



Interreg



EUROPEAN UNION

Danube Transnational Programme

DAPhNE

National state aid report template

State-aid schemes for funding investments
in ports (public funding)

Work Package 3

Activity 3.3

PP responsible: HFIP

Date: 30/06/2017

Version 1.0 [FINAL]



Document History

Version	Date	Authorised
Version 0.1	31/05/2017	Thury
Version 0.2	22/06/2017	Thury
Version 0.3	26/06/2017	Thury
Version 1.0	30/06/2017	Thury

Contributing Authors

Name	Organisation	Email
dr. Rövid Levente	Net Global Bt.	rovidl@gmail.com
Monika Thury	HFIP	popeiproject@gmail.com

Table of Contents

Table of Figures.....	3
Table of Tables.....	3
1 Scope of the document.....	4
1.1 General terms.....	4
1.1.1 State aid and non-state aid.....	4
1.1.2 Port and port infrastructure.....	5
1.1.3 Specific terms and types of public funding.....	6
2 Overall presentation of Danube Ports in [Name of the country] - max. 3 pages	7
2.1 General information of Danube ports.....	7
2.2 Waterborne freight statistics 2010-2017	7
2.3 Development of ports 2010-2017.....	7
2.3.1 Objective of port developments.....	7
2.3.2 Port development expenditures	8
3 Public funded investments in inland cargo ports of the Danube Region	8
3.1 Introduction of public funded investments.....	8
3.2 Selection procedure.....	8
3.2.1 Selection procedure 1	9
3.2.2 Selection procedure 2	9
4 Conclusions.....	9

Table of Figures

Figure 1: figure caption exampe Pogreška! Knjižna oznaka nije definirana.

Table of Tables

1. Table: Aid schemes and individual aids on port developments8

1 Scope of the document

The objective of work package 3 of DAPhNE Project is to adopt a joint harmonized approach in regards to legal port issues in order to apply the Same River, Same Rules principle. In the long run, this will secure a balanced development of Danube ports as buzzing economic centers. To this end, the representatives from the private and public port sector all along the Danube (RO, HR & BG Ministries of Transport, port administrations and port associations) join forces to investigate the issues regarding port legislation & public funding.

The scope of the document is to identify the role of public funding in relation *to inland cargo port investments in the Danube region*. Thus, development of maritime ports, river ports other than Danube, as well as port developments financed solely by private entities are not the scope of the project. If a port is both maritime and inland cargo port, the activities shall be split between the inland and maritime port functions in this document.

1.1 General terms

1.1.1 State aid and non-state aid

In principle based on Article 107 (1) of the Treaty on the Functioning of the European Union (TFEU), any aid granted by a Member State or through state resources in any form is generally prohibited. The reason of the prohibition is that state aid distorts or threatens to distort competition in the internal market. Favouring certain undertakings or the production of certain goods through state funds that can be either direct i.e. grants provided or indirect, e.g. exemptions from any payment obligations to the state budget is deemed to have an adverse effect on the trade between Member States.

A measure shall be considered as state aid if involving all the following attributes:

- transfer of state resources;
- economic advantage: the aid reduces the costs normally borne in the budgets of the beneficiary undertakings;
- selectivity: the aid favors certain undertakings or the production of certain goods;
- distortion of competition, and
- affect on trade between the Member States.

Transfer of state resources means the use of funds belonging to, or being controlled by and imputed to public authorities. The form in which this transfer takes place is irrelevant from state aid perspective.

The private investor test is to assess whether there is an economic advantage involved for the beneficiary. This means that the economic advantage shall be established if the state did not act in the same way as a private investor would have acted.

Where aid benefits only products which are not subject to inter-state trade or where trade is affected only at a purely national level, the measure will not fall within the scope of prohibited state aid. This does not mean that only measures relating to exports or imports from a Member State to another are affected by Article 107 (1) TFEU. It may be that several

circumstances in which aid is granted will lead to affecting the trade between Member States. When for instance aid strengthens the position of an undertaking compared with others competing in intra-Union trade, the latter shall be affected by the aid even if the beneficiary itself is not involved directly in exporting or importing goods.¹

Despite the general prohibition of State aid, in some circumstances government interventions are necessary for a well-functioning and equitable economy. Certainly, there are exemptions from the principle of state aid prohibition. First there are exemptions where the aid shall be considered to be compatible with the internal market and thus involving no competition distortions. Then there are aid measures that, under certain conditions, might be compatible with the approach of the internal market.

The measures qualified as compatible by the TFEU are of a social and reparative nature, i.e. (1) social aid, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned; (2) aid to restore damages caused by natural disasters or exceptional occurrences; (3) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany.

The following may be considered to be compatible with the internal market:

- aid to promote the economic development of the seriously underdeveloped areas;
- aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition.

Apart from the above, other categories of aid may be specified and deemed compatible by decision of the Council.

1.1.2 Port and port infrastructure²

Port

'Port' means an area of land and water made up of such infrastructure and equipment, so as to permit the reception of waterborne vessels, their loading and unloading, the storage of goods, the receipt and delivery of those goods and the embarkation and disembarkation of passengers, crew and other persons and any other infrastructure necessary for transport operators in the port.

¹ Case 730/79 Philip Morris v Commission [1980] ECR 2671

² Definitions are taken from the Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs

Maritime port

'Maritime port' means a port for, principally, the reception of sea-going vessels.

Inland port

'Inland port' means a port other than a maritime port, for the reception of inland waterway vessels.

Port infrastructure

'Port infrastructure' means infrastructure and facilities for the provision of transport related port services, for example berths used for the mooring of ships, quay walls, jetties and floating pontoon ramps in tidal areas, internal basins, backfills and land reclamation, alternative fuel infrastructure and infrastructure for the collection of ship-generated waste and cargo residues.

1.1.3 Specific terms and types of public funding

The importance of public funding in port development varies from country to country and as well as the relevant public aid scheme.

In order to analyze the public funding practice of the Danube Region countries, it is necessary to clarify the key concepts and definitions of public funding. The common understanding of the following terms is very important to fill in the attached Excel-sheet with information on public granted port developments.

Individual aid

'Individual aid' means:

- (i) ad hoc aid; and
- (ii) awards of aid to individual beneficiaries on the basis of an aid scheme.³

Aid scheme

"Aid scheme" means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount⁴.

Aid intensity

"Aid intensity" means the aid amount expressed as a percentage of the eligible costs.

Aid category

'State aid' and 'non-state aid' categories according to Article 107 (1) TFEU, (e.g. de minimis or aid for local infrastructures⁵)

³ Definition of the article 2 (14) of Commission regulation (EU) No 651/2014 (GBER regulation)

⁴ Definition of the article 2 (15) of Commission regulation (EU) No 651/2014 (GBER regulation)

⁵ Aid categories are detailed in Commission Regulation No 651/2014

2 Overall presentation of Danube Ports in [Name of the country] - max. 3 pages

Before presenting the spending of public money on Danube inland cargo ports (Chapter 3), please describe the operation of the ports in your country along the following sub-chapters. Where relevant, please highlight the country-specific characteristics and their reasoning (e.g. the dominance of certain sector in the commercial activities, ownership of Danube ports).

2.1 General information of Danube ports

Please present all the Danube cargo ports in your country including the following information:

- number of ports
- capacity and capacity usage of ports
- modal split of waterborne transport in your country
- presentation of the ownership – port management - operation structure of ports
- public and private ports
- ports as bimodal or trimodal hubs
- tendencies of the past 7 years

2.2 Waterborne freight statistics 2010-2017

Please describe the tendencies and changes concerning the following:

- waterborne transportation of goods (tons)
 - loading
 - unloading
 - transit
 - percentage of transferred goods per commodity (container, Ro-Ro, general cargo, bulk cargo, liquids, refrigerated goods, dangerous goods, oversized cargo and other)
- dominant sectors in the freight traffic volume and tendencies (industries, manufacturing companies, agriculture)

2.3 Development of ports 2010-2017

2.3.1 Objective of port developments

Please summarize the main objectives of port developments of the past 7 years.

2.3.2 Port development expenditures

Please summarize how much Danube ports have spent on port investments between 2010-2017, including modernisation, purchase of equipment, IT and the development of services.

Please provide detailed information concerning the typical source of the development (e.g. EU money, state money etc.).

Provide information on who were the beneficiaries of public funds.

3 Public funded investments in inland cargo ports of the Danube Region

3.1 Introduction of public funded investments

Based on the above definitions, aid schemes and individual aids on port developments should be listed in the attached Excel-sheet.

Only those projects and schemes should be detailed which have been launched since 1st January 2012.

Not all the figures and information of the Excel must be presented here. Please extract the following information from the Excel table.

1. Table: Aid schemes and individual aids on port developments

Name of the Aid scheme/ Individual Aid	Individual Aid or Aid scheme	Beneficiary	Selection procedure	Total investment (EUR)

3.2 Selection procedure

Since selection procedures vary from country to country, the understanding of differences between the countries' practice is one of the main objectives of the country reports.

Please describe all the selection procedures presented in the Excel table. (e.g: procedure and legal background of 'Priority project' in the Hungarian funding practice).

3.2.1 Selection procedure 1

3.2.2 Selection procedure 2

4 Conclusions

To be prepared by the WP leader based on the findings of the individual National Reports.