Annex No 8 to the Guidelines for applicants of the open call “Supporting local cultural entrepreneurship” under the EEA financial mechanism programme “Culture” 2014-2021

**Checklist of the presence or absence of state aid**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Date)

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| --- | --- |
| **Application/ Project code** |  |
| **Project name** |  |
| **Activities planned for support under the Project** |  |
| **Applicant/ Project Promoter** |  |
| **Project Partner (-s)** |  |

|  |  |  |  |
| --- | --- | --- | --- |
| 1. **Identification of features of state aid in activities to be supported under the Project[[1]](#footnote-1)** | | | |
|  | **Has granting financing, directly or indirectly, been planned for economic undertaking (-s) for conducting their economic activities?** | Yes | No |
| **Economic undertakings** – companies, their alliances (associations, unions, consortia, etc.), institutions or organizations, or other legal or natural persons, who conduct or may conduct economic activities in the Republic of Lithuania or whose actions affect or whose intensions, if implemented, could affect economic activities in the Republic of Lithuania. In the Republic of Lithuania, public administration entities are considered to be economic undertakings if they conduct economic activities.  **Economic activities** – any industrial, commercial, financial or professional activities in connection with the purchase or sale of goods (services), except where natural persons acquire the goods (services) for personal and household use.  The assessment of whether a certain activity is to be considered an economic activity shall not be affected by the fact whether or not this activity is aimed at profit-making. Non-profit entities shall be considered economic undertakings, if they sell goods / services. State’s acting “in the exercise of public powers” or state sector entities’ acting “as public authorities” shall not be considered economic activity. Where a public-sector entity conducts an economic activity, which may be separated from the exercise of public powers, the entity shall act as an economic undertaking in conducting that activity. Conversely, if the economic activity cannot be separated from the exercise of public powers, all activities of that undertaking shall be activities related to the exercise of those powers, and therefore fall outside the scope of the concept of an economic undertaking. Examples of activities that fall within the scope of such activities (this list is not exhaustive):  a) military or police;  b) air navigation safety and control;  c) maritime traffic control and safety;  d) anti-pollution surveillance;  e) organization, financing and enforcement of custodial sentences;  f) collection of data for public use, in accordance with the obligation to disclose such data which respective economic undertakings are subject to in accordance with legislation.  Some activities in the social security, healthcare, education and research sectors may not be considered economic activities as described in the Commission Notice on the notion of State aid pursuant to Article 107(1) TFEU. Construction of objects of public infrastructure that are not intended for conducting economic activities is not considered an economic activity either. The provision of aid to finance airport infrastructure shall receive special attention. | | | |
| **Substantiation of the selection** | | | |
| *(Please substantiate your selection)* | | | |
|  | **Would/ does financing from state resources give to the economic undertaking (-s) an exceptional economic advantage, which it/ they would not receive under market conditions?** | Yes | No |
| **Exceptional economic advantage**. It shall be assessed whether financing is granted to an economic undertaking on more favourable terms than it would be able to receive on the market. For example, a non-repayable subsidy, a soft loan (with lower than market interest rates or other preferential terms), a tax-free guarantee on the loan or a taxable non-market price. Exceptional benefits may be provided to an economic undertaking in a variety of ways. Methods of the provision of state aid do not matter - its impact only is important. In order to determine if financing is state aid, the principle of a private market investor shall be used. If the company did not receive these funds on similar terms in private capital markets, the provision of these funds could be considered state aid. In this case, it is necessary to determine whether a private investor would invest in this undertaking on the same terms, taking into account a return on its investment only, and disregarding regional or social factors. If a private investor would not invest in such an undertaking, the funds granted could therefore constitute state aid.  If the plan is to grant financing to cover costs of an economic undertaking incurred as a result of obligations relating to public services or services of general economic interest[[2]](#footnote-2) to the state (municipality), the existence of an exceptional economic advantage shall be assessed on the basis of Altmark criteria. An economic undertaking is not given an exceptional economic advantage if:   * its activities are in line with the definition of services of general economic interest, its tasks and obligations are clearly defined; * the criteria of the compensation of costs are objective, transparent and established in advance; * the compensation cannot exceed net service provision costs, including a reasonable profit (i.e. no overcompensation is allowed); and * public services are acquired, and a compensation is allocated by holding a public procurement procedure, or, where a public procurement procedure is not held, costs of a company, which has been entrusted with the provision of services of general economic interest are compensated on the basis of costs incurred by a typical well-run company. | | | |
| **Substantiation of the selection** | | | |
| *(Please substantiate selection choice)* | | | |
|  | **Is the granting of financing planned/ is it granted for manufacturing certain selected goods or providing services, or to a certain selected economic undertaking (-s), i.e. is the financing instrument of a selective nature?** | Yes | No |
| **Selective application of financing instruments.** Selective financing instruments are measures designated to support development of a separate region (economic undertakings in the region), specific types of activities (with beneficiaries being economic undertakings of a certain specific sector or for the implementation of specific objectives (the beneficiaries of financing may be small or medium-sized companies, new companies, economic undertakings implementing certain projects, etc.). This criterion is met when in the evaluation of applications for project financing, applications of certain economic undertakings receive better evaluations and thus are granted financing (as opposed to those having received worse evaluations), while authorities exercise their discretion right in deciding on the granting of financing. | | | |
| **Substantiation of the selection** | | | |
| *(Please substantiate your selection)* | | | |
|  | **Can financing distort competition and affect trade between EU states?** | Yes | No |
| **Impact on competition and trade between EU states.** In order to assess if the financing granted affects competition and trade between EU states, identifying the market for the services provided or goods produced by the beneficiary is necessary, also finding out if there is an actual trade between Members States in this market in the European Union. The fact that, compared to other competing economic undertakings, the competitive situation of the economic undertaking improves upon its receipt of an economic advantage, which it would not have received under normal business conditions, indicates that competition may be distorted. If financing is granted to support local activities (for example, hairdressers whose clients are residents of that town only), such financing will not normally affect trade between Member States. However, it is important to know that financing to an economic undertaking may also affect trade between states, where a specific economic undertaking does not export its services or goods. The fact that the services or goods in question are traded with the EU in general may be enough. | | | |
| **Substantiation of the selection** | | | |
| *(Please substantiate your selection)* | | | |
| 1. **Conclusion of the presence (absence) of state aid**   *One item shall be marked.* | | | |
| State aid will not/ has not been granted for the project (to be marked if “No” was an answer to at least one question in part I).  Activities supported under the project will not be considered to be, but may become state aid (to be marked if “No” was an answer to at least one question in part I, however the comments indicate that certain aspects are to be continuously monitored for the risk of financing becoming state aid). Further actions and measures shall be indicated in the substantiation of the selection).  The project will/ has been provided state aid (to be marked if all questions in part I were answered “Yes”). | | | |
| **Substantiation of the selection** | | | |
| *(Please substantiate your selection)* | | | |

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(job position, name and surname of the evaluator) (signature)

1. The evaluation of state aid criteria, the Commission Notice on the notion of State aid pursuant to Article 107(1) TFEU shall be followed, if applicable. [↑](#footnote-ref-1)
2. For more information, see: <http://ec.europa.eu/competition/state_aid/overview/public_services_en.html>. [↑](#footnote-ref-2)