

# **GBER Articles 13, 14 & 15 & Regional Aid Guidelines 2022 – 2027**

**Day 2 – 5 December 2023**

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## **Content Presentation**

- What, where and when?
- GBER Article 13 – Scope
- GBER Article 14 – Investment aid
- GBER Article 15 – Operating aid
- Regional aid Guidelines 2022 - 2027
- Challenges



## What is Regional Aid?

State aid to promote the economic, social and territorial cohesion of Member States and the Union as a whole.

Aid for the development of the most disadvantaged areas by supporting investment and job creation in a sustainable context.

Guidelines on Regional State aid for 2022 - 2027 (2021/C 153/01)

GBER - Regional Aid is exempt from the notification requirement of Article 108(3) of the TFEU provided it fulfils all the conditions laid down in Chapter I and the specific conditions in Chapter III of the GBER.



## Regional Aid Guidelines

The ultimate purpose of regional state aid is to support economic development and employment. The regional aid guidelines set out the rules under which Member States can grant state aid to companies to support investments in new production facilities in the less advantaged regions of Europe or to extend or modernise existing facilities. The guidelines also contain rules for Member States to draw up regional aid maps (the areas where companies can receive regional state aid, and at which intensities).

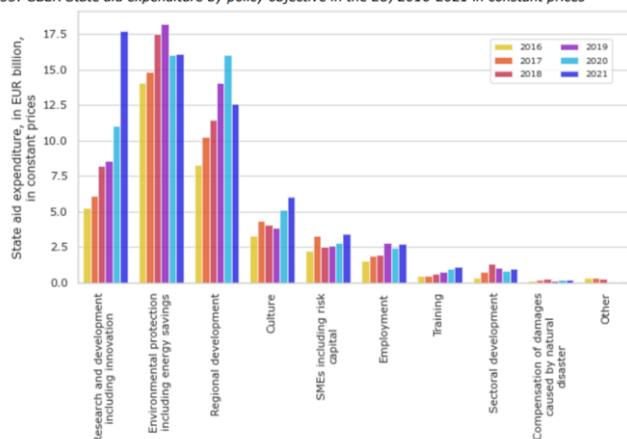
[https://ec.europa.eu/competition-policy/state-aid/legislation/modernisation/regional-aid\\_en](https://ec.europa.eu/competition-policy/state-aid/legislation/modernisation/regional-aid_en)

**2022 - 2027** - Communication from the Commission Guidelines on regional State aid 2021/C 153/01

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021XC0429\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021XC0429(01))

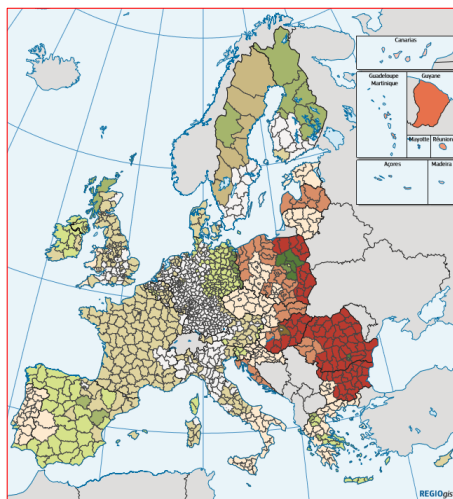
## State aid Scoreboard 2022

Figure 55: GBER State aid expenditure by policy objective in the EU, 2016-2021 in constant prices



[https://competition-policy.ec.europa.eu/system/files/2023-06/state\\_aid\\_scoreboard\\_note\\_2022.pdf](https://competition-policy.ec.europa.eu/system/files/2023-06/state_aid_scoreboard_note_2022.pdf)

## Where is Regional Aid Allowed?



### Regional aid Guidelines 2022 - 2027

Executive Vice-President Margrethe Vestager, in charge of competition policy, said

"The new Regional State aid Guidelines adopted today will enable Member States to support the least favoured European regions in catching up and to reduce disparities in terms of economic well-being, income and unemployment. These cohesion objectives are at the heart of our Union. We have also increased possibilities for Member States to support regions facing transition or structural challenges such as depopulation, so that the Guidelines fully contribute to the green and digital transitions while ensuring a level playing field between Member States."



## 2022 -2027 Regional Aid Maps

<b>Austria</b>   <a href="#">SA.64462</a>	<b>Lithuania</b>   <a href="#">SA.64485</a>
<b>Bulgaria</b>   <a href="#">SA.64724</a>	<b>Luxembourg</b>   <a href="#">SA.101785</a>
<b>Croatia</b>   <a href="#">SA.64581</a>	<b>Malta</b>   <a href="#">SA.100839</a>
<b>Czechia</b>   <a href="#">SA.63452</a>	<b>The Netherlands</b>   <a href="#">SA.100273</a>
<b>Estonia</b>   <a href="#">SA.100251</a>	<b>Poland</b>   <a href="#">SA.64284</a>
<b>France</b>   <a href="#">SA.100838</a>	<b>Portugal</b>   <a href="#">SA.100752</a>
<b>Germany</b>   <a href="#">SA.64020</a>	<b>Romania</b>   <a href="#">SA.100199</a>
<b>Greece</b>   <a href="#">SA.100372</a>	<b>Slovakia</b>   <a href="#">SA.64151</a>
<b>Hungary</b>   <a href="#">SA.63934</a>	<b>Slovenia</b>   <a href="#">SA.100677</a>
<b>Ireland</b>   <a href="#">SA.101399</a>	<b>Spain</b>   <a href="#">SA.100859</a>
<b>Italy</b>   <a href="#">SA.100380</a>   <a href="#">SA.101134</a>	<b>Sweden</b>   <a href="#">SA.100245</a>
<b>Latvia</b>   <a href="#">SA.100587</a>	<b>Northern Ireland (UK)</b>   <a href="#">SA.101066</a>



## Changes in Regional aid coverage

Member State	2014 - 2020	2022 -2027		Member State	2014 - 2020	2022 -2027	
Belgium	29.95%	25.83%	-4.12%	Lithuania	100%	100%	0.00%
Bulgaria	100%	100%	0.00%	Luxembourg	8%	7.50%	-0.50%
Czech Republic	88.10%	87.76%	-0.34%	Hungary	76.71%	82.09%	5.38%
Denmark	7.97%	7.50%	-0.47%	Malta	100%	70%	-30.00%
Germany	25.85%	18.10%	-7.75%	Netherlands	7.50%	8.98%	1.48%
Estonia	100%	100%	0.00%	Austria	25.87%	22.42%	-3.45%
Ireland	51.28%	35.9%	-15.38%	Poland	100%	92.90%	-7.10%
Greece	100%	82.34%	-17.66%	Portugal	85.02%	70.23%	-14.79%
Spain	68.66%	66.29%	-2.37%	Romania	100%	89.34%	-10.66%
France	24.17%	31.95%	7.78%	Slovenia	100%	70.00%	-30.00%
Croatia	n/a	100%		Slovakia	88.48%	87.97%	-0.51%
Italy	34.07%	41.99%	7.92%	Finland	26.03%	21.60%	-4.43%
Cyprus	50%	49.46%	-0.54%	Sweden	12.26%	20.94%	8.68%
Latvia	100%	100%	0.00%	Northern Ireland	100.00%	100.00%	0.00%



## 2022 – 2027 RAG – points of interest

- Increase in overall coverage of 'a' and 'c' areas from 47% to 48%.
- RAG reflects the 'European Green Deal', the 'A new industrial strategy for Europe' and 'Shaping Europe's digital future'.
- Different kinds of aid can be combined for the same project (e.g. regional aid with aid for environmental protection and energy) – see RAG para 99.
- Max aid intensities in 'a' areas can be increased by 10% in territories identified for support from the [Just Transition Fund](#). Max aid intensities in 'c' areas determined at NUTS 3 level.
- As the COVID-19 pandemic may have more long lasting effects and it is too early to predict which areas will be particularly affected there will be a mid-term review of the regional aid maps in 2023.



## General Block Exemption Regulation + revisions

**(EU) No 651/2014 of 17 June 2014** - original GBER

**(EU) No 2017/1084 of 14 June 2017** which extends the GBER to cover: port and airport infrastructure, culture and heritage conservation, sport and multifunctional recreational infrastructures, regional operating aid schemes for outermost regions & allows costs to be calculated using the ESIF simplified costs methodology.

**(EU) 2020/972 of 2 July 2020** prolongation until 31 December 2023', relaxation undertakings in difficulty and extension of Assisted Area maps to 31 December 2021.

**(EU) 2021/1237 of 23 July 2021** revised rules concerning projects funded via certain EU centrally managed programmes under the new Multiannual Financial Framework and measures that to support the green and digital transition and measures to support the recovery from the economic effects of the coronavirus pandemic.

**(EU) 2023/1315 of 23 June 2023** – revision to further facilitate and speed up the green and digital transition ("Green Deal GBER amendment")

### Consolidated text

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:02014R0651-20230701>



## Article 1 (3) – Sectors excluded from GBER

GBER applies to all sectors **except** aid granted to undertakings active in:

- (a) the **fishery and aquaculture** sector, as covered by Council Regulation (EC) No 1379/2013;
- (b) the **primary production of agricultural products**;
- (c) the sector of **processing and marketing of agricultural products**, in the following cases:
  - i. where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned;
  - ii. where the aid is conditional on being partly or entirely passed on to primary producers;
- (d) aid to facilitate the **closure of uncompetitive coal mines**; &
- (e) **the categories of regional aid excluded in Article 13.**



## Categories of Regional Aid excluded in Article 13

- a) aid in the steel sector, the lignite sector and the coal sector;
- b) aid to **the transport sector as well as the related infrastructure**; **aid for energy generation, storage, transmission, distribution and infrastructure**, except for regional investment aid in outermost regions and regional operating aid schemes; and **aid in the broadband sector** except for regional operating aid schemes;
- c) regional aid in the form of schemes which are targeted at a limited number of specific sectors of economic activity; **schemes aimed at tourism activities or processing and marketing of agricultural products** are not considered to be targeted at specific sectors of economic activity;
- d) regional operating aid granted to undertakings whose principal activities fall under Section K 'Financial and insurance activities' of the NACE Rev. 2 or to undertakings that perform intra-group activities whose principal activities fall under classes 70.10 'Activities of head offices' or 70.22 'Business and other management consultancy activities' of NACE Rev. 2.

## Chapter I. Definitions (Art.2)

General (1-39)	Specific for regional aid (40-61)
(2) SME (18) Undertaking in difficulty (23) Start of works (24) Large enterprises	(43) steel sector (44) synthetic fibres sector (45) transport sector (47) tourism (49) initial investment (61) in-kind contribution (61a) relocation



## Definitions (Article 2)

**(41) 'regional investment aid'** – either aid for an **'initial investment'** (SMEs) or aid for an **'initial investment in favour of a new economic activity'** (large);

**(49) 'initial investment' means:**

- 1) the setting-up of a new establishment;
- 2) extension of the capacity of an existing establishment;
- 3) diversification of the output of an establishment into products not previously produced in the establishment;
- 4) fundamental change in the overall production process of an existing establishment;





## Definitions (Article 2)

**(50) 'the same or a similar activity'** - same class (four-digit numerical code) of the NACE Code in Regulation (EC) No 1893/2006.

**(51) 'initial investment in favour of new economic activity'** means:

(a) set up of a new establishment, or diversification providing the new activity is not the **same or a similar activity** to the activity previously performed;

(b) the acquisition of the assets of an establishment that has closed or would have closed providing the investor is unrelated to the seller and the new activity to be performed is not the **same or a similar activity** to the activity performed in the establishment prior to the acquisition;

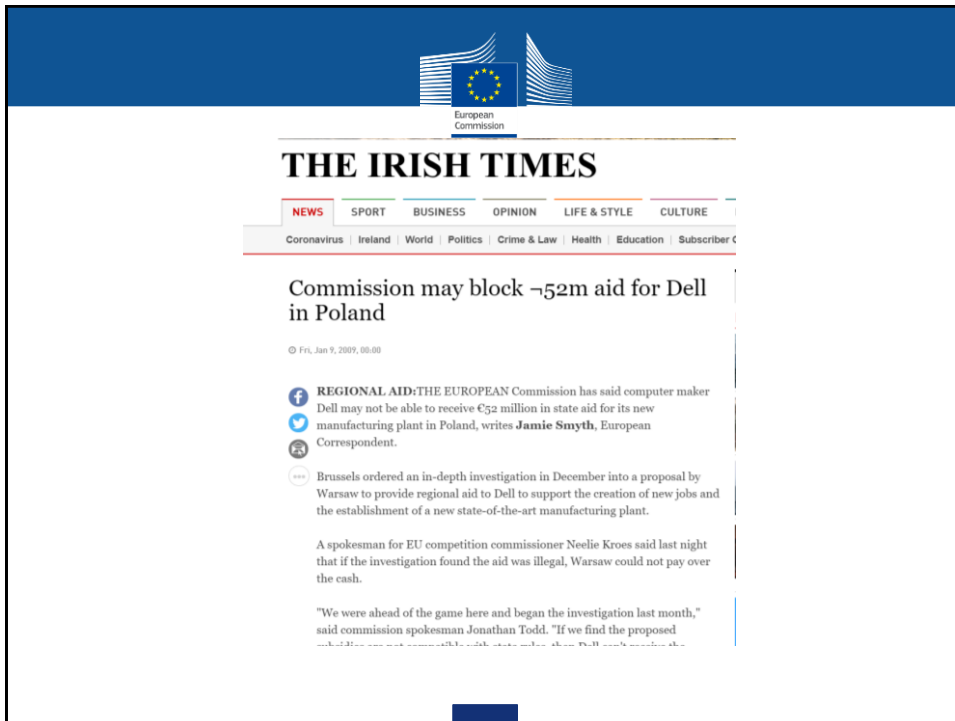


## Definition (61a) - Relocation

Article 14(16) - **The beneficiary shall confirm** it has not carried out a relocation to the establishment in which the initial investment for which aid is requested in the two years preceding the application for aid and give a commitment that it will not do so up to a period of two years after the initial investment for which aid is requested is completed.

(61a) 'relocation' means a **transfer of the same or similar activity** or part thereof from an establishment in one EEA country (initial establishment) to the establishment in another EEA country (aided establishment). **A transfer** means the product or service in the initial and in the aided establishments serves at least partly the same purposes and meets the demands or needs of the same type of customers and jobs are lost in the same or similar activity in one of the initial establishments of the beneficiary in the EEA;





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## Commission may block ~52m aid for Dell in Poland

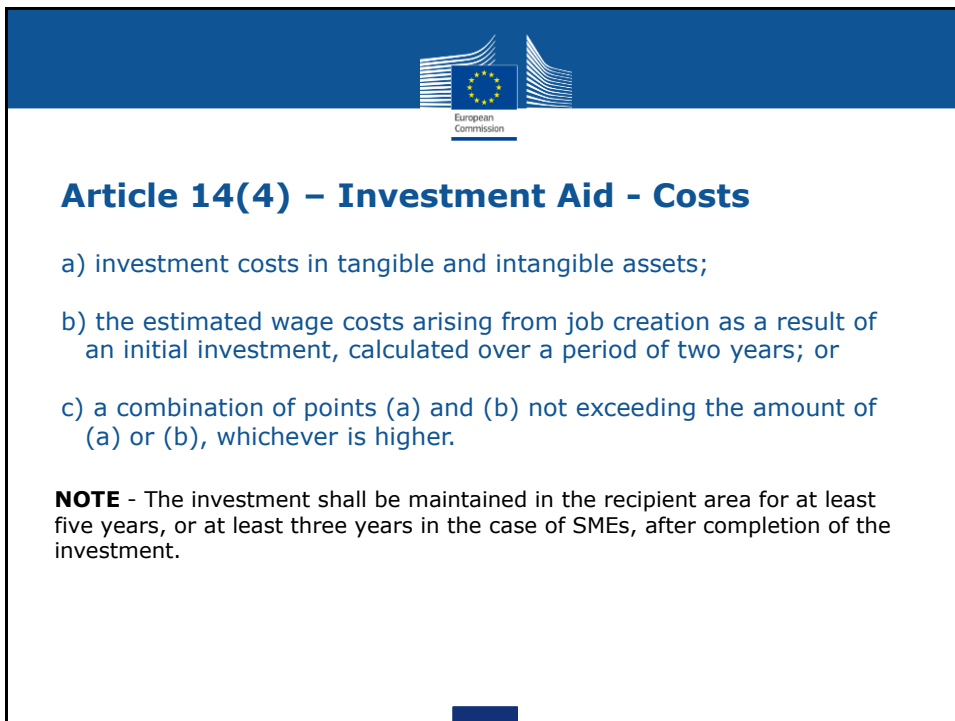
© Fri, Jan 9, 2019, 00:00

**REGIONAL AID:** THE EUROPEAN Commission has said computer maker Dell may not be able to receive €52 million in state aid for its new manufacturing plant in Poland, writes **Jamie Smyth**, European Correspondent.

Brussels ordered an in-depth investigation in December into a proposal by Warsaw to provide regional aid to Dell to support the creation of new jobs and the establishment of a new state-of-the-art manufacturing plant.

A spokesman for EU competition commissioner Neelie Kroes said last night that if the investigation found the aid was illegal, Warsaw could not pay over the cash.

"We were ahead of the game here and began the investigation last month," said commission spokesman Jonathan Todd. "If we find the proposed aid is not compatible with state aid rules, we will block it."



## Article 14(4) – Investment Aid - Costs

- a) investment costs in tangible and intangible assets;
- b) the estimated wage costs arising from job creation as a result of an initial investment, calculated over a period of two years; or
- c) a combination of points (a) and (b) not exceeding the amount of (a) or (b), whichever is higher.

**NOTE** - The investment shall be maintained in the recipient area for at least five years, or at least three years in the case of SMEs, after completion of the investment.

## Definitions (Article 2)

**(48) 'sparsely populated areas'** means NUTS 2 regions with less than 8 inhabitants per km<sup>2</sup> or NUTS 3 regions with less than 12,5 inhabitants per km<sup>2</sup> or areas which are recognized by the Commission as such in an individual decision on a regional aid map in force at the time the aid is granted;

## Article 15(2) – Operating Aid - Costs

In '**sparsely populated areas**', the regional operating aid schemes shall compensate for the additional transport costs of goods and not exceed 100% providing:

*(a) the aid is calculated in advance on the basis of a fixed sum or per tonne/kilometre ratio or any other relevant unit;  
or*

*(b) the additional transport costs are calculated on the basis of the journey of the goods inside the national border of the Member State concerned using the means of transport which results in the lowest costs for the beneficiary.*

## Simplified Costs

### Article 7(1) - Aid intensity and eligible costs

*The amounts of eligible costs may be calculated in accordance with the simplified cost options set out in Regulation (EU) No 1303/2013....provided that the operation is at least partly financed through a Union fund that allows the use of those simplified cost options and that the category of costs is eligible according to the relevant exemption provision.*

## Practical Challenges

Determining the size of enterprise (is it Small, Medium or Large?)

Clarifying whether the beneficiary is in an excluded sector

Confirming the investment is not a relocation

Combining eligible costs e.g. acquisition of equipment + job creation in one project

Cumulating with other types of aid (e.g. de minimis, Temporary Crisis Framework aid)

Establishing the beneficiary is not subject to an outstanding recovery order

Confirming the beneficiary is not a company in difficulty



## Questions?



The training has been organised by EIPA and CPVA under the Framework Contract Nr 2023CE160AT004. The opinions expressed are those of the contractor only and do not represent the EC's official position.

