

## Comments from the Member States on the Guidance note on the calculation of total eligible costs to apply for major projects in 2014-2020

	Sections	MS	Questions	COM reply
1.	all	GR	<p>If the total eligible expenditure of an operation depends on whether the co-financing rate for the priority axis is applied to total expenditure (public and private) or public expenditure, this sentence should be deleted.</p> <p>If the priority axis' co-financing rate is applied to public expenditure then private expenditure belongs to this category (as ineligible)?</p> <p>If private expenditure is included in cell C.1.12(C)/section C.1/Annex II, then the value will be transferred to raw 1 of the 2nd or 3rd table of section C.3.</p> <p>Raw 3 of these tables defines if the total eligible cost of the project has reached the threshold; thus private expenditure will be included in the decision amount.</p>	<p>1) There should be not two types of major project depending on the choice made by the MS in relation to the application of the co-financing rate at priority axis level. Since a MS can change its approach to co-financing during the period, this could mean that projects could change their status with very complex results.</p> <p>2) The approach proposed by the Greek delegation is based on a confusion between eligible expenditure at the level of the project, and eligible expenditure at the level of the priority axis which can be declared to the Commission for co-financing. Where a MS has chosen the public expenditure option, it is clear that it can only declare eligible public expenditure. But underpinning the eligible public expenditure is the total eligible expenditure of the project which is recorded in the monitoring system and subject of verifications and audits.</p> <p>3) Thus, private expenditures should be included in the total eligible cost in order to determine whether a project qualifies as MP (tables under C.3. of Annex II of the Commission Implementing Regulation 2015/207). However, the financial contribution to which the decision on a major project will refer according to Article 102 (1) takes into account whether the co-financing is applied to public or to total expenditure, as presented under section 2.3 'Examples' of the guidance document.</p>
2.	2.1	GR	<p>Maybe in some part of the guidance should be mentioned that for phased projects, according to art. 103(b) CPR, the sum of the total eligible costs of all phases of the major project defines if it exceeds the levels set out in Article 100; that means that expenditure outside the eligibility period is included for defining if the project is a major one.</p>	<p>A footnote has been added to 2.1 (i) explaining that for phased projects, according to art. 103(b) CPR, the sum of the total eligible costs of all phases of the major project is taken into account for the Major project threshold set out in Article 100;</p>
3.	2.3	GR	<p>An example of how the total eligible expenditure is calculated for a project supported by a financial instrument would be welcome</p>	<p>According to Article 100 CPR major projects are "operations comprising a series of works, activities or services (...) for which the total eligible costs exceeds 50M€ and in the case of operations contributing to the thematic objective under point (7) of the first paragraph of Article 9 where the total</p>

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				<p>eligible cost exceeds 75 M€". The Commission approves the financial contribution to these operations according to the procedures foreseen in Article 102 and 103. In addition, Article 100 CPR provides that "financial instruments shall not be considered to be major projects."</p> <p>An operation in the context of financial instruments is constituted according to Article 2 CPR by the financial contribution from the programme to the financial instrument together with the subsequent financial support provided by that Financial Instrument. Both the operational programme contribution to the Financial Instrument and the support from the Financial Instrument are not considered major projects.</p> <p>The financial contribution of a programme to a Financial Instrument cannot be subject to a major project approval as the financial instrument as such is not a major project. The financial contribution of the programme to Financial Instruments follows the rules under Title IV of the CPR (Financial Instruments).</p>
4.	2.3	GR	<p>There is an explanatory fiche on article 61.8 (former 54.8) which mentions that the only type of state aid that must apply rules for RGO is "Support to large enterprises under state aid schemes which IS NOT subject to individual verification of financing needs under the applicable state aid rules". Therefore in such cases a funding gap calculation, a flat rate revenue percentage [...] must be applied.</p> <p>Since the project in the examples does not fall under one of the exceptions listed in Article 61.8, examples A + B are this type of state aid</p>	<p>The examples have been adapted and the reference to revenue generation has been taken out in order to focus on the main message of the note</p> <p>As regards Article 61 (8) the following applies: Article 61(8) CPR lists exceptions from the need to verify the financing needs according to Article 61(1)-(6) CPR. For large companies, Article 61(8)(a) and (c) CPR are relevant. It is clear from the wording of the provision that Article 61(8)(b) CPR is limited to SMEs and thus does not apply to large companies.</p> <p>If none of the exceptions of Article 61(8) CPR is fulfilled - and also no exception of paragraph 7 of Article 61 CPR applies - Member States have to verify the financing needs pursuant to Article 61(1)-6) CPR. For this it is not relevant whether verifications under the new General Block Exemption Regulation 651/2014 may not be needed.</p> <p>The exception in Article 61(8)(c) CPR applies only when State aid rules explicitly require an individual verification of financing needs or whether it also applies where such verification is done by the Member State for other reasons.</p>

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				The exception in Article 61(8)(c) CPR does not cover verifications by Member States which are not required by State aid rules. The wording of Article 61(8)(c) CPR explicitly refers to verifications 'in accordance with the applicable State aid rules'. Also, Recital 58 of the CPR justifies the exception in Article 61(8) CPR by referring to the limits on support established by State aid rules. Thus, the wording and rationale of these provisions do not allow extension of the exception of Article 61(8)(c) CPR to checks by Member States that are not triggered by State aid law, even if the checks done by Member States meet similar standards.
5.	2.3	GR	What happens if due to co-financing rate above aid intensity the MS accumulates a surplus under a priority axis. Can it spend it for everything?	It is to be noted that when the permissible aid intensity is lower than the cofinancing rate of the priority (e.g. 50% compared to 85% of co-financing as in the example above), the excess amount arising from the application of the state aid rules to the total eligible cost will have to be allocated by the Member State to other operations under the same priority.  Please note that payment application shall include the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations according to Article 131 paragraph 1(a) CPR
6.	2.3	CZ	What is meant by the same priority in section 2.3 under the example b)? A priority axis of the OP? An investment priority of the OP? A specific objective of the OP?	Priority means 'priority' as defined in Article 2 (8) CPR

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7.	2.2	SK	<p>Page 4, part 2.2 „Rules determining programme contribution and the contribution from the Funds to a major project“, 2. para:</p> <p>„The application of state aid rules does not lead to a reduction of the eligible costs but limits the amount of public contribution to the project. The effective contribution from the Funds to the</p>	<p>The statement is not wrong: If the effective contribution of the funds is not covering the full public contribution, national contributions cover part of the public contributions. However, the intention of the second sentence is to refer to the maximum contribution of the funds in the context provided.</p>
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			<p>project cannot exceed this amount.“</p> <p>We propose to modify the text as follows:</p> <p>„The application of state aid rules does not lead to a reduction of the eligible costs but limits the amount of public contribution to the project. The effective contribution from the Funds and corresponding national public co-financing to the project cannot exceed this amount.“.</p>	
8.	2.3	SK	<p>Page 6, part 2.3, Example B) “Programme with calculation based on total expenditure”</p> <p>The EU contribution is capped at 50 million (i.e. aid intensity), however the corresponding national public co-financing is not reflected in this amount. We propose to modify the example taking into account the whole amount of public contribution.</p>	<p>Indeed the public contribution is capped at 50M€ and as such the EU contribution. The examples refer to the maximum EU contributions</p>

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9.	2.3	GR/P L/D	<p>The terminology you used in the Example 2.3 is different than in Art. 61 and the major project application (“the discounted net revenue forecast” applies only to one of the available methods); Furthermore the example fails to take into account the fact, that the revenues generated should be deducted pro rata from eligible and ineligible expenditure.</p> <p>Further distortion: the costs to which State aid intensities apply are *discounted*, and the costs to which Cohesion cofinancing rates apply are *NOT discounted. Propose to simplify the example</p>	<p>Example has been simplified and reference to ineligible expenditures due to discounted net revenues has been taken out</p>