

# European Union Legal Framework of State Aid in Cultural Tourism and the Use of Notified Aid by Member States

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**Abstract**

*This article explores the legal framework of state aid in the European Union, focusing on aid for cultural tourism. Grounded in Article 107 of the Treaty on the Functioning of the European Union, which generally prohibits state aid to prevent market distortions, the study highlights the exceptions for cultural, heritage support and audiovisual works. Employing a comprehensive analysis of notified state aid measures from 2010 to September 2024, it examines usage trends among EU member states, noting significant shifts in response to regulatory changes, such as the 2014 General Block Exemption Regulation, and the COVID-19 pandemic. The findings indicate that France and Spain are major users of notified aid, while Luxembourg and Portugal did not utilize such aid. A decline in notified measures between 2013 and 2015, followed by a rise during the pandemic years and a subsequent decrease, is observed. The study emphasizes that while the frequency of notified aid measures is analysed, the financial volume of these aids is not covered, which could further elucidate the scale of support provided.*

**Keywords:** cultural tourism, investment incentives, state aid, undertakings.

**JEL Classification:** K21

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## 1. Introduction

Cultural tourism as a form of tourism<sup>2</sup> plays a vital role in regional and local development, as it can stimulate economic, social, and cultural growth in specific geographic areas. By attracting visitors interested in the cultural heritage, traditions, and artistic expressions of a particular region, cultural tourism generates revenue for local businesses, such as museums, galleries, restaurants, and accommodations. This influx of tourist spending can create job opportunities<sup>3</sup> and stimulate entrepreneurship within

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<sup>2</sup> Cros du, H., McKercher, B. 2020. *Cultural Tourism*. Third edition. Routledge. 340 p. <https://doi.org/10.4324/9780429277498>.

<sup>3</sup> Girard, Luigi F., Nijkamp, P. 2009. *Cultural Tourism and Sustainable Local Development*. Ashgate Publishing. 319 p. ISBN 075467391X.

the community and economic growth<sup>4</sup>. Moreover, the preservation and promotion of cultural assets become imperative, leading to investments in infrastructure and the maintenance of historical sites and traditions, which not only enhances the appeal of the region but also contributes to its identity and sense of place. Cultural tourism can also foster cross-cultural exchange and understanding<sup>5</sup>, thereby strengthening social bonds within the local and visiting communities. In this way, it plays a pivotal role in the sustainable development of regions and localities, leveraging their unique cultural assets to create a more vibrant and prosperous environment while preserving and celebrating their distinctive cultural heritage.

Public support can enhance the stability of this sector.<sup>6</sup> Public financial aid is crucial for the cultural tourism sector<sup>7</sup> for several reasons. First, many cultural assets and heritage sites require ongoing maintenance and preservation efforts. Public funding can help ensure the longevity of these resources, preventing their deterioration and loss. Additionally, it can support the restoration and improvement of cultural infrastructure, making it more appealing and accessible to tourists. Public investment in cultural tourism can also facilitate the development of tourism-related infrastructure<sup>8</sup>, such as transportation networks and information centers, which can enhance the overall visitor experience.

*“Europe's rich cultural heritage and dynamic cultural and creative sectors strengthen European identity, creating a sense of belonging. Culture promotes active citizenship, common values, inclusion and intercultural dialogue within Europe and across the globe. It brings people together, including newly arrived refugees and other migrants, and helps us feel part of communities. Culture and creative industries also have the power to improve lives, transform communities, generate jobs and growth, and create spill over effects in other economic sectors.”* (European Commission, 2018)  
*“The EU cultural framework is primarily defined by the Treaties. They set an overarching objective for the EU to respect its rich cultural diversity and ensure that Europe's cultural heritage is safeguarded and enhanced. Culture is mainly a competence of the Member States. The Union can only encourage cooperation between Member States and support or supplement their actions.”* (European Court of Auditors, 2020)  
*“Europe is a key cultural tourism destination thanks to an incomparable cultural heritage that includes museums, theatres, archaeological sites, historical cities,*

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<sup>4</sup> Noonan, D.S., Rizzo I. 2017. „Economics of cultural tourism: issues and perspectives”, *Journal of Cultural Economics* 41, 95–107 (2017). <https://doi.org/10.1007/s10824-017-9300-6>.

<sup>5</sup> Raymond, E. M., & Hall, C. M. 2008. „The Development of Cross-Cultural (Mis)Understanding Through Volunteer Tourism”, *Journal of Sustainable Tourism*, 16(5), 530–543. <https://doi.org/10.1080/09669580.802159610>.

<sup>6</sup> Bernini, C., & Pellegrini, G. 2013. „Is subsidizing tourism firms an effective use of public funds?”, *Tourism Management*, 35, 156–167. <https://doi.org/10.1016/j.tourman.2012.06.012>.

<sup>7</sup> Nguyen, C. P., Binh, P. T., & Su, T. D. 2020. „Capital Investment in Tourism: A Global Investigation”, *Tourism Planning & Development*, 20(5), 805–831. <https://doi.org/10.1080/21568316.2020.1857825>.

<sup>8</sup> Chang, D., N. Zhang. 2024. „The Effect of Cultural System Reform on Tourism Development: Evidence from China”, *Structural Change and Economic Dynamics* 70: 77–90. <https://doi.org/10.1016/j.strueco.2024.01.009>.

*industrial sites as well as music and gastronomy.*”<sup>9</sup>

Furthermore, cultural tourism often faces seasonal and market-related fluctuations.<sup>10</sup> Public financial support can provide stability during economic downturns, ensuring that the sector remains resilient and capable of withstanding unforeseen challenges, such as the COVID-19 pandemic. Subsidies and grants can help cultural tourism businesses<sup>11</sup> weather these disruptions and protect local jobs. They can also encourage innovation and the development of new tourism products, ensuring the sector remains competitive in the global market.

Moreover, cultural tourism is not solely about generating economic growth<sup>12</sup>. It plays a significant role in preserving and celebrating cultural heritage, traditions, and artistic expressions, which are vital for a society's identity and cohesion. Public funding helps communities sustain their cultural legacy, fostering a sense of pride and belonging among residents. It can also promote cultural exchange and understanding, further enhancing a region's appeal to visitors.

This sector is a dynamic industry encompassing a myriad of entrepreneurs and entities engaged in diverse economic activities. This sector thrives on a network of businesses that contribute significantly to the global economy.<sup>13</sup> These entrepreneurs play a crucial role in creating jobs, fostering cultural exchange, and stimulating economic growth. However, the sustainability and resilience of the tourism sector often hinge on a robust public support framework. Governments and local authorities can implement policies, provide infrastructure, and offer incentives to promote tourism, ensuring its positive impact on communities and the environment.<sup>14</sup>

Public support and public financial aid become a linchpin in facilitating a conducive environment for entrepreneurs and entities within the tourism sector, fostering collaboration and long-term success.<sup>15</sup> In summary, public financial support

<sup>9</sup> European Commission. 2018. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: A New European Agenda for Culture COM(2018) 267.

<sup>10</sup> Zhang, J, Zhonglei Y, Changhong M, Yuting L, and Shuai Q. 2022. „Cultural Tourism Weakens Seasonality: Empirical Analysis of Chinese Tourism Cities”, *Land* 11, no. 2: 308. <https://doi.org/10.3390/land11020308>.

<sup>11</sup> Pociute-Sereikiene, G., Baranauskienė, V., Liutikas, D., Kriaučiūnas, E., & Burneika, D. 2022. „Challenges of the tourism sector in Lithuania in the context of the COVID-19 pandemic: State aid instruments and the efficiency of the tourism business support”, *European Spatial Research & Policy*, 29(2), 235–270. <https://doi.org/10.18778/1231-1952.29.2.13>.

<sup>12</sup> Kostakis, I., Lolos, S. 2024. „Uncovering the impact of cultural heritage on economic growth: empirical evidence from Greek regions, 2000–2019”, *The Annals of Regional Science*. <https://doi.org/10.1007/s00168-024-01280-3>.

<sup>13</sup> Alamineh, G.A., Hussein, J.W., Endaweke, Y., Tadesse, B. 2023. „The local communities' perceptions on the social impact of tourism and its implication for sustainable development in Amhara regional state”, *Heliyon*, 9(6), Article e17088, 10.1016/j.heliyon.2023.e17088.

<sup>14</sup> Škorić, S., & Jovanović, V. 2017. *Impact of state aid and legislation on development of rural tourism*. In: Tourism International Scientific Conference Vrnjačka Banja - TISC, 2(2), 411-428. Retrieved from <https://www.tisc.rs/proceedings/index.php/hitmc/article/view/111>.

<sup>15</sup> Shayakhmetova, L.; Maidyrova, A.; Moldazhanov, M., 2020. „State Regulation of the Tourism Industry for Attracting International Investment”, *Journal of Environmental Management and Tourism*, [S.l.], v. 11, n. 6, p. 1489 - 1495, sep. 2020. ISSN 2068-7729.

in the cultural tourism sector is essential for preserving cultural heritage, stimulating economic development, and fostering social and cultural well-being. It ensures the sustainability of this sector, helping it contribute positively to regional and local development.

## **2. General prohibition of state aid to undertakings in the European Union**

In the European Union, the general prohibition of state aid is a fundamental principle aimed at maintaining fair competition within the internal market. Enshrined in Article 107 of the Treaty on the Functioning of the European Union (TFEU)<sup>16</sup>, this prohibition prevents EU member states (and other public authorities within the member states) from providing financial assistance or any form of aid that distorts competition and affects trade between member states. The rationale behind this prohibition is to create a level playing field for businesses across the EU, ensuring that economic operators are not unduly favored or hindered by state intervention. However, there are exceptions to this rule, allowing for state aid in specific circumstances, such as promoting regional development, supporting small and medium-sized enterprises, or addressing serious disturbances in the economy. The European Commission plays a central role in monitoring and enforcing these rules, scrutinizing state aid measures to guarantee compliance and safeguard the integrity of the EU's single market.

Within the European Union, aid for culture and heritage conservation is recognized as an exemption from the general prohibition of state aid outlined in Article 107 of the Treaty on the Functioning of the European Union. The EU acknowledges the intrinsic value of preserving and promoting cultural diversity, historical sites, and heritage.<sup>17</sup> As such, member states are permitted to provide financial support for cultural and heritage conservation projects without violating the state aid rules, recognizing the unique role these initiatives play in fostering a shared European identity and enriching the cultural tapestry of the region. This exemption underscores the EU's commitment to supporting endeavors that contribute to the preservation and promotion of Europe's rich cultural heritage, allowing member states to play an active role in safeguarding their historical and artistic treasures while upholding the principles of fair competition in other economic domains.

## **3. State aid legal framework**

State aid regulation in the European Union is a fundamental aspect of the EU's competition policy framework, designed to ensure fair competition and prevent distortions in the single market. State aid refers to any financial advantage or subsidy

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<sup>16</sup> For a commentary on this article see Săraru, C.-S., *State Aids that are Incompatible with the Internal Market in European Court of Justice Case Law*, p. 39-48, in Săraru, C.-S. (ed.), *Studies of Business Law - Recent Developments and Perspectives*, Peter Lang, Frankfurt am Main, 2013.

<sup>17</sup> European Court of Auditors. 2020. Special report: EU investments in cultural sites: a topic that deserves more focus and coordination. Available online: [https://www.eca.europa.eu/Lists/ECADocuments/SR20\\_08/SR\\_Cultural\\_investments\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR20_08/SR_Cultural_investments_EN.pdf).

provided by a Member State to specific companies or sectors. It can take various forms, such as grants, tax breaks, or favorable loans. The regulation of state aid in the EU is guided by several key principles and objectives.

Firstly, state aid regulation is necessary to maintain a level playing field within the single market. The EU seeks to eliminate unfair advantages that may result from government support, thereby promoting fair competition among businesses across member states. State aid control is essential for preserving the integrity and effectiveness of the EU's internal market.

Secondly, state aid regulation is intended to prevent market distortions that could harm consumer interests and hinder economic integration. Unchecked state aid can lead to overcapacity, misallocation of resources, and reduced incentives for companies to innovate and compete efficiently. Regulating state aid helps mitigate these potential negative effects.

The regulatory framework for state aid in the EU primarily consists of Articles 107 and 108 of the Treaty on the Functioning of the European Union. The European Commission plays a central role in assessing and approving state aid measures. Member states are required to notify the Commission of any proposed state aid, and it is subject to a rigorous assessment to determine whether it complies with EU rules. Not all state aid is prohibited; some exemptions are allowed, particularly for projects that serve common interests, such as regional development, environmental protection, and research and development.

In summary, state aid is regulated in the EU to maintain a fair and competitive single market, prevent market distortions, and protect consumer interests. This regulatory framework, governed by the TFEU, is essential for ensuring that state aid serves public policy objectives without undermining the principles of the EU's internal market.

Pursuant to the rule set out in Article 107(3)(d) TFEU, aid to promote culture and heritage conservation and aid for audiovisual works may be considered to be compatible with the internal market by the European Commission where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest.

### 3.1. Cultural institutions as undertakings

The rules on state aid apply only when the aid recipient is an undertaking. The Court of Justice has defined undertakings as “*entities engaged in an economic activity, regardless of their legal status and the way in which they are financed*”<sup>18</sup>. Therefore, the designation of a specific entity as an undertaking fully depends on the nature of its activities. This general principle has three significant implications:

1. The status of the entity under national law is irrelevant,
2. The application of state aid rules does not depend on whether the entity was

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<sup>18</sup> Judgment of the Court of Justice of 12 September 2000, Pavlov and Others, Joined Cases C-180/98 to C-184/98, ECLI:EU:C:2000:428, paragraph 74; Judgment of the Court of Justice of 10 January 2006, Cassa di Risparmio di Firenze SpA and Others, C-222/04, ECLI:EU:C:2006:8, paragraph 107.

established with the aim of making a profit,

3. The classification of an entity as an undertaking always pertains to specific activities.

An entity engaging in both economic and non-economic activities is considered an undertaking only in relation to its economic activities. An economic activity is any activity that involves offering goods and/or services on the market. Furthermore, the Court of Justice has repeatedly ruled that any activity involving the offering of goods and services on the market is an economic activity, to clarify the difference between economic and non-economic activities<sup>19</sup>.

Several separate legal entities can be considered as constituting a single economic unit for the purposes of applying State aid rules. This economic unit is then regarded as the relevant undertaking.<sup>20</sup>

Support for non-economic activities is not subject to state aid rules. Examples of non-economic activities include:

- a) The exercise of public powers,
- b) Education within the national education system,
- c) Research and development,
- d) Culture or the protection of cultural heritage (including nature conservation),
- e) Sports,
- f) Infrastructure.

Cultural or heritage conservation activities (including nature conservation) predominantly financed by visitor or user fees or by other commercial means (for example, commercial exhibitions, cinemas, commercial music performances and festivals and arts schools predominantly financed from tuition fees) should be qualified as economic in nature. Similarly, heritage conservation or cultural activities benefitting exclusively certain undertakings rather than the general public (for example, the restoration of a historical building used by a private company) should normally be qualified as economic in nature. In cases where an entity carries out cultural or heritage conservation activities, some of which are non-economic activities and some of which are economic activities, public funding it receives will fall under the State aid rules only insofar as it covers the costs linked to the economic activities.<sup>21</sup>

### 3.2. State aid in culture and heritage conservation

State aid in the domain of culture and heritage conservation constitutes a significant element of government intervention in the European Union. This form of state aid is designed to fulfill the crucial role of safeguarding and preserving the vast

<sup>19</sup> For example: Judgment of the Court of Justice of 16 June 1987, *Commission v Italy*, 118/85, ECLI:EU:C:1987:283, paragraph 7; Judgment of the Court of Justice of 18 June 1998, *Commission v Italy*, C-35/96, ECLI:EU:C:1998:303, paragraph 36; Judgment of the Court of Justice of 12 September 2000, *Pavlov and Others*, Joined Cases C-180/98 to C-184/98, ECLI:EU:C:2000:428, paragraph 75.

<sup>20</sup> Judgment of the Court of Justice of 16 December 2010, *AceaElectrabel Produzione SpA v Commission*, C-480/09 P, ECLI:EU:C:2010:787, paragraphs 47 to 55.

<sup>21</sup> Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01).

cultural and historical patrimony of Europe. The cultural heritage, encompassing tangible and intangible assets, represents not only a testament to the continent's historical legacy but also a cornerstone of national and regional identities. State aid measures targeting culture and heritage conservation typically manifest as financial subsidies, grants, or tax incentives intended to underpin the maintenance, restoration, and propagation of cultural sites, museums, and artistic traditions.

This support is indispensable in mitigating the risk of deterioration or loss of cultural assets due to economic constraints and neglect. Furthermore, it facilitates the improvement of public accessibility to these cultural treasures, thereby fostering broader societal engagement, enriching educational prospects, and bolstering cultural tourism. Nonetheless, it is imperative to underscore that state aid in the realm of culture and heritage conservation must adhere to stringent EU regulations, which aim to prevent any distortion of competition within the single market. This regulatory framework ensures that public funds are deployed to serve the collective interest while preserving the foundational principles of the EU's internal market. Thus, state aid within this purview plays an instrumental role in the perpetuation and dissemination of Europe's cultural heritage, all the while adhering to the EU's framework for judicious and regulated financial support.

State aid in culture and heritage conservation is governed by the General Block Exemption Regulation (GBER) within the framework of European Union competition policy. The GBER is a key component of EU State aid rules that outlines certain categories of State aid that are exempt from the requirement of prior notification to the European Commission. This exemption mechanism simplifies and expedites the approval process for specific types of state aid, while ensuring that they do not unduly distort competition in the internal market.

The GBER shall not apply to aid which exceeds the following thresholds:<sup>22</sup>

a) for investment aid for culture and heritage conservation: EUR 165 million per project; operating aid for culture and heritage conservation: EUR 82.5 million per undertaking per year

b) for aid schemes for audiovisual works: EUR 55 million per scheme per year

In the context of culture and heritage conservation, the GBER provides a framework for specific categories of state aid that are considered compatible with EU rules. This means that certain forms of financial support for cultural and heritage projects are pre-approved under the GBER, as long as they meet the criteria outlined within the regulation. These criteria typically include conditions related to the size of the aid, the type of project, and the specific purposes for which the aid is intended.

Aid for culture and heritage conservation shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down by the GBER are fulfilled.

The aid shall be granted for the following cultural purposes and activities:<sup>23</sup>

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<sup>22</sup> Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

<sup>23</sup> Ibid.

a) museums, archives, libraries, artistic and cultural centres or spaces, theatres, cinemas, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions;

b) tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognized as cultural or natural heritage by the competent public authorities of a member state;

c) intangible heritage in any form, including folklorist customs and crafts;

d) art or cultural events and performances, festivals, exhibitions and other similar cultural activities;

e) cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;

f) writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.

The aid may take the form of investment aid, including aid for the construction or upgrade of culture infrastructure or operating aid.

For investment aid, the eligible costs shall be the investment costs in tangible and intangible assets, including:<sup>24</sup>

a) costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if at least 80 % of either the time or the space capacity per year is used for cultural purposes;

b) costs for the acquisition, including leasing, transfer of possession or physical relocation of cultural heritage;

c) costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication;

d) costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors;

e) costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project.

For operating aid, the eligible costs shall be the following:<sup>25</sup>

a) the cultural institution's or heritage site's costs linked to continuous or periodic activities including exhibitions, performances and events and similar cultural

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.



activities that occur in the ordinary course of business;

b) costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;

c) costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitisation and of use of new technologies as well as costs of improving accessibility for persons with disabilities;

d) operating costs directly relating to the cultural project or activity, such as rent or lease of real estate and cultural venues, travel expenses, materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan, lease and depreciation of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity; depreciation charges and the costs of financing are only eligible if they have not been covered by investment aid;

e) costs for personnel working for the cultural institution or heritage site or for a project;

f) costs for advisory and support services provided by outside consultants and service providers, incurred directly as a result of the project.

For investment aid, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period. For operating aid, the aid amount shall not exceed what is necessary to cover the operating losses and a reasonable profit over the relevant period. This shall be ensured *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism.

Aid to press and magazines, whether they are published in print or electronically, shall not be eligible under this Article of the GBER.

### **3.3. Aid schemes for audiovisual works**

Aid schemes to support the script-writing, development, production, distribution and promotion of audiovisual works shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down by the GBER are fulfilled.

Aid shall support a cultural product. To avoid manifest errors in the qualification of a product as cultural, each Member State shall establish effective processes, such as selection of proposals by one or more persons entrusted with the selection or verification against a predetermined list of cultural criteria.

Aid may take the form of:<sup>26</sup>

- a) aid to the production of audiovisual works;
- b) pre-production aid; and
- c) distribution aid.

Where a Member States makes the aid subject to territorial spending obligations, aid schemes for the production of audiovisual works may either:<sup>27</sup>

- a) require that up to 160 % of the aid granted to the production of a given audiovisual work is spent in the territory of the Member State granting the aid; or
- b) calculate the aid granted to the production of a given audiovisual work as a percentage of the expenditure on production activities in the granting Member State, typically in case of aid schemes in the form of tax incentives.

In both cases, the maximum expenditure subject to territorial spending obligations shall in no case exceed 80 % of the overall production budget. For projects to be eligible for aid, a Member State may also require a minimum level of production activity in the territory concerned, but that level shall not exceed 50 % of the overall production budget.

The eligible costs shall be the following:<sup>28</sup>

- a) for production aid: the overall costs of production of audiovisual works including costs to improve accessibility for persons with disabilities.
- b) for pre-production aid: the costs of script-writing and the development of audiovisual works
- c) for distribution aid: the costs of distribution and promotion of audiovisual works.

The aid intensity for the production of audiovisual works shall not exceed 50 % of the eligible costs. The aid intensity may be increased as follows:<sup>29</sup>

- a) to 60 % of the eligible costs for cross-border productions funded by more than one Member State and involving producers from more than one Member State;
- b) to 100 % of the eligible costs for difficult audiovisual works and co-productions involving countries from the Development Assistance Committee (DAC) List of the OECD.

The aid intensity for pre-production shall not exceed 100 % of the eligible costs. If the resulting script or project is made into an audiovisual work such as a film, the pre-production costs shall be incorporated in the overall budget and taken into account when calculating the aid intensity. The aid intensity for distribution shall be the same as the aid intensity for production. Aid shall not be reserved for specific production activities or individual parts of the production value chain. Aid for film studio infrastructures shall not be eligible. Aid shall not be reserved exclusively for nationals and beneficiaries shall not be required to have the status of undertaking established under national commercial law.

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

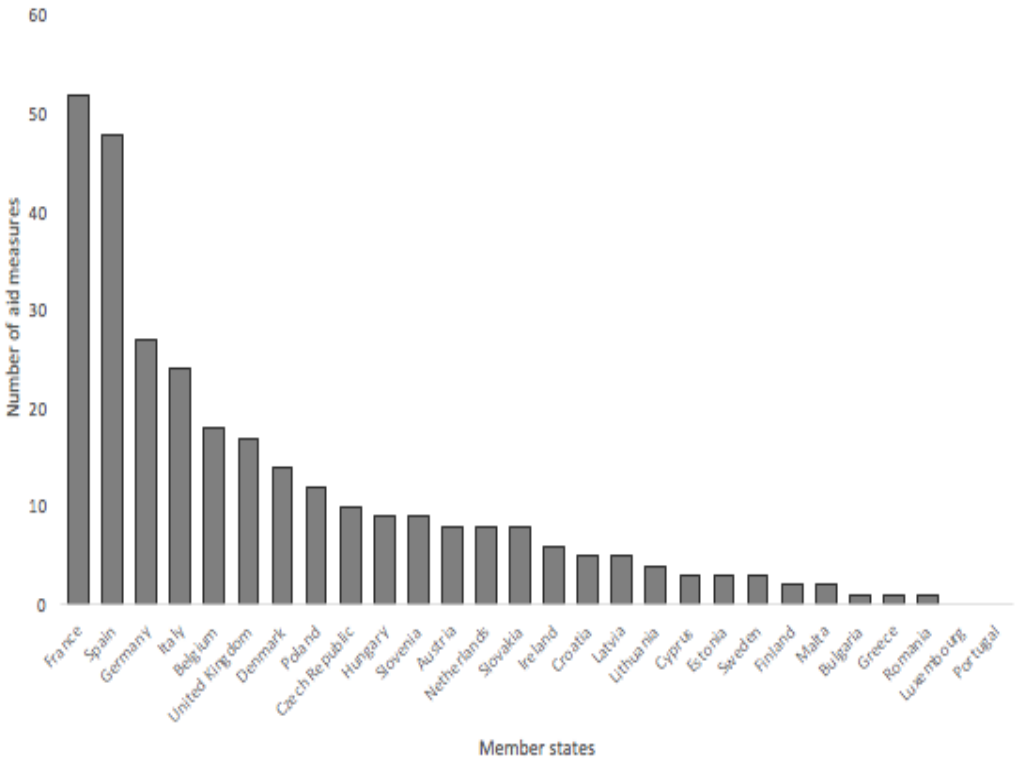
<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

#### 4. Use of notified aid by member states

In this section, we will focus on analysing the notified state aid measures within the European Union pertaining to culture, heritage conservation, and audiovisual works. This analysis spans the period from 2010 to September 2024, encompassing a range of aid instruments employed by EU Member States, including the United Kingdom, which was part of the EU during the monitored period. Notably, the aid measures considered in this analysis are those that do not fall under the GBER and therefore require notification to the European Commission.

**Figure 1:** *Notified State aid measures in culture and heritage conversation and audiovisual works by Member states*<sup>30</sup>



**Source:** own processing based on data from the European Commission (Register of notified State aid), 2024

In addition to the notified state aid, Member States could also have provided

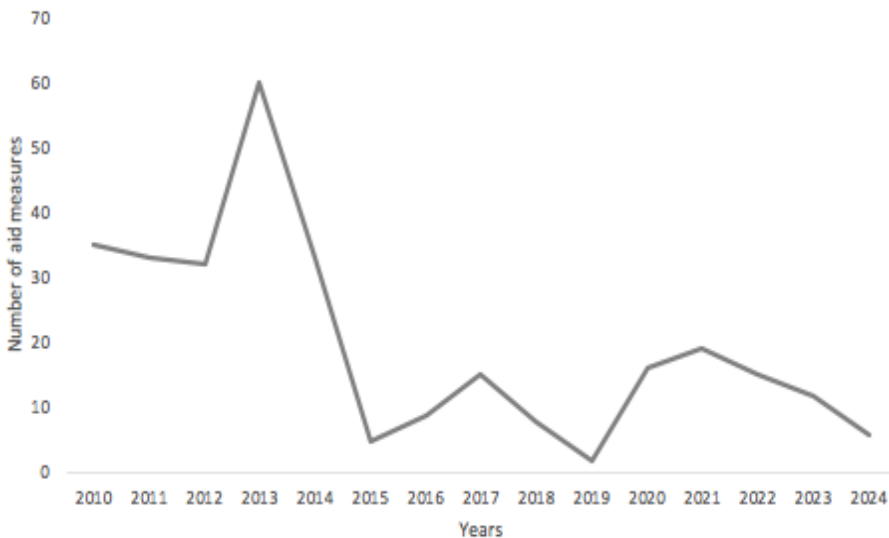
<sup>30</sup> Including the United Kingdom, which was part of the EU during the monitored period.

aid during the specified period that did not require notification to the European Commission and thus fell under the GBER. However, data on this type of aid is not uniformly available or suitable for analysis.

The primary objective of this analysis is to examine how different Member States have utilized notified state aid in these specific sectors. We will explore the frequency, types, and geographical distribution of aid measures.

The results (Fig. 1) reveal that the countries which have utilized notified state aid the most within the analysed sectors are France and Spain. This finding highlights a significant concentration of aid activity in these nations, reflecting their substantial engagement and investment in culture, heritage conservation, and audiovisual production. In contrast, Luxembourg and Portugal have not utilized notified state aid in these sectors at all during the monitored period. This absence highlights a notable difference in the approach to state aid among EU Member States, suggesting that these countries have either chosen alternative methods of support or have less emphasis on these specific areas of state aid.

**Figure 2:** *Notified State aid measures in culture and heritage conversation and audiovisual works within monitored period 2010 - September 2024*



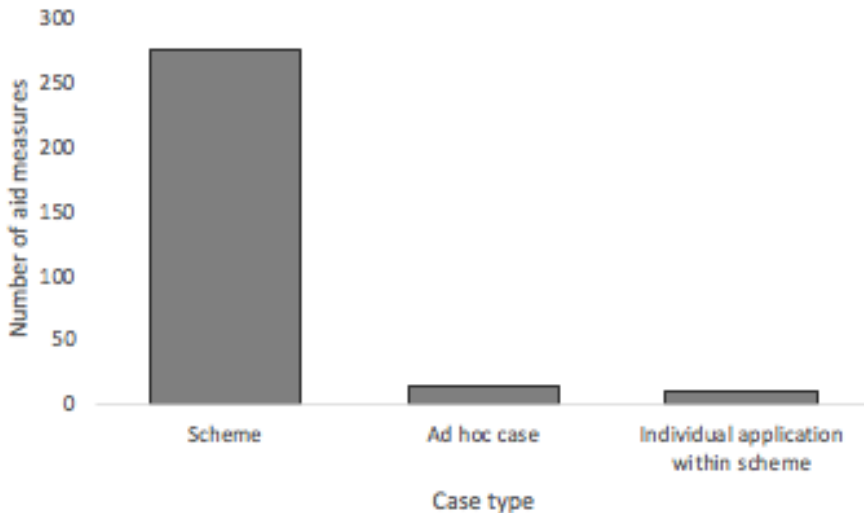
**Source:** *own processing based on data from the European Commission (Register of notified State aid), 2024*

The following graph (Fig. 2) illustrates the dynamic changes in the number of notified measures over the monitored period. The results indicate a declining trend in the utilization of notified state aid within the sector. The most significant decline is observed between 2013 and 2015, coinciding with the introduction of the new General

Block Exemption Regulation in 2014. Subsequently, a relative increase in the utilization of notified state aid is observed during the COVID-19 years of 2020 and 2021. This surge can be attributed to the unprecedented challenges posed by the pandemic, which led many Member States to implement emergency support measures to mitigate the economic impact on cultural institutions, heritage conservation projects, and audiovisual production. These measures were essential to address disruptions and financial difficulties experienced by these sectors due to lockdowns, restrictions, and a significant decline in revenues. Following this period of heightened support, a subsequent decline in notified state aid is recorded, reflecting a return to pre-pandemic levels.

The most frequently utilized aid type was the provision of support based on schemes (Fig. 3). This approach involved implementing predefined frameworks or programs through which state aid was distributed to beneficiaries. Aid schemes are structured to provide systematic and often sector-specific support, making them an efficient way for governments to address various needs within cultural, heritage conservation, and audiovisual sectors. By establishing these schemes, Member States were able to offer targeted assistance under consistent and transparent conditions, which facilitated broader and more effective distribution of aid. The prevalence of scheme-based aid reflects its role as a key mechanism for organizing and delivering state support in a manner that aligns with regulatory requirements and sectoral priorities.

**Figure 3:** Case type used in notified State aid measures in culture and heritage conversation and audiovisual works by Member states within monitored period 2010 - September 2024

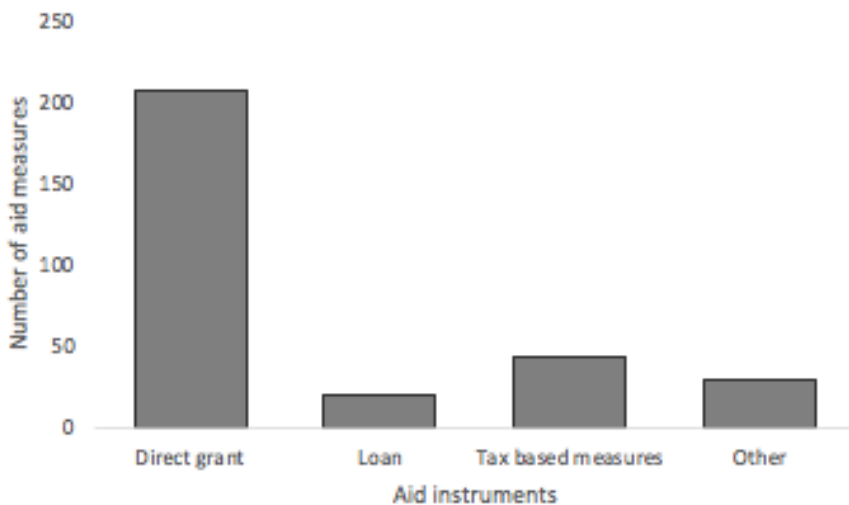


**Source:** own processing based on data from the European Commission (Register of notified State aid), 2024

The most frequently utilized aid instrument (Fig. 4) was the direct grant, followed by tax-based measures and loans. It is important to note that within these aid measures, multiple aid instruments can be combined. Additionally, a significant portion of aid is categorized under "other instruments," which includes for example guarantees and other forms of non-repayable assistance. This flexibility allows Member States to tailor their support mechanisms to the specific needs of the cultural, heritage conservation, and audiovisual sectors.

The analysis highlights significant disparities in the utilization of notified state aid within the analysed sector across different Member States, as well as variations over time. These differences reflect how individual countries prioritize and deploy state aid to address sector-specific needs, influenced by their unique economic conditions, policy priorities, and regulatory frameworks.

**Figure 4:** *Aid instruments applied in notified State aid measures in culture and heritage conservation and audiovisual works by Member states within monitored period 2010 - September 2024*



**Source:** own processing based on data from the European Commission (Register of notified State aid), 2024

## 5. Conclusion

This article explores the legal framework of state aid and its role as an investment incentive for businesses in the sectors of culture, heritage conservation, and audiovisual works. By analysing notified state aid measures within the European Union from 2010 to September 2024, the study provides a detailed examination of how these measures are used by Member states. The analysis reveals a significant concentration

of aid utilization in France and Spain, reflecting these countries' substantial investment in and commitment to the cultural and audiovisual sectors. In contrast, Luxembourg and Portugal did not utilize notified state aid during the monitored period, suggesting alternative approaches or different priorities regarding state support. Furthermore, it is noteworthy that the majority of Member States fall below the average level of notified aid utilization, indicating that most countries allocate less aid compared to these prominent examples. The study reveals a reduction in the number of notified aid measures between 2013 and 2015, which aligns with the implementation of the revised General Block Exemption Regulation in 2014. This period of decreased notification was succeeded by a notable rise in aid measures during the COVID-19 years of 2020 and 2021, as Member States introduced emergency support to mitigate the pandemic's economic impact. This surge, however, was followed by a subsequent decline as the sector began to recover and stabilize. It is important to note that this analysis focuses on the frequency of notified measures and does not encompass the financial volume associated with these aids, which could further illuminate the extent of support provided to recipients.

In summary, this article provides an overview of the fundamental legal framework governing state aid in the sectors of culture, heritage conservation, and audiovisual works. It then examines the utilization of notified state aid by Member States, offering insights into the trends and variations observed over the period from 2010 to September 2024. While the analysis highlights significant trends in the frequency of notified aid measures and notes the concentration of aid in certain countries, it does not extend to a detailed examination of the financial volumes involved. By combining theoretical perspectives with empirical data, this study contributes to a deeper understanding of how state aid policies are applied in the targeted sectors within the EU.

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