



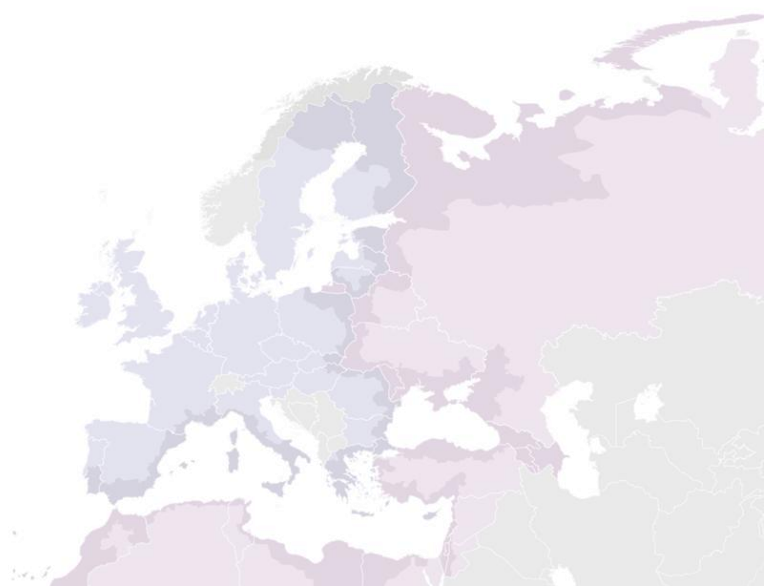
Technical support to the implementation
and management of ENI CBC programmes

Factsheet on State aid for Jordan

Applicable rules, tools, tips and recommendations
March 2017

DISCLAIMER

This **non-binding paper** has been developed by the TESIM project. It does not necessarily reflect the views of the European Commission on the topic and is presented to programme practitioners **for illustrative purposes to support the decision making.**



Introduction

The article 12.3 of the ENI CBC Implementing Rules (Commission Implementing Regulation (EU) No 897/2014) stipulates that *“Aid granted under the programme shall comply with the applicable Union rules on State aid within the meaning of Article 107 of the treaty on the Functioning of the European Union.”*

This article is applicable only for goods and services tradeable across the EU Member States. Therefore, it does not affect any activity concerning trade within the CBC partner countries or between them and the EU.

However, also partner countries in the ENI CBC programmes should have a clear understanding whether they have any state-aid related implications stemming from international agreements with the European Union.

State aid rules in the Euro-Mediterranean Agreement

EU-Southern Mediterranean relations at bilateral level are managed mainly through the Euro-Mediterranean Association Agreements. Association Agreement between EU and Jordan was signed in November 1995 and entered into force in June 2000.

Article 53 of the Chapter 2 'Competition and other economic matters' of the Association Agreement contains provisions related to the competition and state aid:

*The following are **incompatible with the proper functioning of the Agreement**, insofar as they **may affect trade between** the Community and Jordan:*

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;*
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or Jordan as a whole or in a substantial part thereof;*

(iii) any public aid which distorts, or threatens to distort, competition by favoring certain undertakings or the production of certain goods.

General principles

Association Agreement does not lay down detailed implementation arrangements and refers to the Association Council that:

*[...] ‘shall, **within five years of the entry into force of the Agreement**, adopt by decision the necessary rules for the implementation of paragraph 1 and 2’.*

Taking into account that 5-year period has passed already in 2005, the respective Managing Authorities have to discuss with Jordanian National Authority on the practical implication of State aid detection, assessment and monitoring from the perspective of national legislation.

However, even in the case of national legislation not being fully adapted, there is a clause in the Association Agreement (Article 53.2) that explicitly state that until the adoption of necessary rules, the interpretation of Article 53 will be based on the EU practice in State aid:

*Any practice contrary to this Article shall be assessed on the basis of the criteria resulting from the application of the rules contained in **Articles 85, 86 and 92 of the Treaty establishing the European Community**¹, and, for products covered by the Treaty establishing the European Coal and Steel Community, by those contained in Articles 65 and 66 of that Treaty and the **Community rules on State aids, including secondary legislation**.*

Taking into account above mentioned, the Managing Authorities of the relevant ENI CBC programmes vis-à-vis (depending on the requirements of the Jordanian state aid legislation) may have to take into account EU State aid rules, when assessing, contracting and implementing the projects.

¹ Currently Articles 101, 102 and 107 of TFEU.

Assessment of State aid

The criteria for the assessment are similar to the ones for Member States, except the criteria on the effect on the trade should be adapted.



Detailed information on the assessment of state aid can be found in TESIM document 'The State aid discipline in ENI CBC programmes and it is recommended to for the Managing Authorities to contact Jordanian National Authority to exchange on the matters of state aid treatment.

Conclusions

Taking into account that the EU in the Association Agreement with Jordan has declared to apply EU legislation on state aid (until the national legislation is adopted), the respective MAs should assess and monitor possible state aid for the entities established in Jordan. In practice, it means following steps:

1. The Managing Authorities should follow-up with Jordanian National Authority about the current state-of-play of secondary state aid legislation (and implement necessary amendments to the programme documents, if needed);

2. Applicability of State aid for beneficiaries and applicants established in Jordan should be clearly described in the guidelines for applicants;
3. There is a need to perform state-aid assessment for these beneficiaries and applicants;
4. Focused capacity building will be needed for all concerned stakeholders (applicants/beneficiaries, MA/JTS/BO, NA & CCP, AA, etc.)
5. Communication channels between MA, NA and EC need to be defined.