has its State aid units at the regional level. The authority of the State aid units varies – some have a mandatory role and can prevent a transaction going ahead; while others have an advisory role and need not be consulted. Some units can also act as a contact point for obtaining expert knowledge and help in the design of aid schemes. According to the experience, due to the complexity and some unclarified details of the regulations, they tend to "escalate" the problem-solving procedure to the Commission.

Bank lending still constitutes the most important source of funding for SMEs. Lending to a SME is often built on a long-term relationship. Addressing and fostering the bank-lending channel is the most effective way to ensure and improve access to finance for SMEs.

Complementing non-bank sources for SME funding is the core milestone of the CMU Action Plan of better connecting SMEs with a wide range of funding options. However, there are still many obstacles for SMEs in order to use market-based and other more innovative means of funding.

During the 2007-2013 programming period, financial instruments were used by 25 out of 28 EU MSs. Only Croatia, Ireland and Luxembourg did not use this funding mechanism. By the end of 2014 around EUR 15.2 billion had been paid as ERDF OP contributions and EUR 0.8 billion through ESF OP contributions. During the 2007-2013 programming period, the EU contribution paid to financial instruments corresponded to 5% of total EU funding for the ERDF and 1% of total EU funding for the ESF for the entire period. The EU budget accounted for 69% and 56% of the total contribution to the capital endowments of the ERDF and ESF 2007-2013 financial instruments, respectively

In terms of financial support for the final recipient (public bodies and SMEs), the EU contribution accounted for 63% (ERDF) and 65% (ESF).

In the case of centrally managed instruments, the EU's overall contribution allocated to 2007-2013 instruments in all budgetary areas was about 5.5 billion euro, spread over 21 financial instruments. These instruments operate across all EU MSs.

Within the EU budget for 2014-2020 programming period the ESIFs are the main source of funding for capital investment and infrastructure, with a total budget of around EUR 450 billion for the 2014-2020 programming period.

Since 2011 the European Parliament and European Council have encouraged an increased use of financial instruments. This political commitment is also reflected in the common provisions' regulation, which provides for an extended use of financial instruments to deliver all ESIFs and all thematic objectives for the programmes.

At the end of 2015 the Commission estimated that, for the 2014-2020 programming period, approximately EUR 21 billion will be allocated to financial instruments from the five ESIFs.

Financial instruments are used in different parts of the EU budget:

- Shared management financial instruments in the area of cohesion are set up mainly under the ERDF, and to a lesser extent under the ESF. Since the 2014-2020 programming period, financial instruments can also be used for the Cohesion Fund. Each instrument has to be implemented within the framework of an operational programme, which is decided by the MAs responsible for that programme, together with its size and design. Financial instruments are also used under the European Agricultural Fund for Rural Development and the European Fisheries Fund.
- Centrally managed financial instruments are financed from various budgetary areas such as research, enterprise and industry, education and culture, etc. For these instruments the Commission, together with its partners, is directly involved in their design and in developing their investment strategy and endowment. The decision to set up these instruments is taken by the budgetary authorities on the basis of a Commission proposal.

SMEs allow investments of up to EUR 1.5 million per SME over any 12-month period. A light assessment procedure is also foreseen, making it easier for investment funds supported by public authorities to provide equity to SMEs. Since 2005, rules for regional aid allow public authorities in less developed areas to grant aid (up to EUR 2 million in the poorest regions) to cover smaller firms' operating costs during their first five years (in order to encourage business start-ups). Furthermore, rules on State aid for research, development and innovation were adopted in 2006. They allow MSs to support SMEs in their whole innovation strategy (i.e. State aid to target innovation and patenting, and to encourage companies to hire highly qualified staff).[23]

[23] Putting Small Businesses First, Europe is good for SMEs, SMEs are good for Europe, 2008

C. Survey results

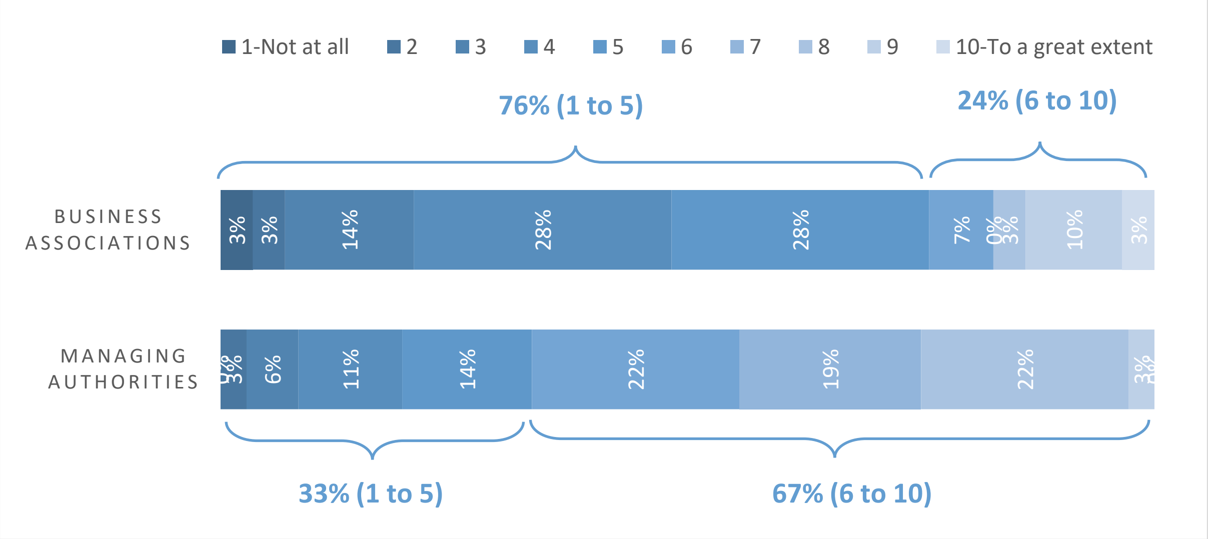
Overview

A short survey was conducted among representatives of MAs and Business Associations (incl. SMEs, social partners, and NGOs). A total of 73 respondents from all 27 EU MSs participated in the survey.

The survey results for BA representatives showed that almost 2/3 of the respondents who have applied for funds constituting State aid in the past 5 years have received them. BA/their members most frequently received non-agricultural aid (79%) in the fields of research and development, incl. innovation (in the form of grants); SME, incl. risk capital (in the form of grants, guarantees and soft loans); employment (in the form of grants); promotion of export and internationalisation (in the form of grants); and training (in the form of grants).

A little over 1/3 of the respondents who have applied for funds constituting State aid in the past 5 years have not received any. The reasons behind the unsuccessful applications in 39% of cases were the State aid rules, mainly due to reach of the *de minimis* threshold as a single undertaking or linked enterprises. Nevertheless, 76% of BA claimed that the national State aid schemes did not generate or generated burdens to companies in terms of access to finance to a low extent (fig.1).

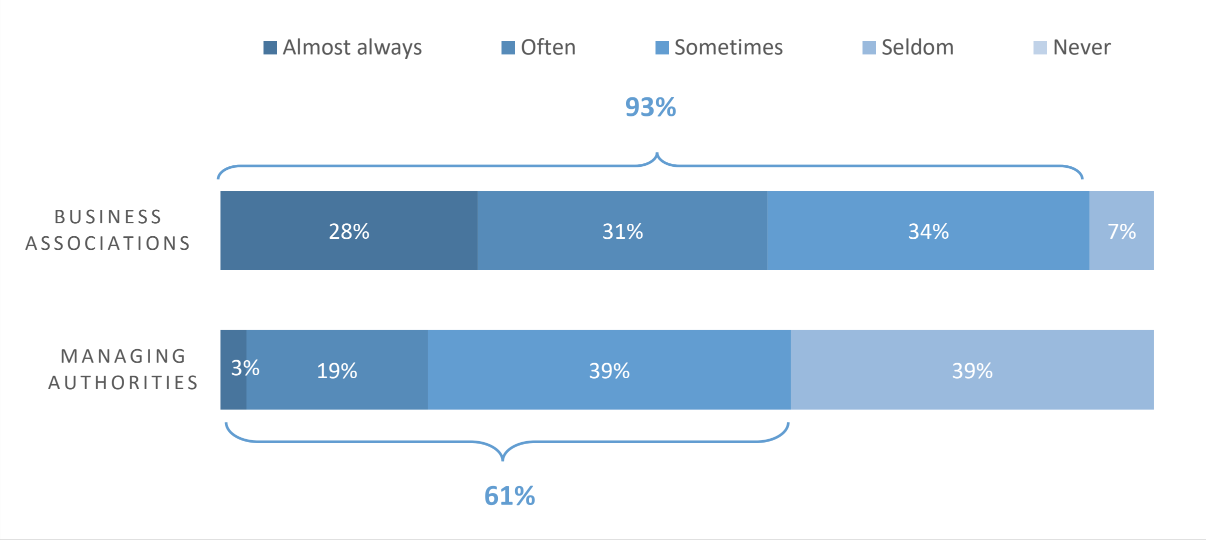
Figure 1. On a scale from 1 to 10 where 10 is "To a great extent" and 1 is "Not at all", to what extent do national State aid schemes generate burdens to companies (incl. SMEs but also social partners and NGOs) in terms of access to finance?



The majority (67%) of MA representatives, on the contrary, claimed that national State aid schemes do generate burdens for companies.

In their opinion, the national and/or regional rules almost always, often or sometimes (61%) add administrative burden rather than only ensure that minimum (European) requirements are addressed. The same opinion is supported by BA representatives as well (93%, fig.2).

Figure 2. In your opinion do the national and/or regional rules add administrative burden rather than only ensure that minimum (European) requirements are addressed?

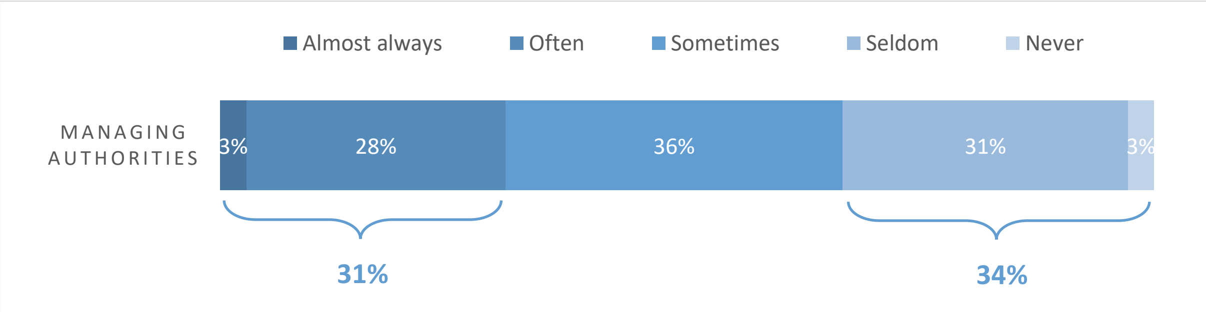


The BA representatives claiming that the national State aid schemes generate burdens to companies had two main reasons for their statement – an overly complex national legislation for reporting and declaring State aid (incl. insufficient guidance and information) and low thresholds of State aid. On the other hand the MA group believed that the key reasons were that the rules on partner and linked enterprises seem complex and difficult to understand and apply and the subject "single economic entity" is not included and defined in the regulations; and that the European Commission's State aid guidelines are complex and unclear (incl. eligible beneficiaries and activities).

Additional burdens for further development of the companies, especially in the fields of investments in new capacities and development of new services and products, are the low and outdated de minimis thresholds easily reached by the SMEs. Such an opinion is shared by all BA representatives who specified that some of their members had reached their aid limits. (45% of the group).

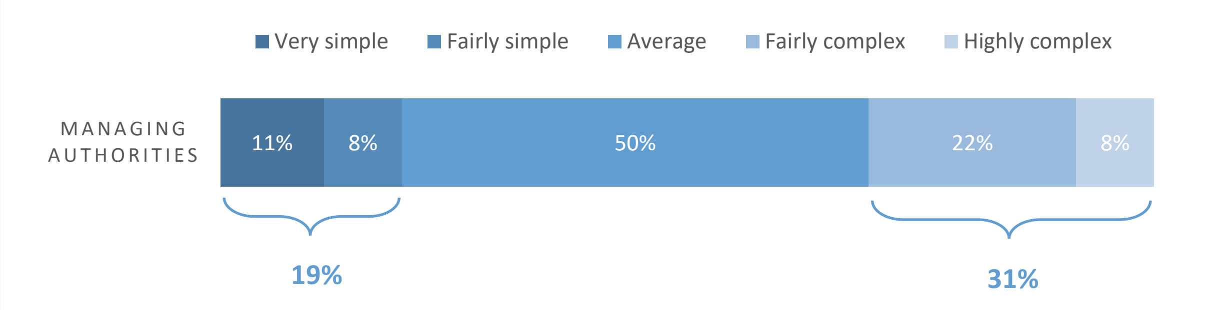
The need for simplifying the State aid rules is visible from the frequency of additional clarifications that the MA representatives need from the European Commission when applying State aid rules. Over 30% of them said that they contacted EC for support "almost always" or "often". However, a third of both BA's and MA's claimed they "seldom" or "never" needed support (fig.3).

Figure 3. How often do you need additional clarification from the European Commission when applying State aid rules?



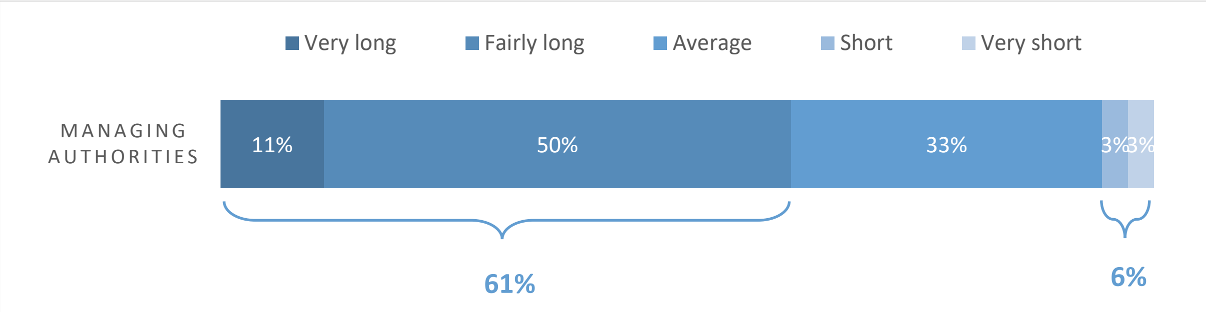
Additionally, 31% of the MAs claimed that the process of notifying State aid was "highly complex" or "fairly complex". The opposite point of view (that the process of notifying State aid is "simple" or "very simple") was supported by 19% of the MA representatives (fig.4).

Figure 4. How would you assess the simplicity of the process of notifying State aid?



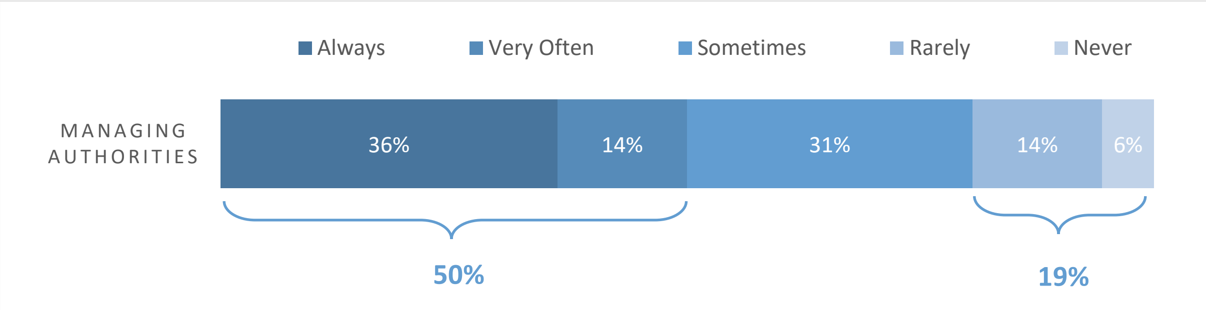
A significant share of the MA group (61%) admitted as well that the duration of the notification process is very or fairly long (fig.5).

Figure 5. How do you assess the duration of the notification process?



The final indication that the notification process needs improvement is that, according to half of the MA representatives, it "always" or "very often" required additional correspondence with the EC (fig.6).

Figure 6. How frequently does the notification process require additional correspondence with the EC?



The MA representatives shared some good practices in complying with State aid rules while facilitating access to finance for companies (extracts presented below as direct quotes):

- Many grants under the Danish structural funds' programmes are provided under de minimis regulation, which have very limited administrative impact on beneficiaries. If GBER is more beneficial for an operation (or perhaps a combination of GBER and de minimis), this of course is also an option and we provide the beneficiary with all needed information.

- Online interconnection of public authorities in order to grant authority (in compliance with the data protection provisions) to have direct access to the data consisting prerequisite for State aid application (e.g. access to the Registrar of Companies, the Tax Department), instead of these data being collected and submitted by the applicants themselves. Informative activities (e.g. seminars, leaflets/guides) targeting companies for opportunities for State aid approval procedures. Public consultation with Chambers for specific requests.
- The application of a simplified cost options as introduced in the GBER for ESIF supported measures
- The application of simplified cost options such as the application of lump sums and flat rates
- All of our support measures are compliant with State aid rules; e.g. grants (for industrial premises and infrastructure) and financial instruments (guarantees).
- We have considerable experiences with DGCOMP. All the units dealing with State aid and financial institutions are constructive in the assessment of SME access to finance cases.

An additionally developed instrument (State aid Index) was used alongside the other criteria in order to identify cases that should be studied in more detail.

The Index is calculated using the data from both the BA and MA groups. It is a combination of questions, which allowed the researchers to achieve an objective evaluation even on the basis of a small number of interviews. The Index is calculated for each MS and varies from -10 to +10. The closer it is to -10, the heavier the burden to companies in terms of access to finance generated by State aid rules is. The closer it is to +10, the more successful in complying with State aid rules while facilitating access to finance for SMEs and enterprises is. The zero Index shows that there are big differences in the opinions of BA and MA representatives.

The calculation showed that there are several countries that felt they managed well in terms of State aid rules and access to finance – Sweden, Czech Republic, Estonia, and Lithuania. On the other hand, Malta, Spain, Romania, Latvia, and France reported more difficulties. However, there are no indices that are close to the maximum or minimum scales. This is an indication that the State aid rules work at a satisfactory level, but there is still room for improvement.

It is important to mention that since the index is only based on 2 (or a few) responses from each country, it was not be taken as a primary criterion for selecting countries for case studies, but only as an additional tool.

The final decision of the 5 MSs included in the case studies is taken in consultation with and in view of EESC preferences since the EESC has broader and deeper knowledge and overview of the different practices in the MSs when it comes to application of State aid rules.

Survey results in charts & tables

Managing authorities

Figure 8 Q1 How do you assess the clarity of the State aid rules?

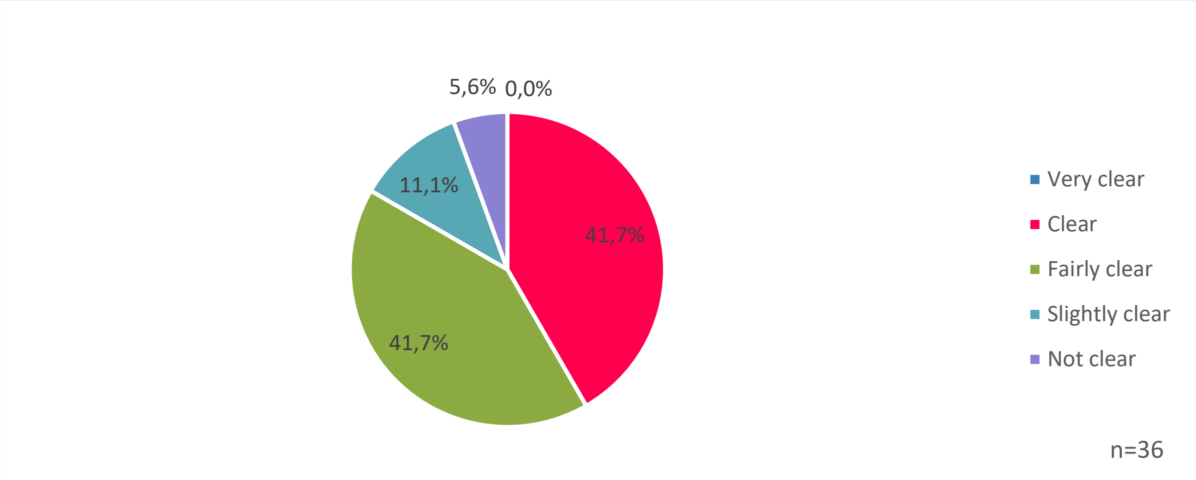


Figure 9 Q2 In your opinion do the national and/or regional rules add administrative burden rather than only ensure that minimum (European) requirements are addressed?

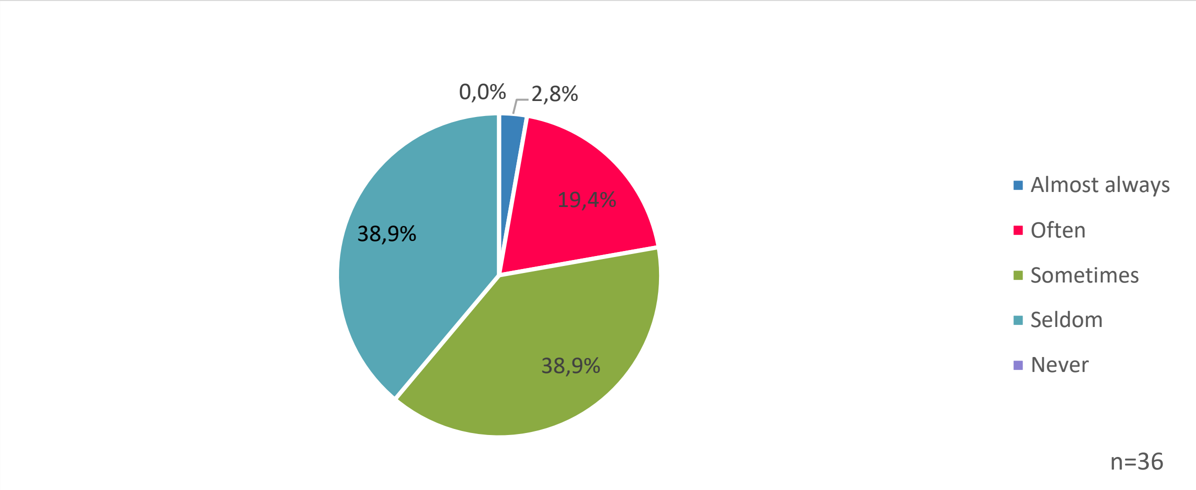


Figure 10 Q3 How often do you need additional clarification from the European Commission when applying State aid rules?

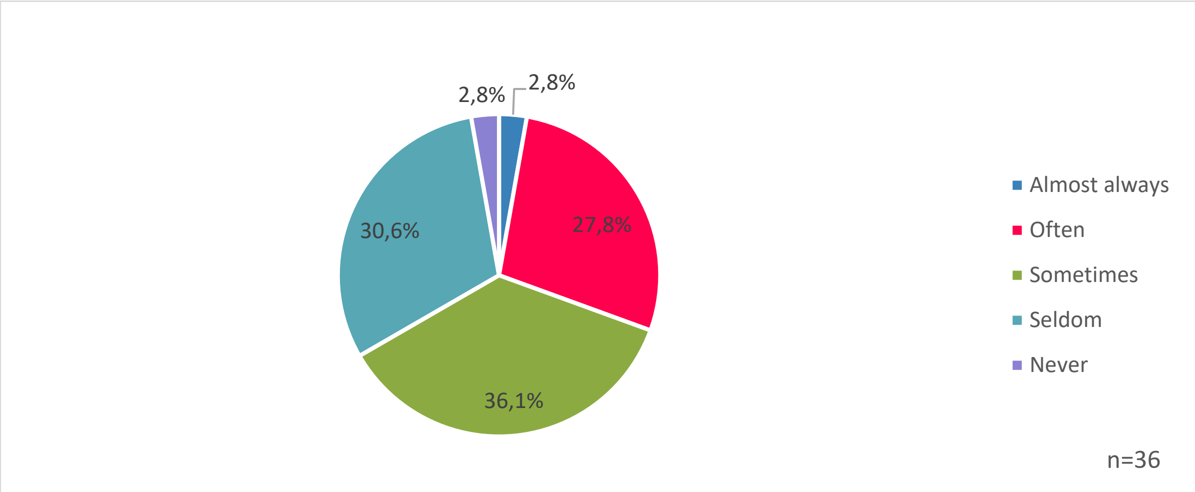
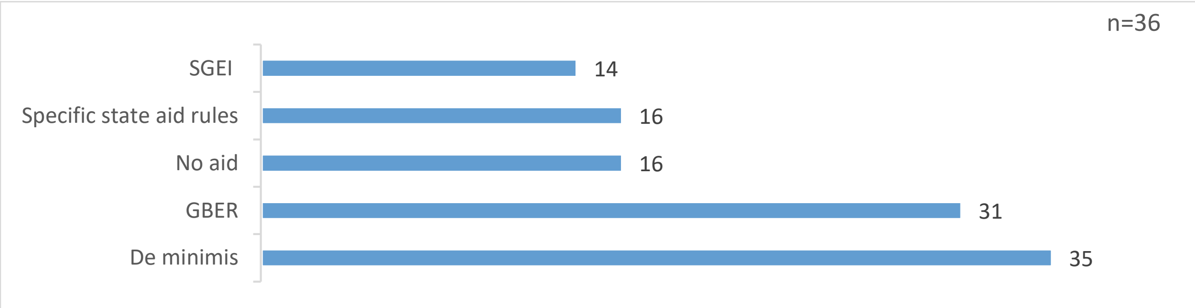


*Figure 11 Q4 Which of the State aid rules have you applied within the current programming period?**



**More than one answer is possible*

Figure 12 Q5 Which of the State aid rules stated in your previous answer represents biggest portion of the State aid applied within the current programming period?

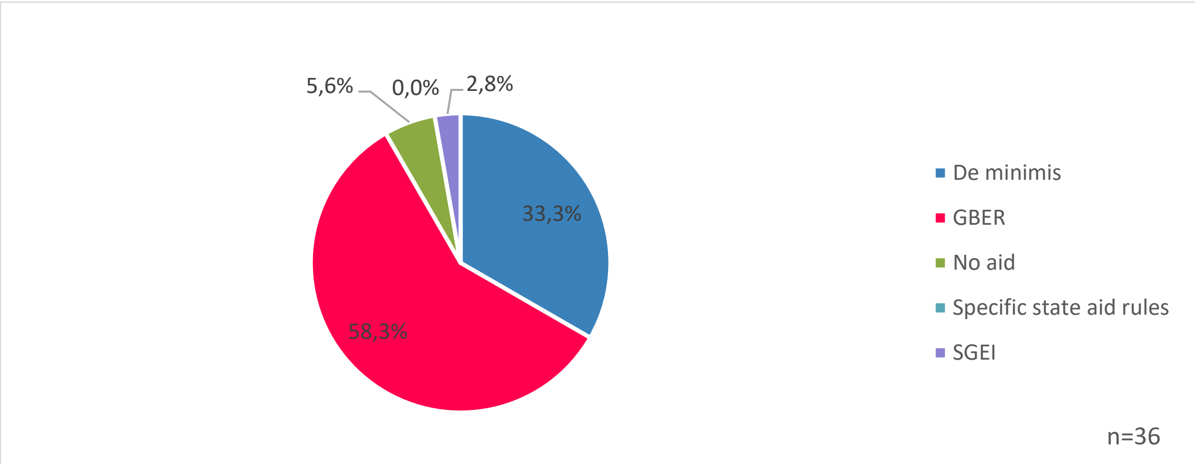


Figure 13 Q6 How would you assess the simplicity of the process of notifying State aid?

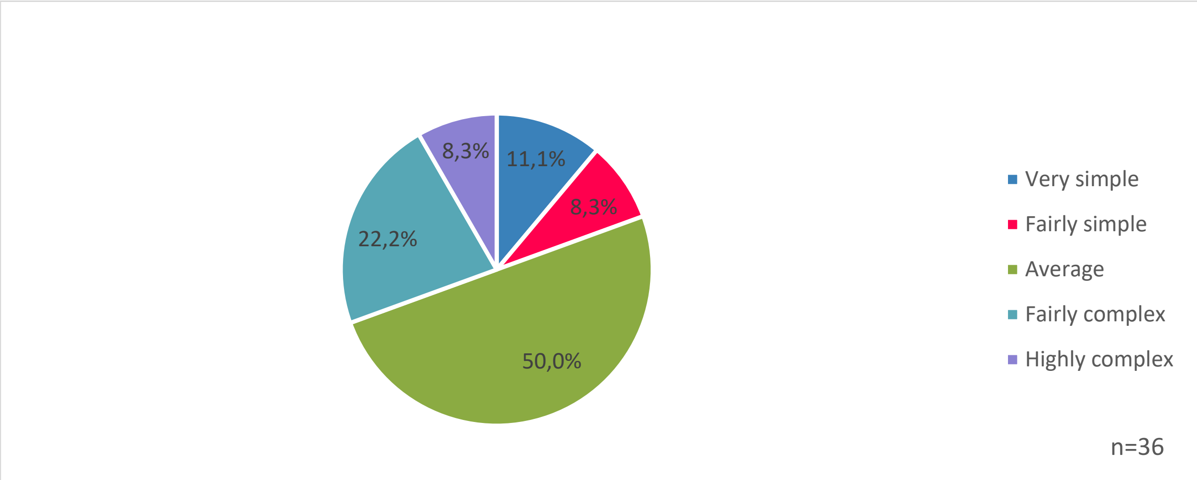


Figure 14 Q7 How do you assess the duration of the notification process?

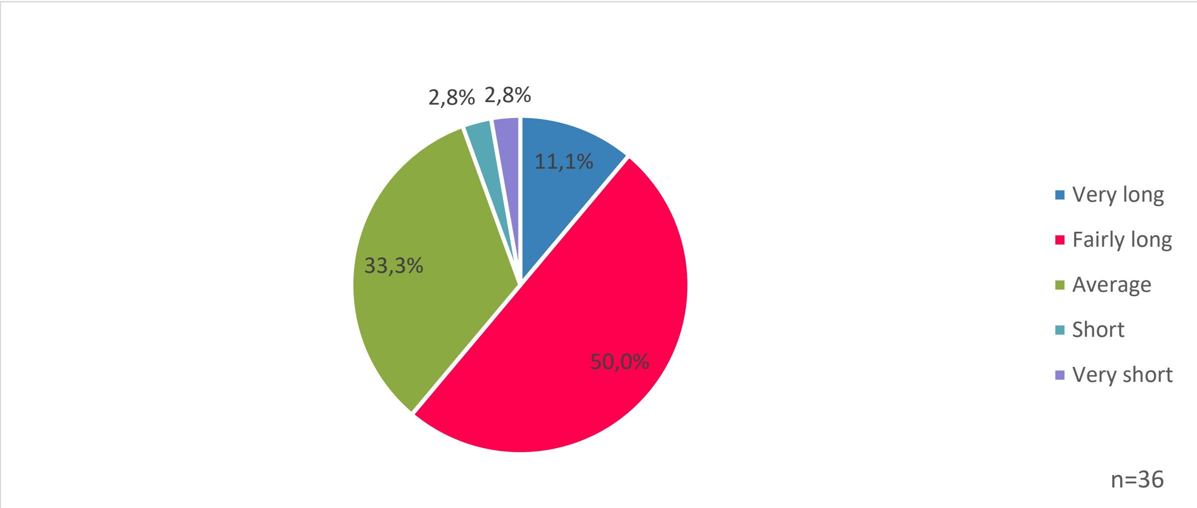


Figure 15 Q8 How frequently the notification process requires additional correspondence with EC?

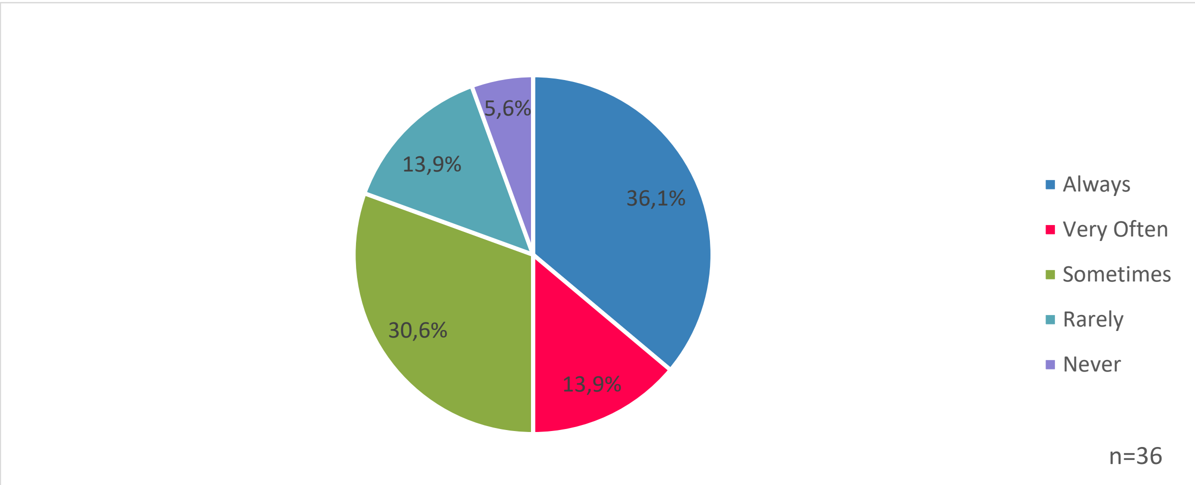


Figure 16 Q9 On the scale from 1 to 10 where 10 is "To a great extent" and 1 is "Not at all", to what extent the current State aid rules generate issues/burdens to companies (incl. SMEs but also social partners and NGOs)?

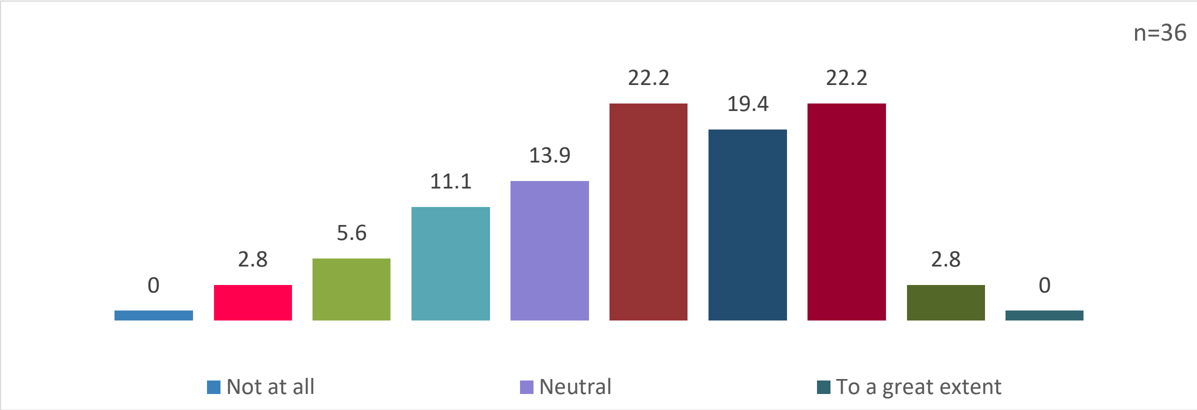
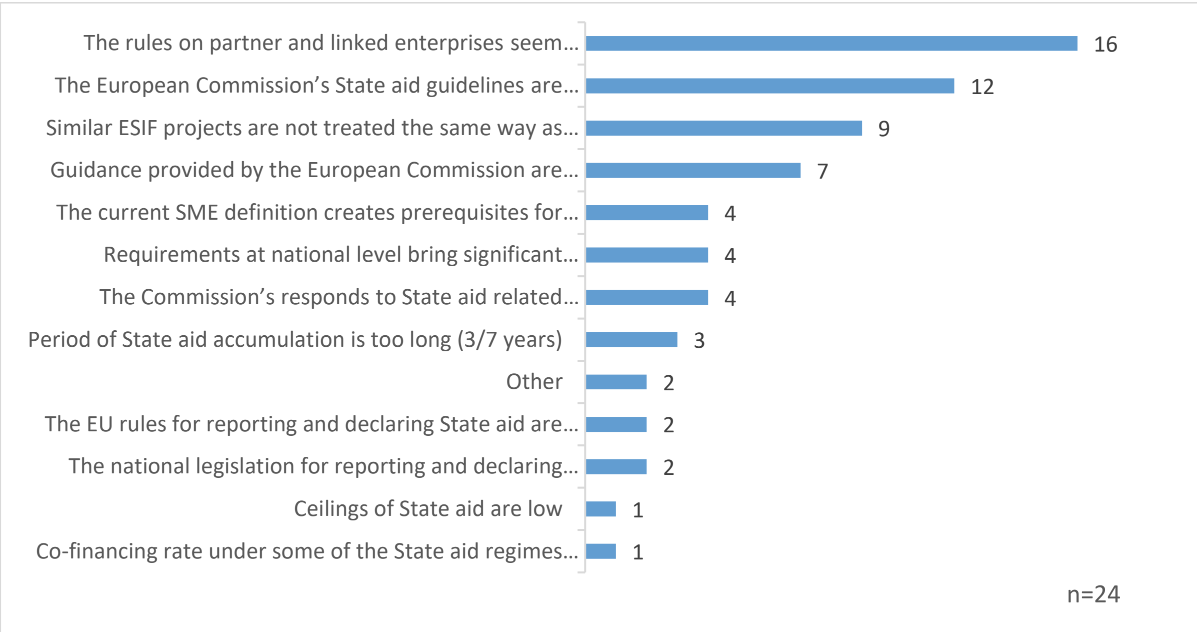


*Figure 17 Q10 What is the reason for your answer?**



**More than one answer is possible*

Table 1 Q10.1 You have chosen "Other" as an answer to the previous question. Please specify:

SME's are simply not aware of State aid rules and their objectives. If they were communicated better from MS and EC, enterprises would be more willing to accept the administrative consequences when applying State aid rules on received support.	**1**
The criteria of the definition "undertaking in difficulty" as used in the GBER and in the R&R guidelines are excluding from State aid economically healthy undertakings. We invite the EC and MSs to jointly organise a meeting with financial and economic experts to revise the criteria in such a way that the real business situation and prospects are taken into account.	**1**

Table 2 Q11 Would you give an example of a good practice in complying with State aid rules while facilitating access to finance for companies?

For example measures: „Verslo klasteris LT"; „Regio Invest LT+"; "Eco-inovacijos LT+"	1
Jeremy	1

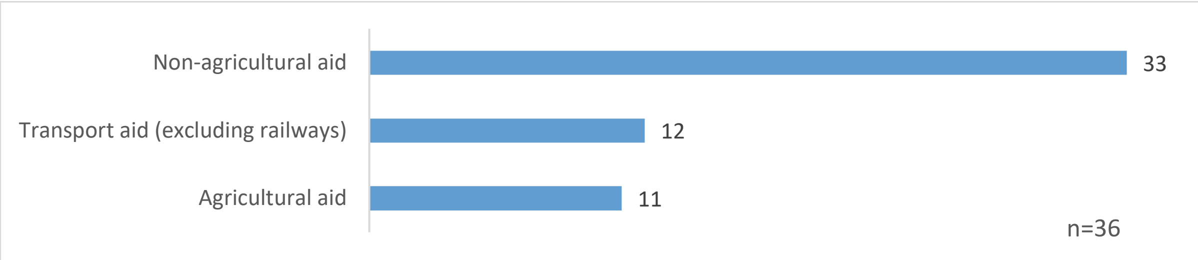
Many grants under the ESIF programmes are provided under de minimis regulation, which have very limited administrative impact on beneficiaries. If GBER is more beneficial for an operation, or perhaps a combination of GBER and de minimis, this is of course an option and we provide the beneficiary with all information needed.	1
Online interconnection of the public authorities in order the granting authority, in compliance with the data protection provisions, have direct access to the data that consist a prerequisite for a State aid application (e.g. access to the Registrar of Companies, the Tax Department), instead of these data been collected and submitted by the applicants. Informative activities (e.g. seminars, leaflets/guides) targeting companies for opportunities for State aid approval procedures. Public consultation with Chambers in order to collect needs.	1
Open SME grant calls for projects	1
The application of simplified cost options as introduced in the GBER for ESIF supported measures.	1
The application of simplified cost options such as the application of lump sums and flat rates	1
We consider all our support measures compliant with State aid rules; as an example, we can mention grants (for industrial premises and infrastructure) and financial instruments (guarantees).	1
We have good experiences with DGCOMP. All the units dealing with State aid and financial institutions are constructive in the assessment of the Dutch SME access to finance cases.	1
22 Article of GBER	1

Table 3 Q12 What would be the one thing you would change in order to be better facilitating access to finance for companies (incl. SMEs but also social partners and NGOs) in your country while complying with State aid rules?

Align better the fund specific rules and State aid rules (DG AGRI - DG REGIO - DG COMP coordination should be better).	1
All the above examples. Further, widen the scope of coverage for certain block exempted or notified	1
Clarifying the SME definition	1
Decrease the de minimis reference period	1
GBER availability for midcap	1
Greater engagement by lending providers with SME needs	1
Increase de minimis aid ceiling + within de minimis aid rules, introduce "lower limit", i.e. the aid ceiling under which the aid will not be regarded as de minimis aid (e.g. 1000 euro).	1
Increase the de minimis limit for the period	3
Introduce flexibility in terms of cumulation of the aid among linked enterprises/ persons	1
Introduce flexibility in terms of cumulation of the aid among linked enterprises/ persons is a good idea. It is necessary to clearly distinguish between State aid rules and other European rules. Some requirements are quite abstract, and even a theoretical practice is lacking in how it will be implemented, making it difficult for MSs. The rules of difficulty should be clearly laid out. We are definitely having difficulty implementing them correctly. We also encounter difficulties in applying certain definitions recorded in the GBER. Also, certain categories of eligible costs may be more clearly defined. Furthermore, we believe that it is appropriate to have wider eligible costs. It is necessary to apply the rules set for individual investors in respect of the whole group in which it participates. In this regard, we recommend that this be explicitly recorded in Regulation 651/2014, where this should be clarified.	1
Make the SME-definition more operational for the target group: SME's!	1
More clear elaboration and communication of EC State aid rules to enterprises and public	1
Reduce the number and type of aids in order to avoid artificial separation of activities on different types of aids introduce flexibility in terms of cumulation of the aid among linked enterprises/ persons	1
Same rules should apply irrespective of the funds source	1
Shorten the de minimis reference period, streamline the definition of a Single Undertaking under the De minimis Regulation and the Enterprise definition as presented under the SME Definition.	1
Shorten the period of de minimis	1
Simplify State aid regime for R&D&I projects where SMEs are cooperating with research institutions (i.e., align State aid rules with EC central instruments, EFSI/InvestEU). Set "no aid" threshold for very small grants/vouchers for start-	1

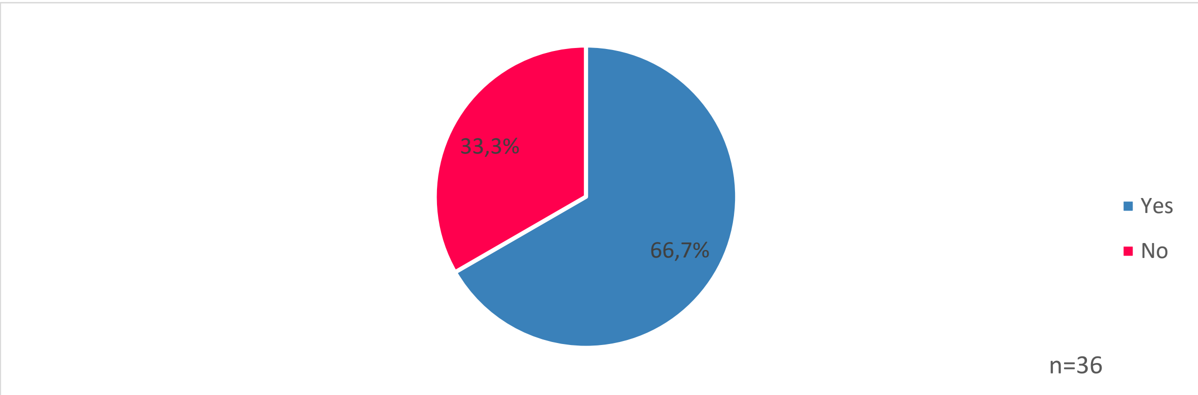
ups or small R&D&I projects (investment is too small to distort competition, nevertheless, creates administrative burden to manage it according to State aid rules). Higher de minimis ceiling.	
Simplify the notification/approval procedure	2
Simplify the notification/approval procedure; increase the de minimis limit for the period; introduce	1
State aid for start-ups (article 22 GBER) should be extended with aid via fiscal instruments. We refer also to our remark above regarding to the definition "undertaking in difficulty".	1
The concept of economic activity is difficult when aid is granted to universities or such organisations. When it is considered to be economic activity? Universities and other educational institutions are often beneficiaries. If aid is granted as de minimis, the ceiling is too low, if the activities are considered economic.	1
NA	2

*Figure 18 Which sector/objective is under your management?**



**More than one answer is possible*

Figure 19 Do the regional/local authorities participate in the process of administration of State aid?



Business associations (incl. SMEs but also social partners and NGOs)

Figure 20 Q1 Within the last 5 years have you or any of your members applied for public funds falling under the State aid regime?

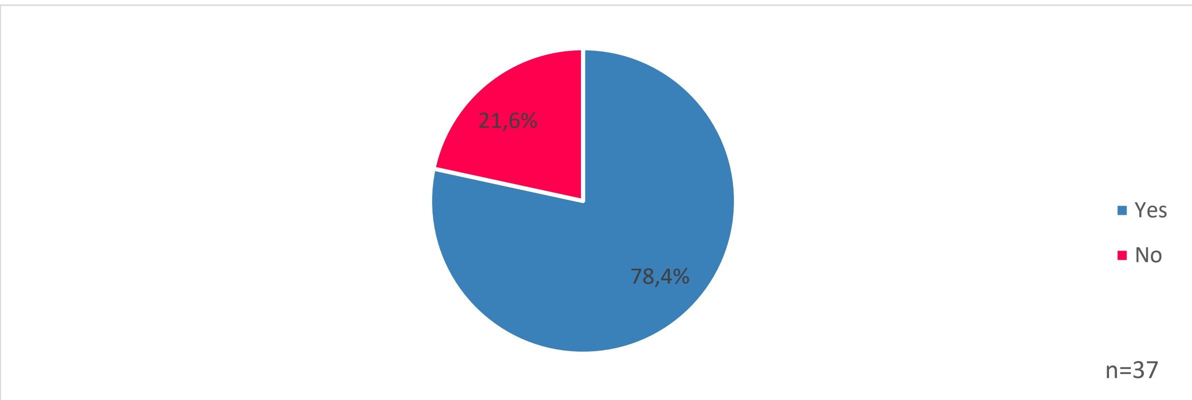


Figure 21 Q2 Did you/they receive the funds?

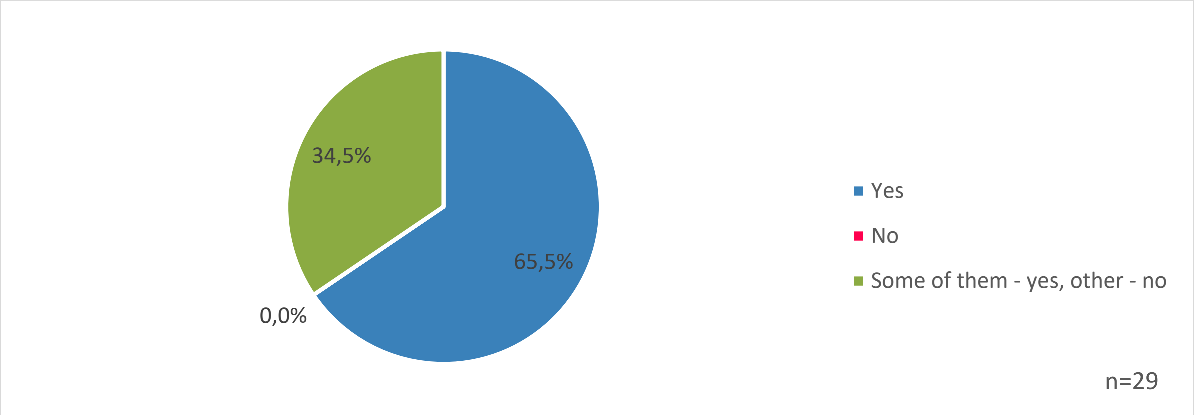


Figure 22 Q3 If no, was the reason related to the State aid rules?

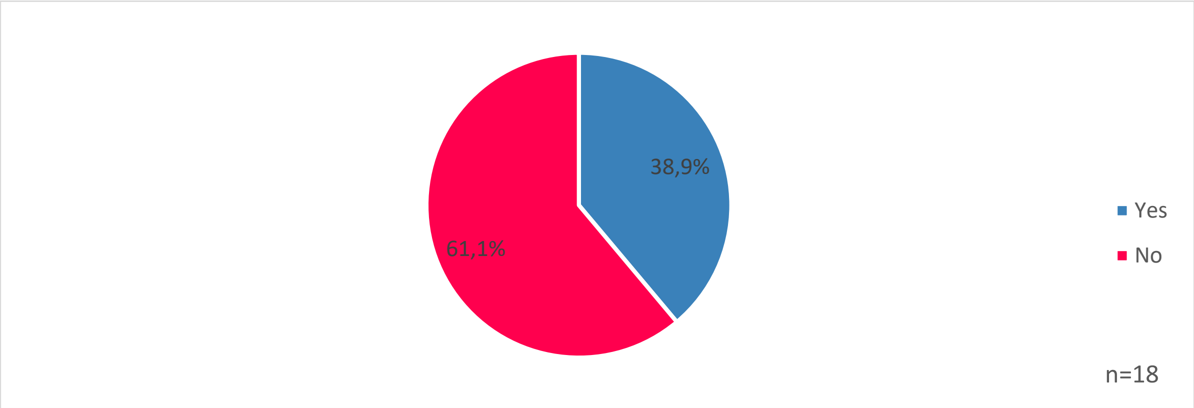
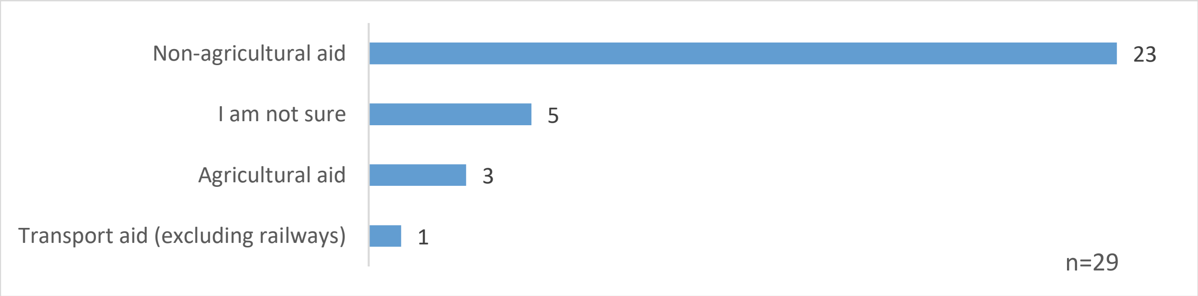


*Figure 23 Q4 In which sector/objective you/your members have received State aid?**



**More than one answer is possible*

Figure 24 Q5 On the scale from 1 to 10 where 10 is "To a great extent" and 1 is "Not at all", to what extent national State aid schemes generate burdens to companies (incl. SMEs but also social partners and NGOs) in terms of access to finance?

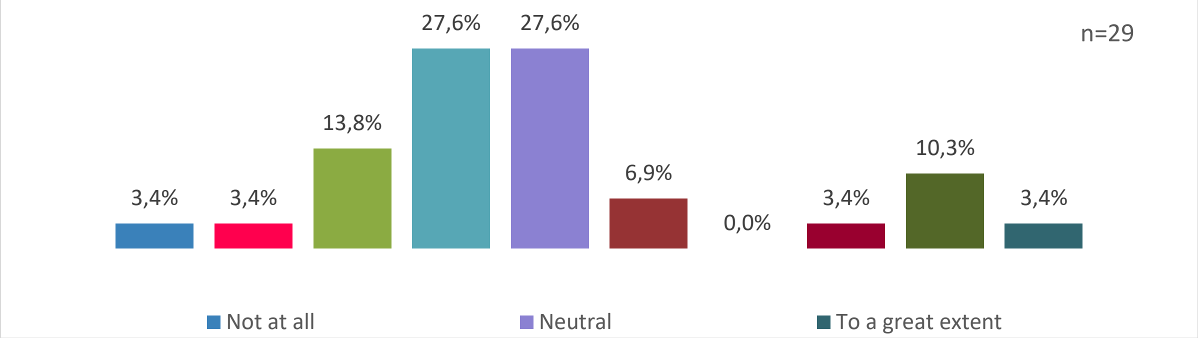


Table 4Q6 What is the reason for your answer? If Q9>=neutral

Too complex national legislation for reporting and declaring State aid (incl. insufficient guidance and information)	5
Low thresholds of State aid	4
High co-financing rate under some of the State aid regimes	2
The extension of the State aid to affiliated/linked enterprises/ persons is impediment for companies	2
Too long accumulation period of State aid (3/7 years)	2
Too complex EU rules for reporting and declaring State aid (incl. insufficient guidance and information)	2
Similar ESIF projects are not treated in the same way as those funded from EFSI and programmes directly managed by the EC	2
Under the regimes requiring co-financing, micro and small enterprises are struggling to find the resources if no advance	1
Similar ESIF projects are not treated in the same way as those funded from EFSI and programmes directly managed by the EC	1
The entire amount of subsidy under de minimis is registered upon signing of contract instead of upon the successful completion of the project	1

N=7

Figure 25 Q8 Have you/some of your members ever reached the limits of de minimis aid?

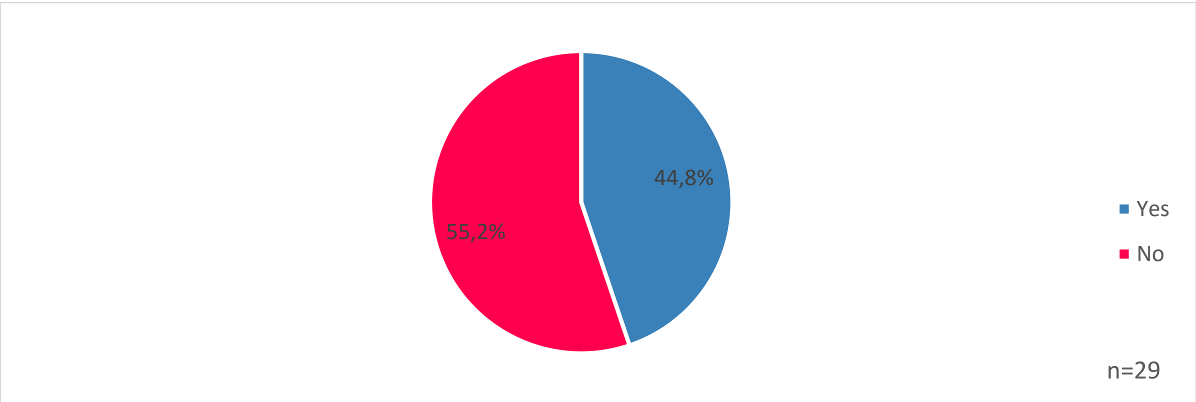
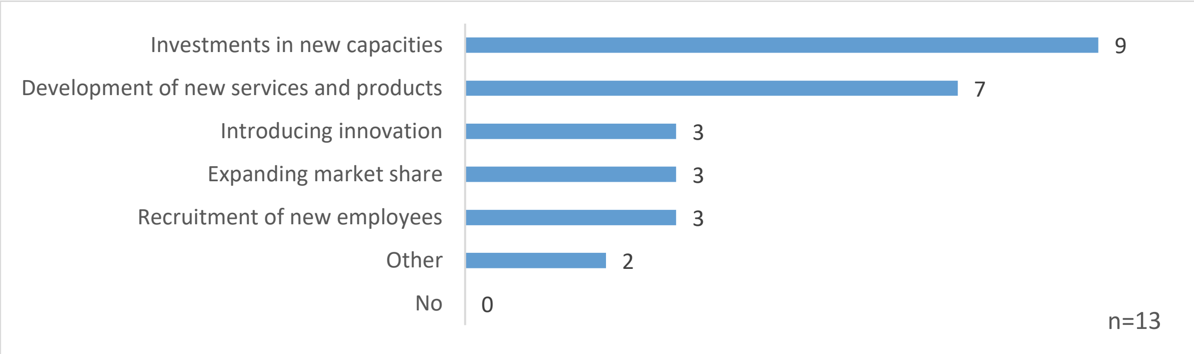


*Figure 26 Q9 If yes, did this cause any burdens for further development of the companies?**



**More than one answer is possible*

Figure 27 Q10 In your opinion do the national and/or regional rules add administrative burden rather than only ensure that minimum (European) requirements are addressed?

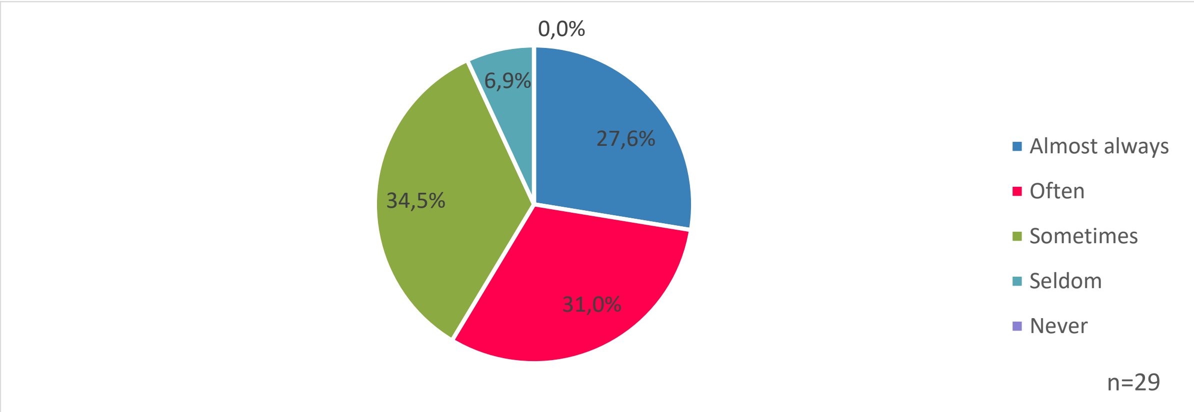


Table 5 Q11 What would be the one thing you would change in the State aid rules which lower the burden on the SMEs or larger companies in terms of access to finance?

Do not require documents that can be delivered by officially or by electronic means
Be defined directly from Brussels
Direct finance from the ECB, not the national banks.
Extend the grant period
Flexibility in terms of cumulation of the aid among linked enterprises
In the case of agriculture, the agricultural de minimis framework is a barrier (now raised to 25000, but it is easily achieved in 3 years).In the case of our other products, they can only receive support on a general basis; Is it not clear what exactly is meant by the flexible cumulation of subsidies? There is no support from affiliated companies, but one and the same businesses. Its rules are very complicated even for those who should understand it, not for an enterprise. So, for example, it would be worth changing. A shorter computation period would be even more important, perhaps it would be easier for businesses to keep track of it, and there would be less support received due to the length of the period under review.
Increase the de minimis limit for the period
Increase the de minimis limit for the period; Register the de minimis aid upon successful implementation on the aid not upon contracting.
Introduce the flexibility in terms of cumulation of the State aid among linked enterprises
Less bureaucracy at the application and reporting phase
On the basis of the feedback we received, the greatest benefit would be from simplified application procedures and harmonization of reporting.

Redesign the 7 national formulas for SME State aids by integrating them into one; elaboration of a comprehensive guide for SMEs; publishing all the rules in a comprehensive way; elaboration in the future of interactive webtool for guiding the SMEs to fill out the demands; shorter feedback periods to the demanding enterprises
Shorten the period
Simpler and faster notification/approval procedure
Simplify the applying procedure for SMEs (most burdens are set by the national agencies).
Simplify the State aid rules for all of co-financed projects because the differences of interpretation are very important. We need to harmonize, simplify and introduce more flexibility. The rules are two complex and the administrative charge is two high especially for very small enterprises.
Thresholds

Figure 28 You represent:

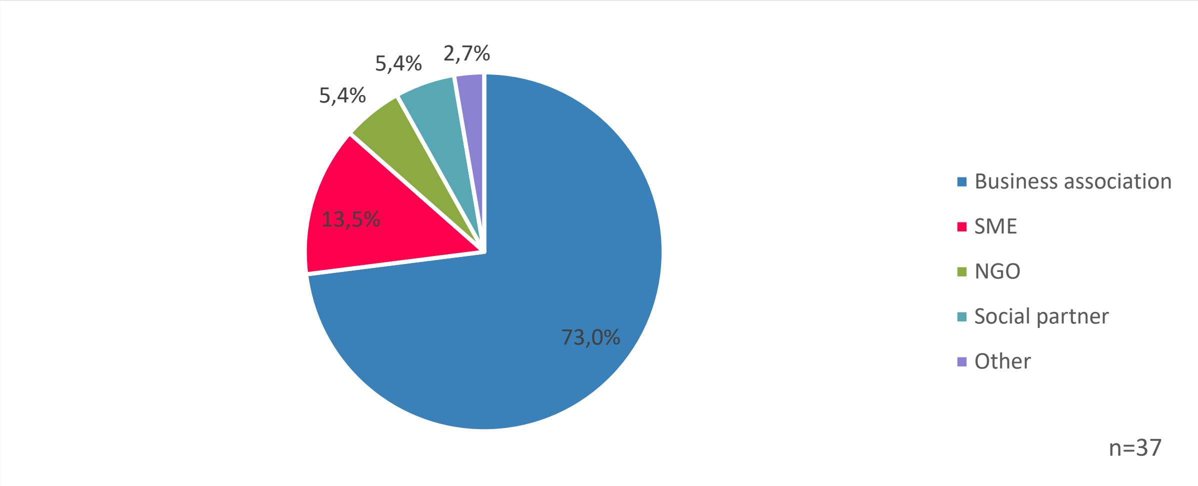


Figure 29 Your organization is settled in a (according to EC's categories):

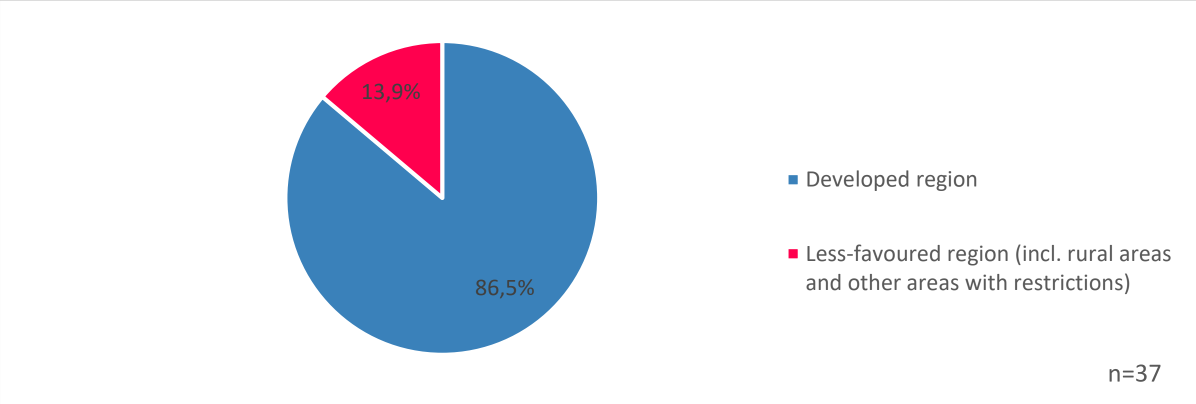
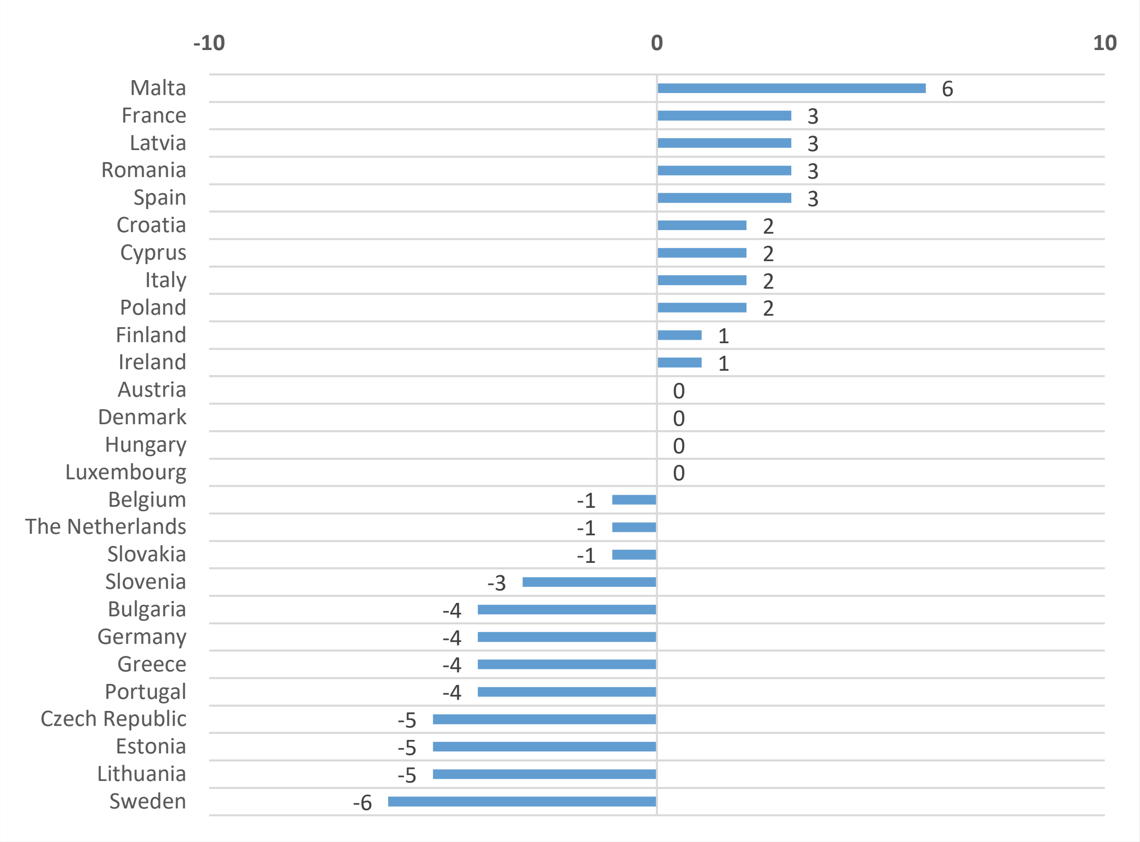


Figure 30. State aid Index by MSs



D. Case studies

Based on desk research and the State aid rules application index, the following countries were selected to be studied in-depth: **Hungary and Finland** – for practices showing success in complying with State aid rules while facilitating access to finance for SMEs and enterprises. **Greece, Italy and Bulgaria** are presented as concrete examples of how State aid rules generate real issues/burdens in terms of access to finance.

The 5 countries represent a balanced mix of old and new EU MSs, type of self-governance, area size, population, and budgets. Many factors were taken into account while assessing potential countries to be studied, such as (but not limited to): SBA reports, State aid score board data, implementation progress of EU funds spent (according to the daily updated data of the European Structural And Investment Funds), the results of SAFE showing to what extent the access to finance is considered the most important issue for SMEs in 2018 (by country).

The final decision on the 5 MSs included in the case studies was taken in consultation with and in view of EESC preferences since EESC has a broader and deeper knowledge and overview of the different practices in the MSs when it comes to application of State aid rules.

Practices showing success in complying with State aid rules while facilitating access to finance for SMEs and enterprises

HUNGARY

Key findings in a nutshell

In Hungary there is a supportive state system in place which makes an effort to facilitate access to finance for SMEs. The calls in Hungary are usually very inclusive and any kind of SMEs can find access to finance. It is a practice for all MAs to have at least one employee who has been trained for State aid, therefore there is good expertise in place. Beneficiaries are usually provided with clear guidance in order to be able to submit well prepared data. On the other hand, MAs have well-developed procedures, facilitating the implementation of State aid rules. Furthermore, they have a system in place to carry out preliminary checks (instead of the beneficiaries themselves). All participants in the funding process communicate well with one another.

Hungarian SMEs – basic facts

According to 2018 SBA Fact Sheet[1] Hungarian SMEs contribute significantly to Hungary's 'non-financial business economy' by generating 53.7% of value added, slightly lower than the EU average of 56.8%. SMEs account for 68.8% of the country's employment, higher than the EU average of 66.4%.

[1] 2018 SBA Fact Sheet — Hungary, European Commission

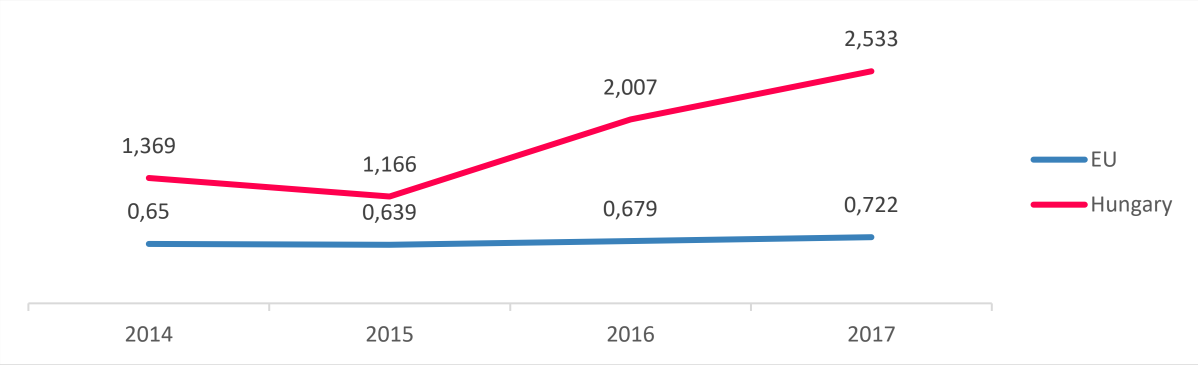
Figure 1 SME – basic figures

	Number of enterprises			Number of persons employed			Value added		
	Hungary		EU 28	Hungary		EU 28	Hungary		EU 28
	Number	*Share*	*Share*	*Number*	*Share*	*Share*	*Billion EUR*	*Share*	*Share*
Micro	525 857	94.0%	93.1%	912 599	33.4%	29.4%	11.2	18.0%	20.7%
Small	27 939	5.0%	5.8%	520 731	19.0%	20.0%	10.9	17.5%	17.8%
Medium	4 604	0.8%	0.9%	450 171	16.5%	17.0%	11.4	18.3%	18.3%
SMEs	**558 400**	**99.8%**	**99.8%**	**1 883 501**	**68.8%**	**66.4%**	**33.5**	**53.7%**	**56.8%**
Large	936	0.2%	0.2%	852 759	31.2%	33.6%	28.9	46.3%	43.2%
Total	559 336	100.0%	100.0%	2 736 260	100.0%	100.0%	62.4	100.0%	100.0%

- They employ 3.4 people on average, compared to the EU average of 3.9. As with most EU countries, the biggest SME sectors are wholesale and retail trade and manufacturing, each contributing more than one fifth to overall SME value added and SME employment.
- The proportion of SMEs in Hungary's 'non-financial business economy' has risen sharply in recent years. In 2013-2017, SME value added rose by 29.8%, and SME employment increased by 11.8%. Employment has consistently risen in SMEs of all sizes since 2013, finally reaching its pre-crisis level in 2017. Nevertheless, employment growth in SMEs has not kept up with that of large firms during the same period. In 2016-2017, SMEs grew by 10.3% in value added and 2.3% in employment.
- Between the end of 2016 and the end of 2017, the number of businesses increased by 1.3% from 1 846 101 to 1 870 415. This net gain was the result of 127 420 business registrations, set against 103 923 business de-registrations. The growing number of registrations is in line with the trend of the past 3 years. De-registrations have similarly fallen for 2 years in a row.
- According to the EU data, the outlook for Hungarian SMEs is mixed. While their value added is expected to increase by 10.6% in 2017-2019, SME employment is projected to fall by 1.4%.
- Hungary's SBA profile shows a mixed picture. Hungary scores below the EU average in skills & innovation, internationalisation, environment and 'second chance' and is even weaker in entrepreneurship and 'responsive administration'. However, it is in line with the EU average for access to finance and the single market.
- The best performing area compared to the EU average is State aid & public procurement. However, although advances have been acknowledged in this area, the 2018 European Semester country-specific recommendations highlight the need for improvement.
- According to the 2018 SBA Fact Sheet overall, Hungary has striven to implement measures in almost all SBA policy areas since 2008. The greatest progress was made in the areas of State aid & public procurement as well as single market access. Advances were also made in access to finance, where Hungary introduced a number of measures in recent years to improve SMEs' prospects. Support was also given to R&D and internationalisation activities, although Hungary still lags behind the EU average in these areas. The new measures include:
  - the Central Bank's 'Funding for growth' scheme;
  - the publication of tenders for several economic development and innovation operative programmes to be largely financed with EU funds, although financing has increasingly switched from grants to repayable loans lately.

- In 2017 and the first quarter of 2018, Hungary implemented 25 policy measures addressing all 10 policy areas under the Small Business Act. Of the 25 policy measures the most significant were in the areas of 'responsive administration', State aid and public procurement, skills and innovation, environment and internationalization. A number of new measures were also introduced in the areas of entrepreneurship, and access to finance and the single market. The national SBA strategy during the reference period focused on digitization, enabling SMEs to adopt or pursue Industry 4.0 related technologies, with two significant national strategies devised in 2016: the Irinyi Plan and the Digital Education Strategy.
  - Hungary is a country with a lot of experience with "State aid". According to State aid Scoreboard 2018 the highest increase in State aid expenditure has been recorded in Hungary (+0.5p.p. of GDP). The country is among the best performing in terms of State aid expenditure for the entire study period (2014-2018).

Figure 2 Aid by main objectives - % of GDP



Source: State aid Scoreboard 2018

- This is not a new trend. Back in 2004 Hungary ranked among the top three countries from the 10 new MSs that provide substantial funds in the form of State aid.

Experience with State aid schemes

In-depth interviews showed that the Hungarian government is supportive and has taken a series of measures in order to facilitate access to finance for SMEs. According to respondents in the interviews conducted, **in Hungary there is a supportive state system in place**.

If one looks at the State aid Scoreboard, it will indicate that Hungary's State aid forms the highest percentage of GDP among EU MSs. This probably shows that the economic policy supports SMEs but also that the Hungarian authorities report aid correctly.
Representative of State Aid Monitoring Office

In the last few years SMEs are in much better shape and their respective government bodies are really supportive. SMEs became a new target for them because they have realized that SMEs are practically the entire voting population and thus, they focus on SMEs very diligently.
Representative of SME

The State Aid Monitoring Office (SAMO)[2] has an important role in the control of State aid. SAMO is responsible for competition-minded State aid control (including agricultural, fishery, forestry and rural development cases) functions within the Ministry for Innovation and Technology. The unit is part of the Ministry but retains a special status. The procedural rules oblige all aid grantors to notify their aid plans a priori to SAMO, which is responsible for assessing the compatibility of each aid proposal with relevant EU laws and regulations. SAMO gives guidance and assistance to the aid grantor bodies when they prepare the rules of their aid plan and the notification. SAMO represents a privileged link with the European Commission and aid grantors, and helps in locating the proper tools for realizing/helping to realize the national objectives, in a way which is compatible with current EU State aid laws and regulations. SAMO also provides guidance directly to the beneficiaries.
Visible from interviews, **Hungarian authorities have good expertise and trained staff**, which strongly facilitates the application of State aid rules.

In Hungary the common practice is that people from MAs contact us, even beneficiaries contact us, and they also develop their own State aid expertise. It is common that, for example, among the staff of the major aid grantors in Hungary, there are usually a couple of people who are aware and have expertise in State aid rules.
Representative of State Aid Monitoring Office

MAs are not worried about applying the rules, since they are provided with clear guidelines. Even when some rules are problematic, MAs are aware of the reasons behind this and **solve their problems with preparation and guidance**. **They have also gained good practical experience**.

If managing authorities had a clear checklist that would make their life easier – as we do it here in Hungary.
Representative of State Aid Monitoring Office

Unless the scenario is a clearly no-aid scenario, we always apply the de minimis rules or the GBER because that allows for legal certainty for the beneficiaries. It is a typical policy for support in Hungary.
Representative of State Aid Monitoring Office

An example of important national measure in improving access to finance of Hungarian SMEs is the implementation of overdrafts, working capital loans and investment loans of the Széchenyi Card Programme[3] (also known as SME card). Széchenyi Card is a credit facility on state supported preferential terms. Its aim is to provide SMEs with a minimum business history of one year with unrestricted credit use managing liquidity risks. The scheme is run and strongly supported by KAVOSZ, an association established by the National Association of Employers and Entrepreneurs and the Hungarian Chamber of Commerce and Industry. **The MA of the programme has undertaken an engagement to carry out all preliminary checks, and to support candidates in the application process, thereby eliminating the need for external consultants**.

[2] https://tvi.kormany.hu/home
[3] https://www.kavosz.hu/

Nowadays we give up to EUR 300,000 per company without asking for mortgage and with less paperwork since we are doing the paperwork for the SME.

During the application process for the SME card, we check companies thoroughly. We take over work from banks and from SME's. We have a very big network all over Hungary, all our staff is trained explicitly for this credit line and that allows us to check the company figures thoroughly. This is a very complicated system but we have very strong IT supporting it, all our offices are connected, and we do the work for the 3 ministries involved – the Ministry of Finance (who award the subsidies), the Ministry of Innovation and Technology (who are our every-day partners), and the Ministry of Agriculture (since we have a special product for the agricultural sector).
Representative of SME Card

The current de minimis level is a big barrier but it is a fact. So, we calculate and check the de minimis level of the companies (applying for the SME cards) because of this threshold. We do this check ourselves; they do not have to worry about it.
Representative of SME Card

The MA of SME card actually acts as a linking unit between the central MA and the SMEs. SME card representatives are well prepared in State Aid rules and speak the special languages of all acting sides (MAs, SMEs and banks), thus facilitating the process.

Everyone involved in the SME card is happy - the National Hungarian Chamber of Commerce and the National Association of Enterprises can earn some money, but this is not the most important. The National Hungarian Chamber of Commerce can get members because all companies applying for the card have the possibility to become members on a very low membership fee. For the State it is very good because they activate the money at a very low cost, but they can close the very big gap of access to finance for SMEs. The banks are happy because they save money and get covered by the State guarantee, they can earn some money by having new clients. And for the SMEs it is good because they can get the money and they don't have to be over mortgage and get money cheaper.
Representative of SME Card

Examples of good practices

- Existence of good expertise and trainings on State aid in order to correctly implement the State aid rules;
- Preparation of clear guidelines in order to minimise possible errors;
- Provision of clear guidance to beneficiaries in order to be able to submit well prepared data;
- Existence of a State aid monitoring office, which gives clear instructions to operators and MAs;
- Tailored functioning of the key civil organisation (chamber with its decentralised facilities in the proximity of SMEs) which interacts with all parties in the process;
- Supporting SMEs by carrying out all preliminary checks.

Sources used

- 2018 SBA Fact Sheet – Hungary
- Website of European Commission: http://ec.europa.eu/growth/smes
- State aid Scoreboard 2018
- Website of Hungarian State aid Monitoring Office: https://tvi.kormany.hu/home
- Website of Széchenyi Card Programme https://www.kavosz.hu/

Sources and references used include desk research and 3 in-depth interviews as follows:

- Representative of State aid Monitoring Office, date 13/06/2019; via telephone;
- Representative of Business Association, date 17/06/2019; via telephone
- Representative of Managing Authority of Széchenyi Card Programme, date 20/06/2019; via telephone.

FINLAND

Key findings in a nutshell

In Finland a good level of understanding of the State aid rules has been observed. Finnish MAs succeed to find ways to deal with various individual problematic areas and apply them practically in favour of SMEs. The government is supportive, and MAs and businesses are able to cooperate in order to facilitate the process. MAs encourage regular meetings and discussions on State aid rules and are regularly available to the SMEs to answer their questions. There are clear rules at the national level, facilitating the implementation of the State aid schemes. State aid received by SMEs is simplified to the extent that companies only declare if they have or have not reached the thresholds. When the MAs have some uncertainties and they do not find the answer in the existing guidance from the Commission, they sometimes approach more experienced colleagues from other countries.

Finnish SMEs – basic facts

According to 2018 SBA Fact Sheet Finnish SMEs generate 60.9% of total value added, which is slightly more than the EU average of 56.8%. In contrast, the SME share of 65.3% in total employment is marginally lower than the EU average of 66.4%. They employ 4.1 people on average, which is similar to the EU average of 3.9. Finnish SMEs are more productive than the EU average. Value added per person employed is 39.9% higher in Finland, at EUR 61,400 compared to EUR 43,900 in the EU as a whole.

Figure 31 SME – basic figures

	Number of enterprises			**Number of persons employed**			**Value added**		
	Finland		**EU 28**	**Finland**		**EU 28**	**Finland**		**EU 28**
	Number	*Share*	*Share*	*Number*	*Share*	*Share*	*Billion EUR*	*Share*	*Share*
Micro	215 795	91.3%	93.1%	365 952	24.6%	29.4%	19.3	19.8	20.7%
Small	17 081	7.2%	5.8%	331 236	22.3%	20.0%	19.6	20.1%	17.8%
Medium-sized	2 885	1.2%	0.9%	273 268	18.4%	17.0%	20.6	21.0%	18.3%
SMEs	**235 761**	**99.7%**	**99.8%**	**970 456**	**65.3%**	**66.4%**	**59.5**	**60.9%**	**56.8%**
Large	611	0.3%	0.2%	515 577	34.7%	33.6%	38.3	39.1%	43.2%
Total	236 372	100.0%	100.0%	1 486 033	100.0%	100.0%	97.8	100.0%	100.0%

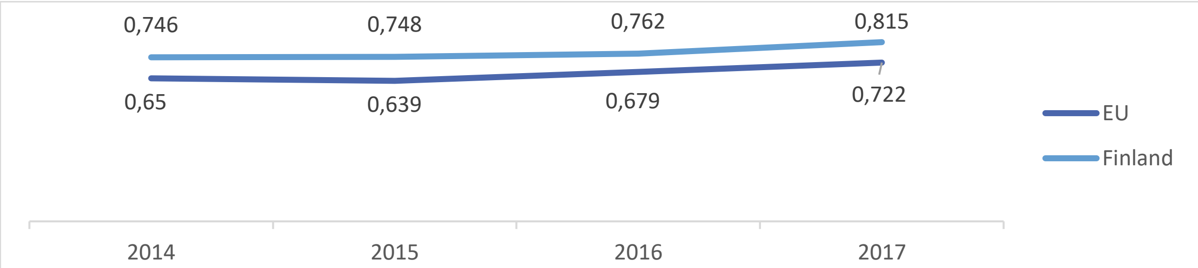
- In 2013-2017, SME value added grew in line with the overall 'non-financial business economy' by 14.0%. In terms of employment, SMEs led the modest overall sector growth with a rise of 3.0% over the same period. In contrast, employment in large firms fell slightly, by 0.6%. It is noteworthy that there was no clear trend for SME employment growth across sectors. Despite universal increases in SME value added, SME employment fell in sectors which have traditionally been most important for Finnish SMEs, namely wholesale and retail trade and manufacturing. Conversely, employment increased in most other sectors, particularly in administrative activities, information and communication, and construction. This mixed trend reflects increasing competition for labour between SMEs and large firms; in some cases, this has resulted in shortages of skilled workers, thereby hampering growth especially in SMEs. Furthermore, the trend of rising value added and lagging employment growth is an indicator of increasing productivity and is mainly a consequence of technological improvements and product innovation. More recently, in 2016-2017 SME growth has accelerated, with value added increasing by 5.8% and employment by 1.2%.

- Business registrations totalled 28 533 in 2016, a 1.0% increase over 2015. Concurrently, deregistrations also increased by 0.8% to 25 870. As a result, the total number of Finnish businesses at the end of 2016 stood at 364 412, an increase of 1.0% over the previous year. The highest net increases were in professional activities and information and communication, whereas significant net losses occurred in transportation and storage and wholesale and the retail trade, reflecting the market consolidation currently taking place in these sectors.
- In 2015, 1 996 firms in the Finnish 'business economy' with at least 10 employees were high-growth firms. The 10.1% of the total 'business economy' they account for is roughly comparable to the EU average of 9.9%. The sectors with the highest proportion of high-growth firms in Finland are information and communication and administrative activities, both standing at 15.5%.
- The outlook for SMEs in Finland is reasonably optimistic. The recent growth of SME value added is expected to continue, increasing by 7.4% in 2017-2019. On the other hand, SME employment growth is likely to level off, with only a small rise of 0.8% expected. In absolute figures, Finnish SMEs are expected to create 7 500 new jobs over the same period.
- Finland has maintained a strong SBA profile and performed above the EU average in six areas (entrepreneurship, 'second chance', 'responsive administration', access to finance, single market and skills & innovation), with 'second chance' and skills & innovation ranked among the top three in the EU. In the remaining areas, Finland's scores are in line with the EU average. The country's performance from 2008 to 2018 indicates a deterioration in State aid & public procurement and an improvement in access to finance, with stagnation in most other SBA areas.
- Since 2008, key areas that have benefited from new policy initiatives include internationalisation, access to finance and skills & innovation. Over the past few years, there has been a greater focus on 'Think Small First' and entrepreneurship. However, there is still some room for improvement, especially regarding 'second chance' and the single market.
- While Finland has not adopted a dedicated strategy for implementing the SBA, policies implemented have largely been compatible with the SBA, with Finland covering most SBA recommendations.
- In 2017 and the first quarter of 2018, Finland has implemented only five new policy measures, addressing 3 of the 10 policy areas under the Small Business Act. Overall, SME stakeholders acknowledge that progress in implementing the SBA has been moderate. The areas that saw most progress in 2017 were skills & innovation and entrepreneurship. The areas that experienced the least progress during the reference period were environment and the single market.
- The national strategy in 2017 and the first quarter of 2018 has been to further implement and fine-tune the measures included in the government programme. A specific entrepreneurship and employment package is intended to strengthen the conditions for growth, renewal and employment among SMEs. Instead of comprehensive measures, the strategy consists of a set of smaller measures

and broad changes. Several potential measures related to entrepreneurship and 'second chance' are being examined. The biggest challenges lie in the skills department. Most SMEs find the shortage of skilled employees the main barrier to growth.

- State aid policy has changed direction slightly in recent years, with slightly less support for research and innovation and greater focus on energy and the environment. Much of the State aid to SMEs has targeted start-ups and growing companies.

Figure 2 Aid by main objectives - % of GDP



Source: State aid Scoreboard 2018

Experience with State aid schemes and examples of good practices

A good level of understanding of the State aid rules is observed in Finland. Despite identifying individual problematic areas, Finnish MAs succeed to find ways to deal with them and apply them practically in favour of SMEs. They learn from their own mistakes in the process of applying the rules. The Finnish government is supportive, and MAs and businesses are able to cooperate in order to facilitate the process.

It has become clearer in the last few years, but it is still quite complicated. We try to cooperate with the Ministry of Economic Affairs to find out if the rules might become clearer. It has become easier these days than it was before... Our cooperation with the government in the State aid area is very good.

Representative of BA

Our intermediate bodies are available to the SMEs to answer any questions and assist them in the programmes and funding opportunities.

Representative of MA

With regard to the applicable legislation, there are clear rules at the national level, facilitating the implementation of the State aid schemes and resulting in a reduction of administrative burdens.

Our national legislation is quite clear on when we should use de minimis and when – GBER. That gives us some back-up and we do not have to consider it each time.

Representative of MA

Even though during the current programming period MAs are mainly using *de minimis* regulation, they perceive it as not very efficient or easy to apply, thus the government is already studying other options for the next programming period. It is clear that the authorities in Finland have put SMEs at the top of their list of priorities and are working towards improvement of their access to finance, including

adjusting the way the State aid rules are applied. This will ensure less burden not only over the SMEs but also over the MAs in the country, as they currently feel there is a shortage of experts.
Since State aid rules apply to certain funding no matter what their actual amount is, Finland MAs find it more useful and less burdensome if there was a threshold below which the grant is not considered State aid. Some projects receive as little as a few hundred euros yet the work behind the State aid rules application is still the same as if the amount were tens of thousands or more.

SMEs are a little bit afraid of State aid rules. So, if the rules would be clearer or the reports were easier, they would be more eager to apply for the funds.
Representative of MA

During the current programming period Finnish authorities have improved the process of identifying State aid funds within the grant schemes. Currently, during the process of evaluation of project proposals and while considering their funding, authorities also consider the State aid rules and decide what the amount of the State aid support to be given to the SME will be. It is done in an early stage which assist the payments afterwards since State aid (incl. eligible costs) are clear.

During this programming period we have improved the process – when we fund a project we should consider what the activities are that plan the project and decide in advance what the benefit for the SME is. Before it wasn't that clear, it was done afterwards. We have improved our own process this way. That is a good practice because it is done at such an early stage of the project – the evaluation of State aid support. It is now easier to process the payments, since it is clear what the eligible costs are.
Representative of MA

The difficulty in determining the eligible costs has been lowered within the current programming period and the effect of this practice is visible since, according to the SBA reports, average delay in payments from public authorities in Finland is 3 days (2017) against the 9.27 days (avg.) for the EU.
Confirmation of the amounts of State aid received by SMEs is simplified to the extent that the companies only declare if they have or have not reached the thresholds. This brings some uncertainties and adds extra work for the MAs; however, it doesn't add any extra burden to SMEs.

In Finland there are very limited possibilities to get different kind of support. Having State aid is a good opportunity and even though the threshold is low, and the period is a bit long, it is not such a big problem for the SMEs here.
Representative of BA

A strong encouraging support from the authorities by their high level of knowledge is observed in Finland. In order to take full advantage of experts from the MAs but also to make sure SMEs are well informed, Finnish authorities encourage regular meetings, discussions and updates with the MAs on State aid rules. The MAs are at full disposal to the SMEs to answer their questions, discuss issues, make clarifications and guide the companies.
When the MAs are not certain if they should apply State aid rules, and they do not find the answer in the existing Commission guidelines, they sometimes approach more experienced colleagues from other countries, such as Sweden.

However, in spite of the good practices in Finland, the MAs are still facing some difficulties mainly with regards to the low *de minimis* thresholds, unclear GBER rules/guidance, insufficient human resources (they declare a need of more experts on State aid), and application of State aid rules towards educational institution with no economic activities.

Examples of good practices

- Improving the process and supporting SMEs by carrying out preliminary checks of the project and the beneficiary;
- Active cooperation and communication between the government, MAs, intermediate bodies and businesses;
- Conducting regular meetings, discussions and updates with MAs on State aid rules;
- Preparation of clear rules at the national level in order to minimize possible errors;
- Approaching more experienced colleagues from other countries when they are not sure how to apply specific provisions or how to proceed with a specific case.

Sources used

- 2018 SBA Fact Sheet – Finland
- Website of European Commission: http://ec.europa.eu/growth/smes
- State aid Scoreboard 2018

Sources and references used include desk research and 2 in-depth interviews as follows:

- Representative of Managing Authority, date 10/06/2019; via Skype.
- Representative of Business Association, date 11/06/2019; via telephone

Examples of how State aid rules generate real issues/burdens in terms of access to finance

BULGARIA

Key finding in a nutshell

There is identified lack of capacity and stronger expertise which (combined with the complexity of the EU legislation) is a prerequisite for creation of more complex procedures and rules at the national level. Both Bulgarian business representatives and MAs consider the *de minimis* thresholds outdated and agree that an adjustment shall be made in accordance with changes in economic conditions. The extension of the aid to affiliated enterprises represents and impediment due to the variety of definitions within the different State aid regimes. SME definitions, as well as the variety of rules regarding the determination of the subject also constitute an obstacle for SMEs and MAs. Bulgarian MAs struggle with complex guidelines and unclear responses of the European Commission. Furthermore, they are not binding and often take too long to receive. There is no clear distinction between the roles of the social partners and the civil sector given that these organizations do not generate profits even if they work in the private interest of their members.

Bulgarian SMEs – basic facts

The SBA Fact Sheet submitted in shows that Bulgarian SMEs account for 65.2% of value added and 75.4% of employment, which is more than the EU average. In the 2011-2017 period added value in micro firms increased by 83.9%, but in contrast growth in SME employment has been more subdued. Bulgarian SMEs employ 4.4 people on average, compared to 3.9 in the EU as a whole.

Figure 1 SMEs – basic figures

	Number of enterprises			Number of persons employed			Value added		
	Bulgaria		EU 28	Bulgaria		EU 28	Bulgaria		EU 28
	Number	*Share*	*Share*	*Number*	*Share*	*Share*	*Billion EUR*	*Share*	*Share*
Micro	309 050	91.5%	93.1%	586 140	29.7%	29.4%	5.5	21.3%	20.7%
Small	23 734	7.0%	5.8%	474 078	24.0%	20.0%	5.8	22.4%	17.8%
Medium	4 316	1.3%	0.9%	427 087	21.6%	17.0%	5.5	21.5%	18.3%
SMEs	**337 100**	**99.8%**	**99.8%**	**1 487 305**	**75.4%**	**66.4%**	**16.5**	**65.2%**	**56.8%**
Large	649	0.2%	0.2%	485 486	24.6%	33.6%	9	34.8%	43.2%
Total	337 749	100.0%	100.0%	1 972 791	100.0%	100.0%	25.7	100.0%	100.0%

Business registrations fell by 2.2% in 2016-2017, falling to 52 790 in 2017. Furthermore, deregistrations rose sharply, by 20.7% within the same period. The country is achieving promising, (but still limited) results.

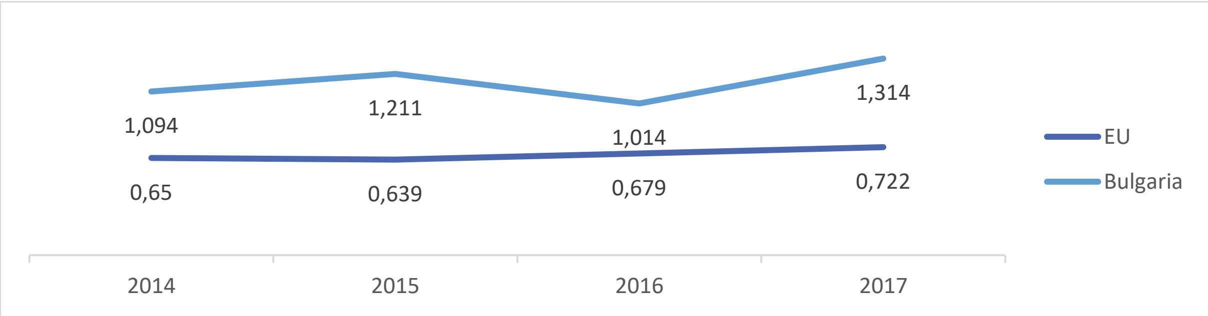
In the area of access to finance Bulgaria's performance is in line with the EU average. The willingness of banks to provide loans has improved since the percentage of respondents that indicated deterioration dropped from 2016 to 2017 from 6.5% to 4.1%. For this indicator, Bulgaria is the top performer of all

EU countries. In terms of alternative funding, the country is lacking "business angels" for new and growing firms and venture capital investments. Moreover, Bulgaria's performance in equity funding for new and growing firms has declined since 2016 from 3.2 to 2.8 index points.

Bulgarian SMEs still face difficulties in obtaining public guarantees and the country's risk capital remains limited. Moreover, SMEs are lagging behind in terms of accessing alternative sources of funding such as crowdfunding and business angels. During the current reference period, several initiatives have been taken to improve SMEs' access to finance.

Regarding State aid, Bulgaria is among MS in which the spending of State aid was very concentrated on one main objective (more than 60%).

Figure 2 Aid by main objectives - % of GDP



Source: State aid Scoreboard 2018

Experience and main issues with State aid rules

Business Associations

One of the major problems with State aid for Bulgarian companies is related to be the extension of this aid to affiliated enterprises. Verification and coordination in cases of holding companies and related enterprises represents serious impediment, especially in cases of acquiring a new company with all its assets and liabilities from another enterprise or holding structure. In this regard there is also another problem - Bulgarian companies face difficulties related to the examination of a firm in experiencing financial difficulties. In cases where a strong economic group of companies acquires a firm experiencing financial hardship, each well-functioning company of the group becomes a non-eligible candidate for any program.

Both, MA and BA agree that it is noteworthy that the *de minimis* thresholds should be regularly updated in accordance with changes in economic conditions. They consider EUR 200,000 to be a very low threshold. In Bulgaria this regime is often applicable, but the thresholds appear to be serious limiting factors for the enterprises which negatively affects the business.

According to representative of MA, there are some uncertainties at the EU level. For example, the status of SMEs is defined by various acts in different ways, depending on their purpose (for example for example Commission Recommendation of 6 May 2003, 2003/361/EC; Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013; and Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014). This variety of rules regarding the determination of the subject to meet certain requirements leads to some financial fluctuations in both businesses and MAs.

In the de minimis regulation, we have one requirement for the same undertaking, which differs from the SME requirement, and which differs from the State aid requirement for a group of companies (single undertaking) to which certain thresholds and other eligibility requirements are addressed.
Representative of MA

Another limiting factor for Bulgarian SMEs is the SME definition which puts the enterprises in an unequal position. Furthermore, Bulgarian SMEs are unable to compare with enterprises of the stronger European economies as there is a big gap between them.

Our first fundamental issue is the limitation to funding stemming from the limitation of eligible applicants due to the definition of SMEs. We are convinced that a change of definition is mandatory.
Representative of BA

Although the definition, the requirements and the normative base are the same, ***in practice, the companies there*** *(Western Europe)* ***get better support than the ones here****, because here you have 20 people, but your company is much weaker than the one that is there with 10 people.*
Representative of MA

Another burden is the grouping by planning regions, not by districts. For example, as a result of the capital's contribution, companies of the region may receive a lower amount of aid. In this way, candidates from a small town near the capital would receive substantially lower support than those from a large regional city.

Managing Authorities

According to the following respondent, all regulations and decisions are very theoretical: justified and targeted but often lacks a practical realization. Bulgarian MAs consider the European Commission's State aid guidelines as complex and unclear. Furthermore, they are not binding and often take too long.

Communication with the Commission is through the State aid wiki platform, which, despite all of its arguments, has its own weaknesses, one of which is that ***it is not sufficiently legally grounded****. It is more for informational purposes and we cannot keep it, we cannot rely on it, it is only advisory…*

There are questions from Bulgaria that ***do not receive a response for 2-3-5 months****. This is a problem for us, because for some issues we have to decide in a week or two or up to a month, and we do not ask the Commission because we know it will take 3 months and by the time we get the answer, we will no longer need it…*

Very often there is no way to know what is right and what is not. We create the practice. But when you build up the practice, it is interesting but it also has its own risks, as in subsequent audits you have to prove your arguments (how did you decide)…

*Usually, **the bodies conducting the audits avoid giving preliminary opinions**, and then giving them after 5 years, it's a little bit meaningless because we have already begun to apply the rules in some way.*
Representative of MA

In addition, MAs are experiencing some concerns about using other regimes except the *de minimis*. The reason is that sometimes the institutions themselves do not fully understand the rules and prefer to reduce the risk of errors. This practice is also present in the so-called "soft measures" that require the application of special regimes.

Social partners

Financing through grant schemes under Operational Programs and EEA Financial Mechanism are among the main sources of financing for Bulgarian NGOs, mainly for their non-profit activities. Almost all schemes under these major sources of funding apply State aid rules and, above all, *de minimis* aid. As a result, in Bulgaria, there is a "ceiling" of funding for NGO projects when public resources are used for this purpose (even in the case of socially important goals through the implementation of non-profit projects). This ceiling is 200,000 euros for 3 years. According to the respondent, additional rules and complexity are added at the national level.

In many cases regulations are incorrectly interpreted and applied. The principle according to which some of the programmes exclude the application of State aid rules and de minimis for the NGO non-profit activities, (and other similar type of activities which apply these rules), and other don't, is unclear.
Representative of Social partner

The Bulgarian Ministry of Finance has issued an Opinion on the application of State aid rules in developing of the Procedural Manuals for the 2014-2020 period, according to which there is a clear requirement for all MAs to make assessments in light of the objectives and effect of the aid. The opinion presents an indicative list of issues that MAs should use, such as: *"Does the operation relate to potential beneficiaries carrying out an economic activity?"* and *"Does the operation contain conditions for clearly distinguishing the activities?"* However, according to respondents these are doubtful and non-categorical positions that can be *"read between the lines."*
According to respondents, social partners recognized as such at the national level (essentially national representative organizations of employers and trade unions) should be exempted from State aid for activities that are joint actions insofar as they are strictly national in nature, do not lead to profit-sharing and are entrusted by state institutions to support certain policies. These activities are usually related to social dialogue or work with branch and federal structures and could not be performed qualitatively by another organization. In practice, their feeling is that the EC applies a double standard by exempting State aid from all project selection procedures that concern social dialogue and which are directly funded by Brussels, but requires the application of a *de minimis* regime for national procedures.

Challenges and needs

- The extension of the aid to affiliated enterprises represents a serious impediment, especially in cases of acquiring a new company with all its assets and liabilities by another enterprise or holding structure;

- The European Commission's State aid guidelines are complex and unclear. Furthermore, they are not binding, and the communication process often takes too long;
- The grouping by planning region, not by district is considered discriminatory;
- There are no good and detailed guidelines to assist MAs in implementing adequate and uniform rules;
- As a result of the insufficient practical purpose of the EU legislation, and lack of expertise, additional rules and complexity are often added at the national level;
- Clear and simplified definition criteria of a company in difficulty need to be formed.

Recommendations/suggestions

- De minimis thresholds could be updated. Two *de minimis* thresholds could be established- one threshold for individual participation, e.g. EUR 300,000 and a second cumulative threshold for connectivity - e.g. EUR 600,000;
- The definition of SME could be updated. Our Suggestion is to consider not giving the most weight to the human resources factor but rather to give the 3 factors equal weight and alternate them;
- Good detailed guidelines are needed in order to facilitate and assist the operators of public resources to implement adequate and uniform rules. Our suggestion is to develop more practical guidelines which respond better to business's needs;
- The State aid and *de minimis* regime for non-profit activity of the social enterprises could be less restrictive.

Sources used

- 2018 SBA Fact Sheet – Bulgaria
- Website of European Commission: http://ec.europa.eu/growth/smes
- State aid Scoreboard 2018

Sources and references used include desk research and 3 in-depth interviews as follows:

- Representative of Managing Authority, June 11, 2019, face to face;
- Representative of Business Association, June 21, 2019, face to face;
- Representative of Social Partner, June 18, 2019, face to face

GREECE

Key finding in a nutshell

Both Greek MAs and businesses find the State aid rules and their application to create additional bureaucracy and a high administrative burden which hampers the growth of business. According to the BAs, the difficulties arise from the fact that the government authorities further complicate the procedures. However, MAs share that they themselves face complication of procedures and lack of clarity. This comes to show that the businesses project their own dissatisfaction of the State aid rules application towards MAs. The main reason however is the lack of practical guidance and clear instructions which jeopardise the work of the MAs. The main obstacles relate to the low *de minimis* thresholds, the definition of single undertaking and the definition of an enterprise in difficulty. Additional impediment for the Greek MAs appears to be slow communication with the EC. MAs consider the EC's responses to inquiries too general, often delayed and sometimes even incorrect.

Greek SMEs – basic facts

According to 2018 SBA Fact Sheet[4] Greek SMEs generate 63.6% of value added and 85.2% of employment, exceeding the respective EU averages of 56.8% and 66.4%.

Figure 1 SME – basic figures

	Number of enterprises			Number of persons employed			Value added		
	Greece		EU 28	Greece		EU 28	Greece		EU 28
	Number	*Share*	*Share*	*Number*	*Share*	*Share*	*Billion EUR*	*Share*	*Share*
Micro	807 666	97.3%	93.1%	1 337 320	57.1%	29.4%	10.9	22.7%	20.7%
Small	19 662	2.4%	5.8%	402 493	17.2%	20.0%	9.2	19.0%	17.8%
Medium	2 349	0.3%	0.9%	256 483	11.1%	17.0%	10.6	21.9%	18.3%
SMEs	**829 677**	**100.0%**	**99.8%**	**1 996 296**	**85.2%**	**66.4%**	**30.6**	**63.6%**	**56.8%**
Large	376	0.0%	0.2%	345 406	14.8%	33.6%	17.5	36.4%	43.2%
Total	830 053	100.0%	100.0%	2 341 702	100.0%	100.0%	48.1	100.0%	100.0%

- Micro firms are the backbone of the Greek economy. They provide almost 6 out of 10 jobs, compared with the EU average of 3 out of 10 jobs. Due to the high proportion of micro firms, Greek SMEs are smaller than the EU average. They employ an average of 2.4 people, compared with the EU average of 3.9.
- SMEs in Greece have made mixed progress in recent years. SME employment rose by 10.7% in 2015-2017. However, this strong employment growth was entirely due to the exceptional

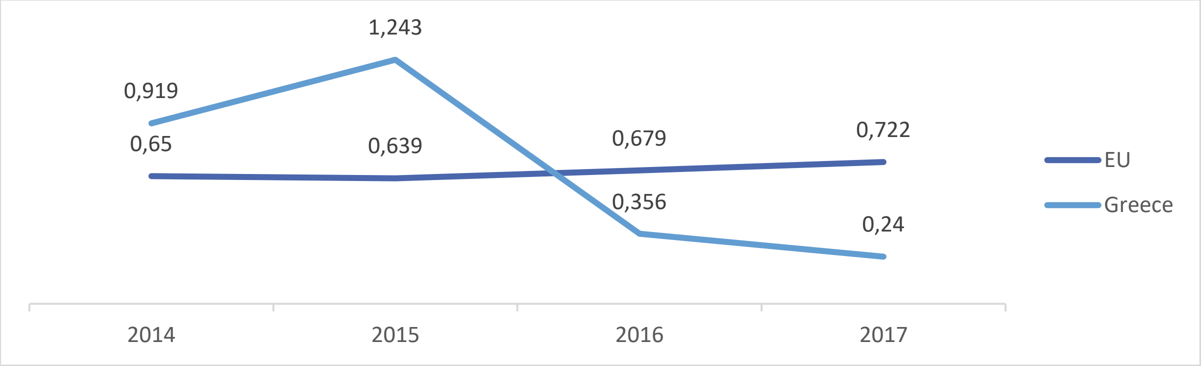
[4] 2018 SBA Fact Sheet – Greece, European Commission

performance of micro firms, which increased their employment by 18.2% during this period. In contrast, firms in the other size classes suffered a slight downturn, with employment losses of 2.3% (small firms) and 1.2% (medium-sized firms) in the same period. SME value added growth was also subdued, falling by 2.8% in 2015-2016, followed by an increase of 5.4% in 2016-2017, leading to an overall rise of 2.5% in 2015-2017.

- According to EU data:
  - business demography has developed favourably in recent years;
  - the general commercial registry reports 31 271 business registrations for 2017, a rise of 4.1% on the previous year;
  - the number of de-registrations reported decreased by 27.1% in 2016-2017, dropping to 25 277 in 2017;
  - corporate insolvencies fell even more sharply, dropping to 111 in 2016 - 46.2% fewer than the previous year and only around a quarter of total insolvencies in 2011.
- The share of Greek firms that have successfully scaled up their operations in recent years is lower than the EU average. In 2015, 1 405 firms or 6.0% (provisional data) of all firms in the 'business economy' with at least 10 employees, were high growth firms, compared with the EU average of 9.9%. At 10.4%, the highest proportion of high-growth firms was in administrative and support services.
- The growth in SME employment, which started in 2015, is forecast to continue in 2017-2019, with an expected rise in SME employment of more than 6% per year. SME growth in value added is also predicted to accelerate, increasing by more than 8% per year in 2017-2019.
- Regarding overall SBA performance, Greece is below the EU average, with only State aid & public procurement being above the EU average. Entrepreneurship, single market, and skills & innovation are below the EU average. Greece's performance is among the weakest in the EU in four areas ('second chance', access to finance, environment, and internationalisation). Greece's performance has deteriorated in two areas - 'second chance', which has one of the lowest scores in the EU and skills & innovation, which was previously in line with the EU average but has now fallen below it. However, the country has made some progress in 'responsive administration' since last year and is now broadly in line with the EU average.
- Regarding policy, the introduction of the SBA in 2008 has paved the way for administrative and institutional changes (e.g. amendments of the insolvency law, a new framework for non-performing loans, simplification of the procedures to set up a business, etc.) and the adoption of new instruments (e.g. guarantees for loans, seed and early stage venture capital, micro-finance loans, etc.). The SBA has set the framework for supporting SMEs based on specific targets and objectives. Despite the various reforms, there is still room for improvement.
- In 2017 and the first quarter of 2018, Greece adopted more than 20 policy measures addressing seven out of 10 policy SBA areas.
- The area that saw the most significant progress was entrepreneurship, with six measures introduced to foster investment in entrepreneurship and a further measure announced to support existing and future social entrepreneurs and companies. There was also significant policy progress in access to finance, with the introduction of four new measures focused on financing new entrepreneurs and the announcement of one new measure to help to remove obstacles to investment.

- Various measures were also adopted under the 'second chance' principle to simplify debt settlements procedures. In addition, two measures were introduced under 'responsive administration' and skills & innovation. Only one measure was adopted in the area of internationalisation to support exports of Greek SMEs outside the EU.
- Four areas ('think small first', State aid & public procurement, single market, and environment) had the least progress during the current reference period, with no significant measures adopted or announced.
- Greece grants on average less State aid than other MSs, excluding the railways sector. According to the latest available data (2017), Greece granted State aid amounting to approximately 0.24 per cent of its GDP, compared to the EU-28 average of approximately 0.72 per cent (fig.2).

Figure 2 Aid by main objectives - % of GDP



Source: State aid Scoreboard 2018

- Aid for regional and sectoral development is the most common type of aid in Greece, and aid in the railway sector is also significant.

Experience and main difficulties with State aid rules

Greek SMEs face a number of difficulties associated with administrative and financial burden. They experience a high degree of red tape and complicated administrative procedures. Usually, in order to be able to apply with a project proposal under the existing scheme, BAs need to use assistance from external consultants, which requires additional financial resources. The cumbersome communication with the state administration is another reason for the usage of external professional assistance services, according to opinions shared by various representatives. Because of such circumstances, SMEs believe that the national rules add extra burden to their enterprises.

Most of the SMEs have less than 10 people – small family businesses. These SMEs do not have the knowledge to find programs. They are also not the most educated people to know what to do, so they have to hire someone – an expert, adviser. But they don't know where to find the good experts who will develop strong projects. So, all these needs to be made very simple, very easy. Maybe to create a platform with simple question (click here, click there) to lead these small businesses, to tell them what they need to know, to ask them all the needed questions for an application, so that they can apply for the project…

Representative of BA

Both, MA and BA consider that the *de minimis* thresholds need to be updated. According to them EUR 200,000 is a very low threshold and is a serious limiting factor for the development of Greek SMEs, especially in the fields of investments in new capacities, innovations and development of new services and/or products. In addition, since the MAs find GBER rules relatively unclear and complicated to apply, they often prefer to use *de minimis* instead. This leads to the *de minimis* thresholds being reached easily and quickly, not allowing the business to access more sufficient funds needed for a stable improvement of their operations.

Greek MAs declare the need for more clarifications on the GBER rules in order to be able to apply them correctly and without fear of corrections. In addition, they need more flexibility in terms of cumulation of the aid among linked enterprises. It is necessary for them to clearly distinguish between State aid rules and other European rules.

The rules of difficulty should be clearly laid out. We are definitely having difficulty implementing them correctly. We also encounter difficulties in applying certain definitions recorded in the GBER. Also, certain categories of eligible costs could be more clearly defined.

Representative of MA

The single undertaking definition under *de minimis*, as well as the definition of undertaking in difficulty under GBER, create confusion in both business and MAs. It appears to be hard for the MAs to look into the details of how the undertakings are connected and what those connections constitute. In addition, the different definitions for a single undertaking under the *de minimis* rules, the different definition to establish SME status, and the unclear third definition under Regional aid (it is based on cases of the European court), could be very confusing both for an aid granter and the beneficiaries.

The business does not know when, what, or who to include, which are the enterprises that are part of the same enterprise and who is part of the group within the meaning of the law... There is a need for a definition that balances and is more recognizable by business and MAs, and with clearer rules.

Representative of MA

When it comes to the definition of a “firm in difficulty”, the MA representative claimed that the previous definition is clearer and better applicable, and would therefore prefer to keep using the old one. According to our respondents, the Commission should clarify at which point the MAs should use the accounting reports to identify firms in difficulty, as it is not currently clear.

MAs declare to be experiencing very big delays in receiving responses to their inquiries by the Commission. However, they cannot use already published responses since they have noticed that to an identical question asked by a different MSs, the Commission gave different answers. Large uncertainty therefore remains, and further clarification is needed.

We had a case in which we received an incorrect response which has prolonged the communication, since we had to send it back and forth 3 times before it was corrected.

Representative of MA

Their opinion is that if there was a dedicated unit under the Commission, dealing explicitly with inquiries regarding State aid, this would have improved the efficiency of the correspondence with the MSs and would therefore have resulted in more successful application of State aid rules and access to finance for SMEs.

Respondents have issues with the imposition of the State aid at the date of commissioning the contract or receiving a certain relief of subsidy, not at the date of its effective absorption. Thus, businesses feel deprived of access to other similar funding and the inability to reduce the amount of aid received in proportion to the real needs of the enterprise.

Challenges and needs

- De minimis thresholds are too low and need to be updated;
- Cumbersome and slow communication with the Commission that has no legal value;
- The single undertaking definition under de minimis, as well as the definition of undertaking in difficulty under GBER, create confusion in both business and MAs;
- MAs find that under Article 21 of the GBER, a financial contribution of at least 40% of the eligible costs is too high in some cases;
- There is a need to better define specific incentive as it is not clear what is meant by "preparatory work". Since the definition is too general, practically anything may or may not be considered preparatory work, which creates uncertainty and confusion among the Greek MAs.

Recommendations/ suggestions

- To lower the financial contribution under Article 21 of the GBER to at least 30%, aligning with the guidelines for risk financing;
- In order to define the aid intensity for regional guidelines in Art 15 of the GBER using GDP is insufficient, rates of unemployment could also be considered;
- Streamline the definition of a Single Undertaking under the De minimis Regulation and the Enterprise definition as presented under the SME Definition.

Sources used

- 2018 SBA Factsheet – Greece;
- State aid Scoreboard 2018;
- Website of European Commission: http://ec.europa.eu/growth/smes

Sources and references used include desk research and 2 in-depth interviews as follows:

- Representative of Business Association, date 20/06/2019; via telephone
- Representative of Managing Authority, date 26/06/2019; via telephone
- Representative of Managing Authority, date 02/07/2019; via telephone

ITALY

Key finding in a nutshell

Italian MAs and businesses feel affected by national legislation to a great extent and the heavy burden it generates. Furthermore, they have to comply with and take into account European, national and even regional regulations. MAs feel that they do not have enough knowledge or expertise on State aid and consider the rules hard to apply. When they need the Commission's assistance, they receive very neutral responses to their inquiries, which do not offer solutions but rather draw principal positions. In addition, Italian banks are not willing to support micro and new enterprises and therefore they highly limit their access to public finances. MAs need more opportunities for trainings and for information and knowledge exchange with other MS in order to be able to apply the rules correctly while facilitating access to finance for SMEs.

Italian SMEs – basic facts

According to the 2018 SBA Fact Sheet the role played by SMEs in Italy's non-financial business economy is larger than the EU average. SMEs generated 67.1% value added against an EU average of 56.8%, while they generated 78.5% employment compared to the EU average of 66.4%. Micro firms are particularly important, providing 28.6% of overall value added and 45.9% of overall employment in the 'non-financial business economy'. Manufacturing is the most prominent sector with a substantially higher proportion of SME value added and employment than the EU average: 31.1% of all SME value added and 24.8% of all SME employment. The average number of people employed in Italian SMEs is 3.0, around 1 below the EU average.

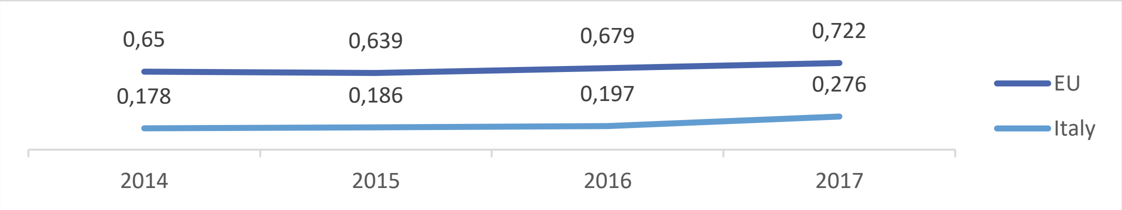
Figure 1 SME – basic figures

	Number of enterprises			**Number of persons employed**			**Value added**		
	Italy		**EU 28**	**Italy**		**EU 28**	**Italy**		**EU 28**
	Number	*Share*	*Share*	*Number*	*Share*	*Share*	*Billion EUR*	*Share*	*Share*
Micro	3 565 046	95.1%	93.1%	6 661 193	45.9%	29.4%	201.2	28.6%	20.7%
Small	162 598	4.3%	5.8%	2 921 184	20.1%	20.0%	144.9	20.6%	17.8%
Medium-sized	18 465	0.5%	0.9%	1 808 802	12.5%	17.0%	125.3	17.8%	18.3%
SMEs	**3 746 109**	**99.9%**	**99.8%**	**11 391 179**	**78.5%**	**66.4%**	**471.5**	**67.1%**	**56.8%**
Large	3 221	0.1%	0.2%	3 125 454	21.5%	33.6%	231.7	32.9%	43.2%
Total	3 749 330	100.0%	100.0%	14 516 633	100.0%	100.0%	703.1	100.0%	100.0%

- SMEs in Italy have recently been showing signs of recovery. After years of decline, SME employment rose by 2.1% over 2015-2017, rising by 1.3% between 2016 and 2017. However, in 2017, it was still 11.6% lower than in 2008. This subdued SME employment performance lags significantly behind the strong performance of large firms, whose employment increased by 6.6% between 2013 and2017.

- Regarding value added, SMEs started to recover in 2013-2014. It increased by 9.6% between 2013 and 2017, including a rise of 2.2% between 2016 and 2017. Thanks to this growth, SME value added has almost reached its pre-crisis level, and in 2017 it was only 0.8% lower than in 2008.
- The trend in company registrations has been in decline since 2010. In 2017, the annual total of 356 875 registrations was 1.8% lower than the total in 2016. Deregistrations, which have been declining since 2013, continued to fall, by 3.4% in 2016- 2017, totalling 311 165 in 2017. This resulted in a net increase of 0.8% in the number of registered companies in 2016-2017.
- Fewer Italian firms than the EU average have scaled-up their operations in recent years. In 2015, 11 912 firms - 7.6% of all firms in the 'business economy' with at least 10 employees - were classified as high-growth firms, substantially more than in 2014, when the proportion of high-growth firms was only 6.8%. Nevertheless, this is still 2.3 percentage points lower than the EU average.
- The outlook for Italian SMEs is mixed. While SME value added is expected to increase by 2.0% between 2017 and2019, SME employment is expected to fall by 1.4% in the same period.
- Italy's SBA profile performs below the EU average in 8 out of the 10 SBA principles. These principles are entrepreneurship, 'second chance', single market, environment, internationalisation, 'responsive administration', State aid & public procurement and access to finance. In the last three areas Italy is among the three weakest performers in the EU. On a positive note, skills & innovation is the one area where Italy performs in line with the EU average. Compared to the previous reference period, the country's performance has improved in this area.
- Since 2008, the Italian government has made policy progress in implementing the Small Business Act — addressing many of the SBA recommendations. A body at the Ministry of Economic Development was appointed to monitor the implementation of the SBA.
- Regarding the implementation of SBA recommendations, there are still some problematic areas that require more action. For instance, taxation and heavy bureaucracy, a lack of efficiency in public administration and limited access to finance still pose difficulties for SMEs.
- During 2017 and the first quarter of 2018, Italy adopted 24 policy measures and formally announced 2 new measures, addressing all 10 principles under the Small Business Act. The most significant progress was made in the areas of entrepreneurship and skills & innovation.
- Italian performance in State aid expenditure remains constant for the (2014-2018) reference period. An increase of State aid for risk finance and SMEs of about EUR 1.3 billion was noted in Italy in 2017 (+1.1 billion EUR), however it is mostly due to a scheme created to facilitate access to credit for trading companies.

Figure 232 Aid by main objectives - % of GDP



Source: State aid Scoreboard 2018

Experience with State aid schemes and main issues with State aid rules

The most important general burden faced by the MAs in Italy is to match the State aid rules with the national legislation. The initial mismatching results in prolonging the program preparation process and ultimately reflects in the application deadlines for SMEs, which are often shortened. This does not allow the SMEs to prepare their applications well. Even though the authorities are willing and trying to overcome this issue, it still jeopardizes their work, and there is a need of political will to solve it by simplifying the national legislation on State aid.

Since State aid rules are legal documents, while the actual application of the rules is very practical, the respondents declared that very often the legal framework does not correspond well to actual practical implementation. This applies even in the cases of audits in which auditors judge based on legal documents rather than attempting to understand practical aspects of the individual cases. In this case the Italian respondents face a big challenge since such misunderstandings cause financial "corrections", which in turn has an effect on the entire system and particularly on beneficiaries.

As MAs we experience the regulations because we put them to practice – giving funds to the SMEs, helping them with their legal and financial problems. The auditors, on the other hand, at the end of the process just read the law and stop there. They do not have practical experience. This is the main problem for us. It looks like there is a fight between the managing authorities and the auditors. We fight. But there should not be a fight, we should work towards the same goal.

Representative of MA

One of the major problems for enterprises in Italy is that there are too many rules and regulations they have to comply with and take into account – European, national and even regional in their case. The bureaucracy comes as a heavy burden which neither the BAs nor the MAs in Italy have a solution to.

In Italy, if you want to apply for funds consisting of State aid, you have to prove a lot of things. The burdens created on a national level are incredible. It is completely useless. The national government could decide to simplify all the rules about European funds, this could be a good solution.

Representative of BA

The amount of information that needs to be taken into account and understood by the SMEs when it comes to State aid rules application is a big impediment for Italians. They find themselves unable to deal with it due to their insufficient resources and administrative experience and knowledge. In addition, micro and small enterprises face difficulties preparing their application forms, collecting all documents needed and answering all questions. They usually need external consultants to lead and support them throughout the process, but often do not have the resources to cover their fees.

The amount of information regarding the State aid is huge and it brings about a lot of confusion. It is not possible to understand the entire legislation and all of the paperwork behind the State aid. It would be helpful to have specific, more simplified rules for micro enterprises.

Representative of BA

In addition the current milestone for recording the State aid amount is when the legal act between the MAs and BAs is signed, however both sides perceive the moment of actual payment to beneficiaries as a more accurate and appropriate milestone. The suggestion of the Italian respondents is to have this milestone changed within the next programming period as the current practice generates a lot of problems in terms of control, but also in terms of awareness of the SMEs on their aid accumulations. The main reason is that there is no standardized legal act documentation applicable in all MS, while the actual payments to beneficiaries are easily tracked through the banking system.

It is much easier to check a payment between an MA and an SME all over Europe, than checking a legal act. This is because we do not have a standard form since our national rules are different.
Representative of MA

When it comes to application of the State aid rules, there is a serious problem related to the very "synthetic" (as described by an MA representative) nature of the rules while in practices there are many cases and they differ from one another. Because of this the rules are hard to apply at times.
A serious burden for Italian authorities is the very neutral responses of the Commission to their inquiries. Those responses do not give solutions but rather draw principal positions, which leaves it up to the MAs to decide on their own, even if they do not have the knowledge or expertise to do it.

It is not fair because if we make a mistake, the SME's bear the consequences. They have to pay for our mistakes, and this is not fair.
Representative of MA

MAs state that while there is a definition of enterprise in difficulty, it does not cover all aspects which creates complications when applying it. It is clear with well-structured enterprises, who have properly filled out balance sheets. However, the balance sheets of small enterprises with less than 10 employees is a very simple document and does not contain all requisites needed for the check (e.g. balance index,). In such cases, it is almost impossible for the MAs to apply the rules of the definition for enterprises in difficulty.

On the other hand, the Commission forbids State aid to companies in difficulty but how can we check this for small enterprise? We need to have a common rule which is also applicable to micro enterprises.
Representative of MA

Another general burden that MAs and BAs face in Italy is related to the banking system in the country which doesn't support SMEs. By not willing to support micro and new enterprises, banks are also practically limiting their access to public finances. Only those SMEs which could afford co-financing their projects with their own resources manage to get public funds and State aid. The rest of the enterprises (if not supported by banks) are not able to fulfil this requirement.

We approach the banking system by proposing to cooperate on this – we give the SMEs State aid, but the banking system should help them become stronger. This is one of the biggest burdens which we are trying to overcome. State aid is not enough for new enterprises; they should be able to use money from the banks,

even if they have no history or strong balance sheets.
Representative of MA

The MAs feel that there is a need of more opportunities for information knowledge exchange between the MSs since this is a good way of learning about and adopting good practices and overcoming existing burdens. All MSs practically face the same issues when it comes to State aid rules application, thus having regular opportunities to discuss and tackle them would benefit not only the MAs but also the SMEs and would improve their ability to access funds.

When I participated in a project about State aid in Brussels, I had the possibility to see that all MS had the same problems regarding SMEs and State aid. It is very important to have these kinds of meetings – this is the basis of solving problems. We must speak the same language about State aid.
Representative of MA

Last but not least, the respondents from Italy mention that the lack of practical solutions and linkages between the rules seems to be caused by the insufficient communication between the DG COMP (who are responsible for ensuring the correct application of EU State aid rules) and the DG REGIO (who are responsible for the common rules). The respondents once again stress the importance of good communication between all stakeholders.

Challenges and needs

- The transposition and implementation of EU rules into national law creates an unnecessary and burdensome environment for the application of State aid rules;
- There is a clear need of regular trainings for MAs and exchange of experience with other countries;
- The vague and unbinding answers given by the EC to particular questions create additional uncertainty for the MAs;
- The definition of "enterprise in difficulty" does not cover all aspects of hardship which creates additional hurdles when applying this definition;
- Lack of practical solutions and linkages between the rules represents a big challenge for both MAs and businesses;
- Strengthening the communication process between all relevant stakeholders (MAs, AAs, EC) is needed in order to facilitate the access to finance for SMEs.

Recommendations/suggestions

- Specific and more simplified rules (guidelines) for the micro enterprises could be developed;
- The date of actual payment to the beneficiaries was recommended for registering the *de minimis* aid to be used, as it is more accurate and appropriate.

Sources used

- 2018 SBA Fact Sheet – Italy
- Website of European Commission: http://ec.europa.eu/growth/smes
- State aid Scoreboard 2018

Sources and references used include desk research and 2 in-depth interviews as follows:

- Representative of Business Association, June 17, 2019: by telephone;
- Representative of Managing Authority, July 05, 2019: by telephone.

E. Definitions/Glossary

General terms

"Enterprise" within the meaning of Art. 107 of the Treaty on the Functioning of the EU is any entity engaged in economic activity, regardless of its legal status and the way it is financed. According to Art. 1 of Annex 1 to Regulation 651/2014 an enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes in particular self-employed persons and family businesses engaged in craft or other activities, as well as associations or non-governmental organization which regularly carry out business activities.

"Economic activity" means the provision of goods or services on the market. The legal status of a person under national law or the generation of profit is irrelevant - public bodies, sports clubs, associations and non-governmental organizations may also be defined as undertakings depending on what activity they are doing and if there is an open market for this activity.

"Advantage" may be direct payment of state resources, grants or subsidies, as well as indirect benefits that affect the public budget, such as tax exemptions, tax breaks, low interest loans, sale of public land at market value, of services free of charge or below market value.

And to implement at least *"Selective Criteria"* according to which support is selectively targeted to specific types of businesses, regions, types of companies (SMEs), or certain sectors, but not to others.

SME definition

Small and medium-sized enterprises (SMEs) are defined in the EU recommendation 2003/361.
The main factors determining whether an enterprise is an SME are:

Company category	Staff headcount	Turnover	or	Balance sheet total
Medium-sized	< 250	≤ EUR 50 m		≤ EUR 43 m
Small	< 50	≤ EUR 10 m		≤ EUR 10 m
Micro	< 10	≤ EUR 2 m		≤ EUR 2 m

These ceilings apply to the figures for individual firms only. A firm that is part of a larger group may need to include staff headcount/turnover/balance sheet data from that group too.

Single undertaking and affiliated undertakings (linked/connected enterprises)

An "undertaking" within the meaning of the competition rules laid down in the Treaty is any entity pursuing an economic activity, irrespective of its legal status and the way in which it is financed. *"Single undertaking"* in the understanding of *de minimis* regulation means all enterprises having at least one of the following relationships with each other:

- one enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;

- one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

Enterprises having any of the relationships referred to in points (a) to (d) through one or more other enterprises shall also be considered a single undertaking.

All entities controlled (de jure or de facto) by the same entity should be regarded as one and the same undertaking. In defining the cases in which two or more undertakings in the same MS have to be considered as one and the same undertaking, the criteria for designating "affiliated undertakings" in the Commission definition of SMEs are selected. A group of affiliated enterprises is considered to be the cross-linked entity for the purposes of applying the *de minimis* rule, but enterprises which have no connection with each other except that each of them is directly related to the same public authority or entity are not treated as cross-linked.

Procedures for granting State aid

Notification

The Treaty requires that the Commission be informed of any plans to grant or alter aid[5]. In practice, if a MS wants to grant State aid, it has to inform the DG COMP. This process is called notification. Once the MS has notified the planned granting of aid, DG COMP determines whether it constitutes State aid. If it does, it assesses whether the aid is compatible with the internal market by weighing the positive effects of the aid (contribution to the achievement of a well-defined objective of common interest) against its negative effects (distortion of competition and trade). The Commission has the exclusive authority to make this compatibility assessment[6].

Exemptions to notification

While the Treaty in principle prohibits State aid, it also provides a list of aid categories which may be compatible with the internal market. In this context, the Commission can issue rules which define criteria under which such categories of aid do not need to be notified[7]. The Commission develops these rules based on its experience of assessing aid measures, taking into account the case law of the European Court of Justice.

De minimis rules

The European Commission has established that *de minimis* aid of up to EUR 200,000 granted to a single beneficiary over a period of 3 fiscal years neither distorts competition nor affects trade between MSs[8]. The total amount of *de minimis* aid granted to a single undertaking performing road freight transport for hire or reward shall not exceed EUR 100,000 over any period of three fiscal years. This *de minimis* aid shall not be used for the acquisition of road freight transport vehicles. If an undertaking performs road freight transport for hire or reward and also carries out other activities to which the ceiling of EUR 200,000 applies, the ceiling of EUR 200,000 shall apply to the undertaking, by appropriate means such

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[5] Article 108(2) and 108(3) TFEU.

[6] Article 108 TFEU.

[7] Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid (OJ L 248, 24.9.2015, p. 1) (codification) replacing Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid and in particular Article 108(4) TFEU.

[8] 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

as separation of activities or distinction of costs, that the benefit to the road freight transport activity does not exceed EUR 100,000 and that no *de minimis* aid is used for the acquisition of road freight transport vehicles.

A guarantee which does not exceed 80% of the underlying loan, the amount guaranteed does not exceed EUR 1,500,000 (or EUR 750,000 for undertakings performing road freight transport) and the duration of the guarantee does not exceed five years the guarantee can be considered as having a gross grant equivalent not exceeding the *de minimis* ceiling. The same applies where the guarantee does not exceed 80% of the underlying loan, the amount guaranteed does not exceed EUR 750,000 and the duration of the guarantee does not exceed 10 years. If the amount guaranteed is lower than these amounts and/or the guarantee is for a period of less than five or 10 years respectively, the gross grant equivalent of that guarantee shall be calculated as a corresponding proportion of the relevant ceiling

A loan which is secured by collateral covering at least 50% of the loan and the loan amounts to either EUR 1 000,000 (or EUR 500,000 for undertakings performing road freight transport) over five years or EUR 500,000 (or EUR 250,000 for undertakings performing road freight transport) over 10 years. If a loan is for less than those amounts and/or is granted for a period of less than five or 10 years respectively, the gross grant equivalent of that loan shall be calculated as a corresponding proportion of the relevant ceiling.

For services of general economic interest, the aid threshold is increased to EUR 500,000. As per the Commission's Regulation "aid granted to undertakings providing a service of general economic interest should be deemed not to affect trade between MSs and/or not to distort or threaten to distort competition provided that the total amount of aid granted for the provision of services of general economic interest received by the beneficiary undertaking does not exceed EUR 500,000 over any period of three fiscal years. In view of the development of the road passenger transport sector and of the mostly local nature of services of general economic interest in this field, it is not appropriate to apply a lower ceiling to this sector and the ceiling of EUR 500,000 should apply." 9

De minimis aid cannot be accumulated with other aid if this will result in a higher intensity than that provided in the respective Block Exemption Regulation or Approvals by Decision of the Commission for individual aid intensity or aid scheme. It is possible for one company to receive *de minimis* aid at the same time as aid to small and medium-sized enterprises, or regional aid or training aid, but the following cumulative conditions have to be reached:

- *de minimis* aid is not granted at the same time as another State aid with respect to the same "eligible costs";
- measure allows a combination of a minimum and another type of government aid which would lead to an overrun of the maximum applicable intensity.

De minimis aid shall be deemed granted at the moment the legal right to receive the aid is conferred on the undertaking under the applicable national legal regime irrespective of the date of payment of the *de minimis* aid to the undertaking. This type of aid does not fulfil the State aid criterion of distorting or threatening to distort competition nor the one of affecting trade between MSs, it is not classified as State aid and does not need to be notified.

[9] 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

General Block Exemption Regulation

For categories of aid which the Commission considers likely to be compatible with the internal market, it has adopted a Regulation[10] by which such aid need not be notified provided that all conditions are fulfilled unless the aid amount exceeds the thresholds mentioned therein. Examples of such categories are State aid to culture and environmental protection. The GBER allows MSs to carry out many aid measures without going through notification procedures or the Commission's explicit compatibility assessment. The GBER sets out a number of general provisions and provisions applicable to each category of aid. Aid which falls under the GBER and complies with these provisions is automatically considered to be compatible with the internal market. Nevertheless, for large aid measures (above the notification thresholds), notification is still required due to the potential of such measures to distort competition[11].

State aid within the GBER can be granted based on the schemes available and which have been submitted to the European Commission. These schemes can be developed in view of State aid relevant projects in different programs (co-operation programs and/or cross-border programs). Schemes cover a selection of articles (sometimes called objectives) that determine eligible actions and costs, maximum intensity (co-financing from resources which are regarded as state resources) and, usually, maximum ceilings (projects with budgets exceeding these ceilings must be notified to the European Commission). The schemes are restricted by the programs' rules. Therefore, the scope of projects eligibility always is in accordance with the programmes' rules. Each partner can apply only one GBER article. Even though some of the articles allow for 100% maximum intensity (co-financing rate), the maximum ERDF co-financing rate applicable in the programs is used.

State aid within the GBER can be granted based on the schemes available and which have been submitted to the European Commission. These schemes can be developed in view of State aid relevant projects in different programmes (co-operation programmes and/or cross-border programmes). Schemes cover a selection of articles (sometimes called objectives) that determine eligible actions and costs, maximum intensity (co-financing from resources which are regarded as state resources) and, usually, maximum ceilings (projects with budgets exceeding these ceilings must be notified to the European Commission). The schemes are restricted by the programmes' rules. Therefore, the scope of projects eligibility will always be in accordance with the programmes' rules. Each partner can apply only one GBER article. The data concerning individual aid over EUR 500,000 granted under GBER will be published on the State aid Transparency public search page. For some articles, specific eligibility rules apply. In practice, for the partner(s) applying these articles, the eligibility will be restricted. For example, some budget lines will not be eligible, or they will be entitled to finance only certain items. Article 47 states that the eligible costs are the extra investment costs necessary to realise an investment, leading to better or more efficient recycling or re-use activities compared to a conventional process of re-use and recycling activities with the same capacity that would be constructed in the absence of the aid. Consequently, apart from the extra investment costs, no other costs will be eligible.

Even though some of the articles allow for 100% maximum intensity (co-financing rate), the maximum ERDF co-financing rate applicable in the programmes will be used i.e. 60%. The rest may be used in cases where there are other state resources (public match-funding) used to finance the same project. For

[10] 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

[11] The thresholds vary from EUR 400,000 for certain aid to start-ups to EUR 150 million for certain aid for renewable sources of energy.

example, a project under Article 25 Aid for research and development, that has a State aid relevant activity related to fundamental research, can receive up to 60% from programmes and up to 40% from regional funds (state resources). However, a State aid relevant project under the same article, but related to experimental development, under which the maximum intensity amounts to 25%, can receive up to 25% co-financing from programs, and the 75% of match funding must be provided from private resources.

The maximum intensity will be applied to all the partner activities (State aid relevant and non-State aid relevant). If a partner receives 50% co-financing it will be applicable to all of the activities, and it will not be possible to increase the rate for non-State aid relevant activities.

In order for an enterprise to be considered small, medium or a large undertaking, it must meet the conditions specified in the regulation as per the SME definition (see Appendix D).

In some GBER articles (e.g. Article 25), the maximum intensity rate varies per the size of the undertaking, while in other articles (e.g. Article 20) it is only available for SMEs. The size of the undertaking must be specified in the State aid plan and serves as a declaration by the partner. A false declaration on the size may lead to further financial corrections.

When assessing the size of the undertaking the data of the autonomous enterprise, partner enterprises and affiliated enterprises must be taken into account, therefore the provisions of Annex 7a must always be respected. The undertaking granted under GBER cannot be in difficulty (definition in Annex 8) or subject to an outstanding recovery order. All undertakings applying GBER will have to provide a NACE code(s)[12] of their main activities. The NACE code(s) are to be specified in the State aid plan.

Articles 27, 36, 38, 41, 46, and 47 state that the aid intensity may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty, and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty. These assisted areas are assigned on a level lower than NUTS3 (so called LAUs). Some parts of NUTS3 can have different status (a, c or unassisted) and different increased percentages. For some of these territorial units, the percentage applied will be different between 2014-2017 and 2018-2020. Therefore, it is recommended to contact the MA in order to check which percentage should be used. The scheme covering article 20 can be applied to undertakings located in the programme area only.

State aid to small and medium-sized enterprises is not allowed:

- for activities, related to production, processing or marketing of agricultural products, described in Annex 1 to the EU contract;
- aid related to activities for export, but namely aid, related directly with quantitative export, for the establishment and operation of a social network or other current expenditure, related to export activities;
- aid granted for the consumption of domestic products at the expense of imported products.

Eligible is aid for SMEs for investment, consultancy and other R&D services and activities, for research and development:

- State aid for investments in tangible and intangible assets does not exceed the regional aid ceiling.

[12] Statistical classification of economic activities in the European Community

- State aid for investment in tangible and intangible assets is also provided with an additional surcharge provided that the investment is maintained for at least five years and the beneficiary's contribution to its financing is at least 25%. In such cases, the gross aid intensity shall not exceed:
    - 65% in the case of small enterprises (50% + 15 percentage points);
    - 57.5% in the case of medium-sized enterprises (50% + 7.5 percentage points).

The aid intensity shall be calculated either as a percentage of the eligible costs of the investment or as a percentage of the wage costs of the persons employed on account of the investment (job-creation assistance) or as a combination of both, provided that the aid does not exceed the most favourable size resulting from one or the other calculation. In cases where the aid is calculated on the basis of the costs of the investment, eligible costs for investing in tangible assets are costs related to investment in land, buildings, plant and equipment. Investment costs for intangible assets are investments in patents, licenses, know-how or unpatented technical knowledge. In cases where the aid is calculated on the basis of the jobs created, the amount of aid shall be expressed as a percentage of the costs related to the jobs created (gross remuneration and compulsory social security contributions) for a period of two years under the following conditions:

- the jobs created relate to the implementation of a project for investment in tangible or intangible assets; jobs must be disclosed within 3 years of the investment;
- the investment project results in a net increase in the number of employees in the undertaking concerned compared to their average figure in the previous 12 months, and
- the job openings are kept for a minimum of 5 years.

State aid for consultancy and other services and activities

Aid for SMEs may be considered eligible if it meets the following conditions:

- for services provided by external consultants, gross aid shall not exceed 50% of the cost of such services; those services may not be permanent or periodic nor relate to the normal operating costs of an enterprise, such as routine tax advice, regular legal services or advertising;
- for participation in fairs and exhibitions the gross aid shall not exceed 50% of the additional costs incurred for the hiring, placement and maintenance of the booth; this applies only to the first participation of an enterprise in a trade fair or exhibition.

Aid for research and development

The gross aid intensity, calculated on the basis of the eligible costs of the project, shall not exceed:

- 100% - for fundamental research;
- 60% - for industrial research;
- 35% - for pre-commercial development.

Eligible costs are the costs of staff employed for the research project, expenditure on tools and equipment for buildings and land, as far as they are used for the research project, costs of consultancy and equivalent services exclusively used for research, including research, technical knowledge and patents.

In the case of large individual aid, the total eligible costs for the whole project, amount to at least EUR 25 000 000 and the net aid intensity is at least 50% of the net aid ceiling fixed in the regional map, or the total gross aid amount is at least EUR 15 000,000, these rules shall not apply and the aid shall be notified in accordance with the general procedure.

Financial instruments

The main types of financial instruments supported by the EU budget are:

Loan	Guarantee
'Agreement which obliges the lender to make available to the borrower an agreed sum of money for an agreed period of time and under which the borrower is obliged to repay that amount within the agreed time'. Under a financial instrument, a loan can help where banks are unwilling to lend on terms acceptable to the borrower. They can offer lower interest rates, longer repayment periods or have lower collateral requirements.	'Written commitment to assume responsibility for all or part of a third party's debt or obligation or for the successful performance by that third party of its obligations if an event occurs which triggers such guarantee, such as a loan default'. Guarantees normally cover financial operations such as loans.
Equity	**Quasi-equity**
'Provision of capital to a firm, invested directly or indirectly in return for total or partial ownership of that firm and where the equity investor may assume some management control of the firm and may share the firm's profits'. The financial return depends on the growth and profitability of the business. It is earned through dividends and on the sale of the shares to another investor ('exit'), or through an initial public offering.	'A type of financing that ranks between equity and debt, having a higher risk than senior debt and a lower risk than common equity. Quasi equity investments can be structured as debt, typically unsecured and subordinated and in some cases convertible into equity, or as preferred equity'. The risk return profile typically falls between debt and equity in company's capital structure.

VI. COMPREHENSIVE BIBLIOGRAPHY

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