



Technical support to the implementation
and management of ENI CBC programmes

Factsheet on State aid and distortion of competition for Georgia

Applicable rules, tools, tips and recommendations

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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

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. Also partner countries in the ENI CBC programmes should have a clear understanding whether they have any state-aid and distortion of competition related implications stemming from international agreements with the European Union.

Finally, taking into account that article 48.6 of the ENI CBC Implementing Rules allows the programmes to decide additional eligibility requirements, the applicants and beneficiaries must also consider the applicable programme rules agreed in the Joint Monitoring Committee (JMC) and published in the Guidelines for Applicants.

State aid rules in the Association Agreement and national legislation

On 1 July 2016, the Association Agreement (AA) between the European Union and Georgia fully entered into force. While the final version of Association Agreement does not include direct reference to the State aid, Georgian law on Competition (in force from 31 March 2014; before the final version of the Association Agreement – unofficial translation [here](#)) already includes a dedicated section on State aid.

Additionally, Regulation No 529 of Georgian government defines process on approving small amounts of individual State aid and general procedure for granting State aid (unofficial translation [here](#)). Georgian Competition Agency is the legal body entrusted to deal with State aid.

General principles

Article 12.1 of the Law on Competition states:

*Any forms of the State aid to the economic agent or to specific types of activities **hindering competition or endangering it** shall be **prohibited** [...].*

In order to ensure equal treatment among beneficiaries from all participating countries, the Georgian beneficiaries will apply the same criteria as the beneficiaries in the other CBC partner countries.

Key criteria for assessing state aid relevant activities

The Guidelines for Applicants of the Black Sea Basin programme, following a decision by the JMC, stipulates in section 2.4.2. (page 31) the non-eligibility of the State-aid related activities for all beneficiaries, regardless of their nationality, following equivalent criteria to those of the EU Member States. As indicated in section 2.7, the only difference is that the last assessment criterion is the non-distortion of the trade between the CBC partner country and the European Union instead of between Member States, as indicated in the chart below:

