



The interplay between EU Structural funds and EU State aid under Article 107 and 108 of TFEU

Experience of Latvia

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Support granted through the State resources ...



Subject to state aid control

- From the state and municipality budget (directly and indirectly)
- EU structural funds
- Funds from EEA/ Norwegian Financial Mechanism
- Funds from the Climate Change Instrument (incomes from the sale of CO2 emission reserves)

Not subject to state aid control

- The Community financial assistance to projects in the field of energy (according to Regulation No 663/2009). Regulation identifies projects to be financed and lays down criteria for identifying and implementing actions to realize these projects

Dividing line between the two concepts, if funding come outside of the State



- ***Flow of the funds***
 - a. The EC budget/ EEA countries budget → the MS budget → the beneficiary
 - b. The EC budget → the beneficiary
- ***Discretion power: establishment of the project selection and implementation criteria and decision making on award of the funds***
 - a. Relevant authority of the MS' national administration
 - b. EU legislator sets project selection procedures and EU institutions make a decision on project implementation and award of the funds directly to the beneficiary

Different steps and scope of state aid control for EU co-funded measures



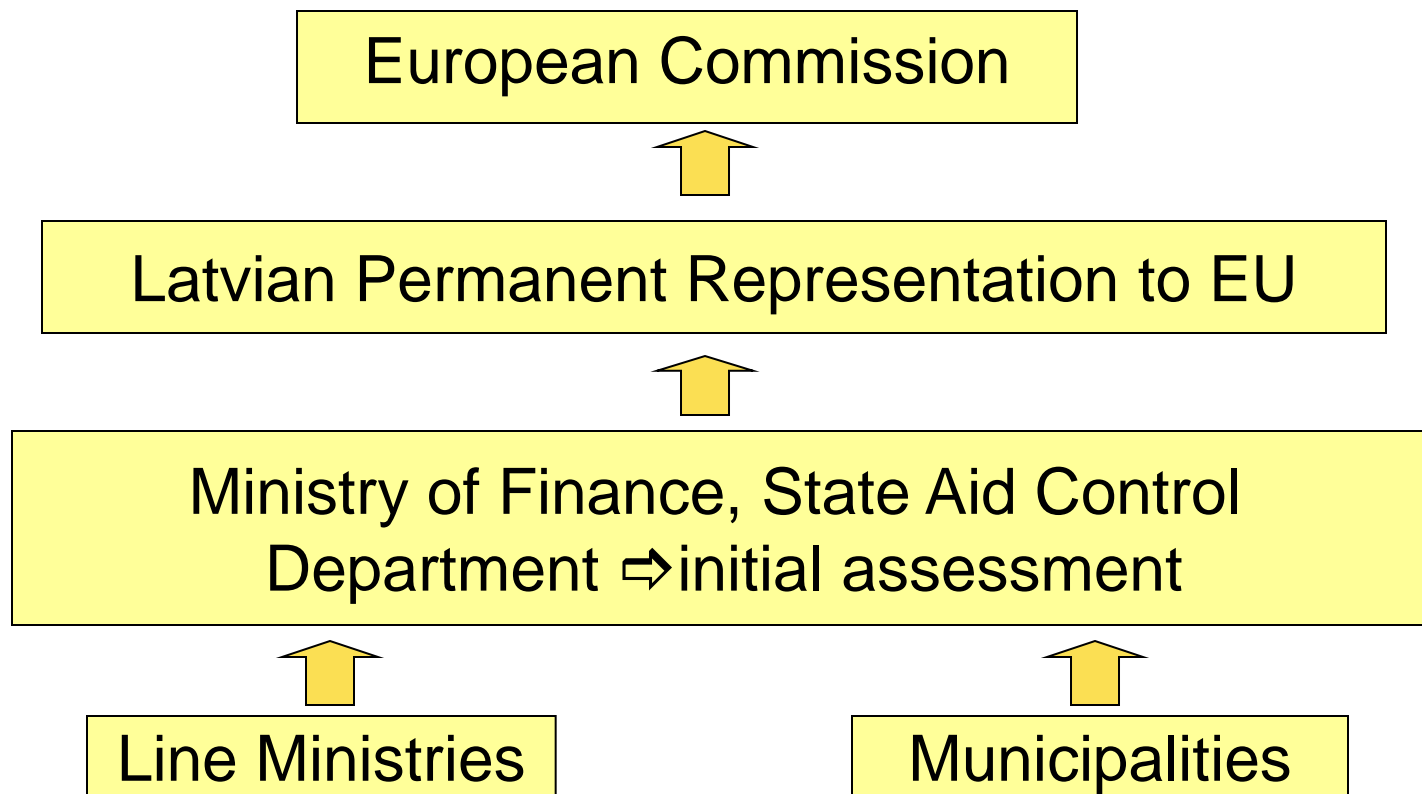
- Ex-ante state aid control of planned measures when designing Operational program – the Ministry of Finance
- Ex-ante state aid control at the level of a concrete state aid measure (scheme/ project) – the Ministry of Finance
- Project application cross-check for eligibility under state aid measure (scheme/ project) – the aid granting authority
- Ex-post state aid control (on-the-spot, interim and final checks) – the aid granting authority

Insurance that only legal and compatible EU funds co-financed measures are granted in Latvia

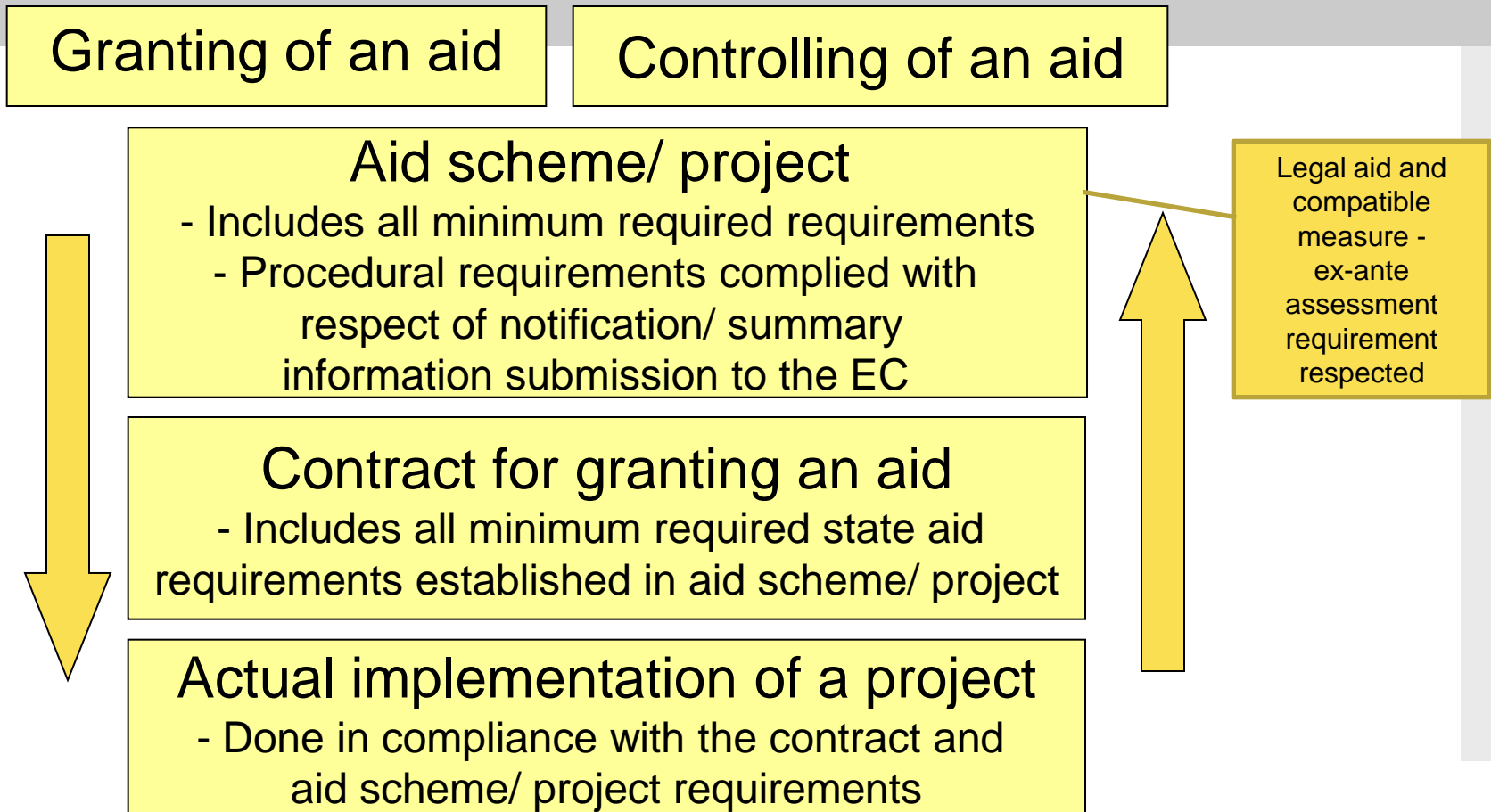


- Planned new aid measures and planned amendments/modifications in existing aid measures shall be submitted to the Ministry of Finance for the initial assessment
- Assessment is made to identify as to whether planned measure:
 - qualifies as state aid according to Article 107(1) of the TFEU
 - includes all the obligatory state aid requirements required by the respective EC state aid rules
 - shall be notified to the Commission in accordance to Article 108(3) of the TFEU or is exempted from the notification obligation

Submission of the information to the EC (in schema)



Implementation of a state aid measure and control of compliance



Proposed subjects for discussion



- Revenue-generating EU funded projects (Art.55, Council Regulation No 1083/2006)
- Major projects – project with total costs above EUR 50 million (Art.39-41, Council Regulation No 1083/2006)
- Necessity for policy coordination between DG REGIO and DG COMP (for ex., use of financial instruments under Temporary framework)

Revenue-generating EU funded projects



- A revenue-generating project, ie. a project which involves investments in infrastructure use of which may generate income/ profit
- Net revenues shall be deducted from the investment costs (shall be estimated in advance and deducted or necessary corrections shall be done within five years after the completion of operation)
- Above is not applicable for investments in infrastructure falling into scope of Art.107(1) of TFEU

Major projects



EU fund regulation

- Subject to the Commission (DG REGIO) appraisal for its consistency with the priorities of the operational program concerned, its contribution in achieving the goals of those priorities and its consistency with other Union policies
- Subject to the Commission decision (DG REGIO). The decision shall be adopted as soon as possible but no later than three months after the submission of major project

State aid regulation

- Transport (ports and airports) investment aid projects subject to individual state aid notification to the Commission and a decision of the Commission (DG COMP). The decision shall be adopted not later than two months after the submission of the complete notification

Policy coordination



- Art. 45 of the Commission regulation No 1828/2006 sets provisions applicable to financial engineering instruments for enterprises. It establishes that investments may not be done in firms in difficulty within the meaning of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty
- Temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis in December 2008 established that the aid may be granted to firms which were not in difficulty on 1 July 2008 but entered in difficulty thereafter as a result of the global financial and economic crisis
- In many MSs EU Structural funds during 2009-2010 were the only instrument available to un-block banks' lending freeze (by using the State guarantee instruments)



Thank you for your attention!

Questions?