



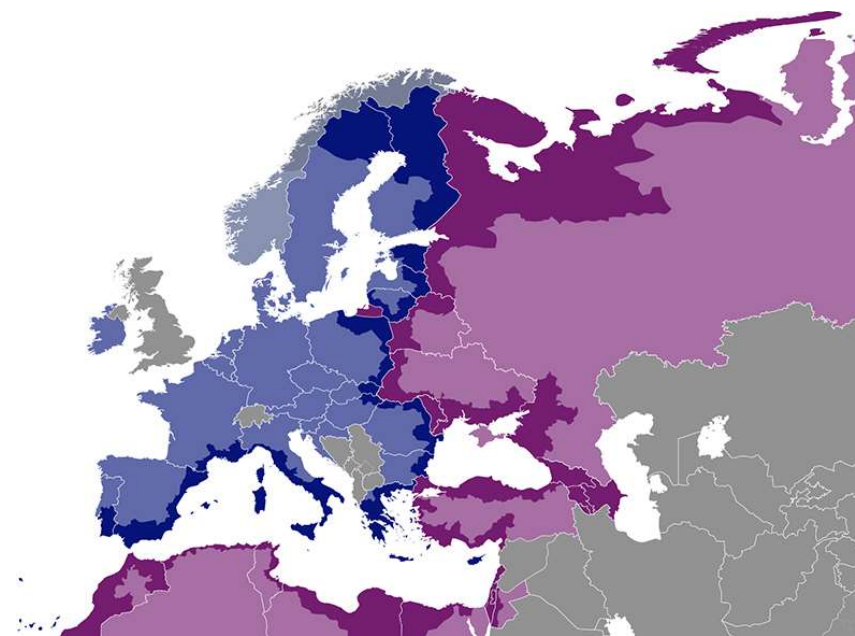
Technical support to the implementation and management of ENI CBC programmes

State aid...

....outside of the EU Member States?

State aid for beginners

Wednesday, 27 April 2022



A project funded by the European Union



Implemented by a consortium led by



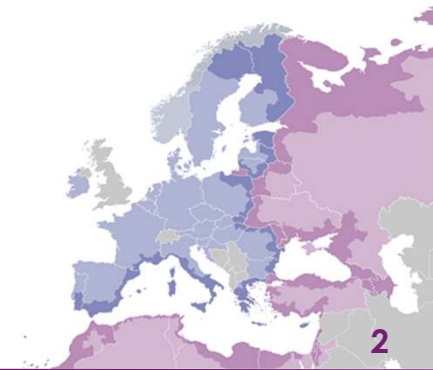
- Article 12.3 / ENI CBC Implementing Rules: “Aid granted under the programme shall comply with the applicable Union **rules on State aid** within the meaning of Article 107 of the TFEU”.
- However, ENI CBC programmes = **one or more countries outside the EU** --> Article 107 cannot be directly applied.

So what's next?

EU legal
framework on
State aid

ENI CBC
Implementing
rules

International
agreements



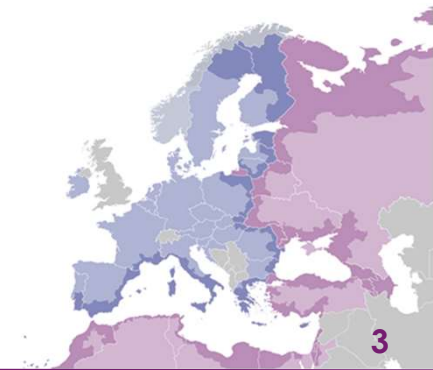
- **Very little literature exists** in the context of the CBC Partner Countries / countries outside EU, however....



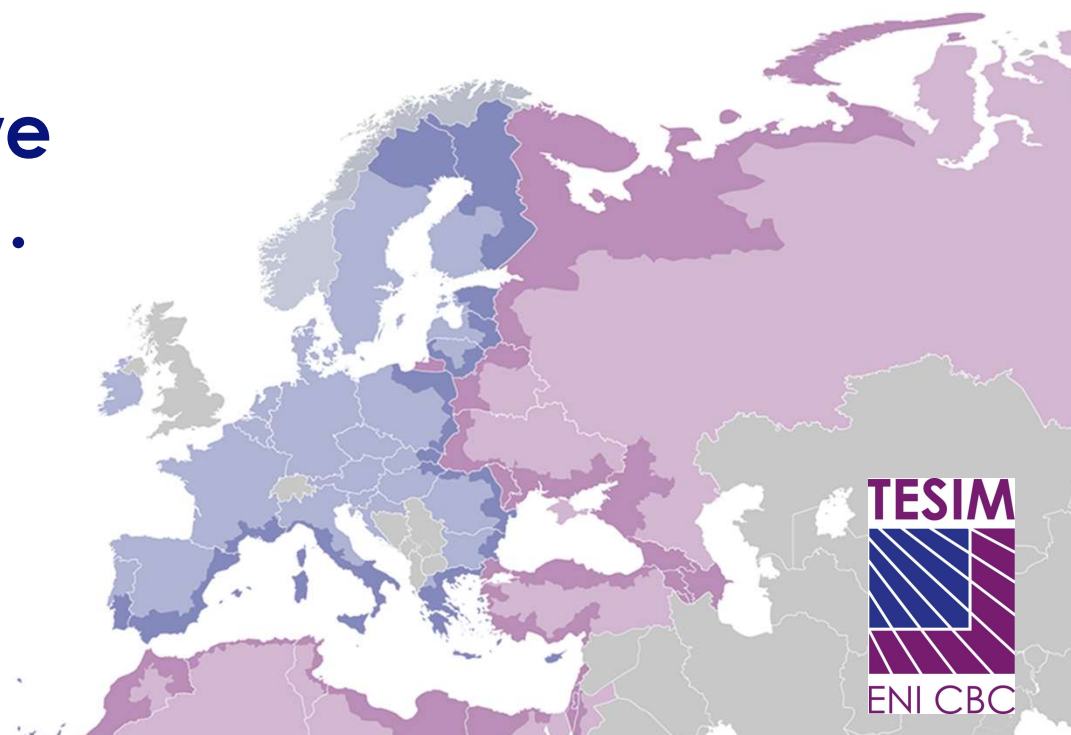
- The **obligation to respect the State aid** provisions is usually mentioned in the Joint Operational Programmes (reference to **bilateral agreement** between the EU and each country).



- So we set the sails to **discover what are the provisions.....**



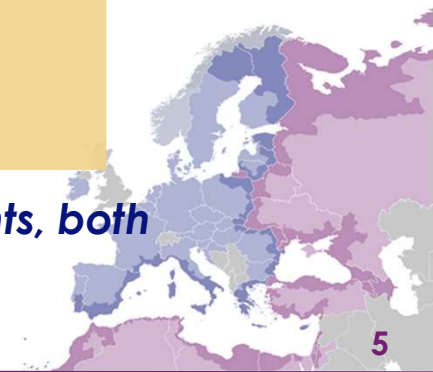
**This is what we
discovered...**



Our findings







TFEU criteria	The criteria on subsidies of WTO or GATT*	No mention (non-applicability) of State aid provisions
Ukraine Republic of Moldova Georgia Turkey Jordan Egypt Tunisia	<ul style="list-style-type: none">• Israel• Palestine	<ul style="list-style-type: none">• Russia• Belarus• Armenia• Lebanon

*** Significant differences in the Association, Framework or Partnership agreements, both in scope and terminology!**

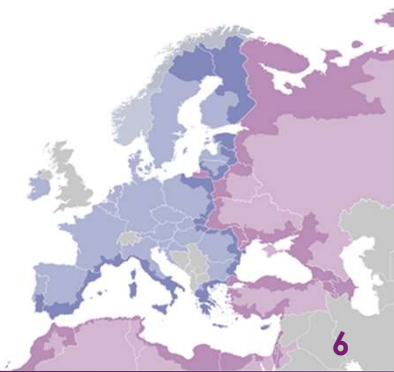


Our findings (2)



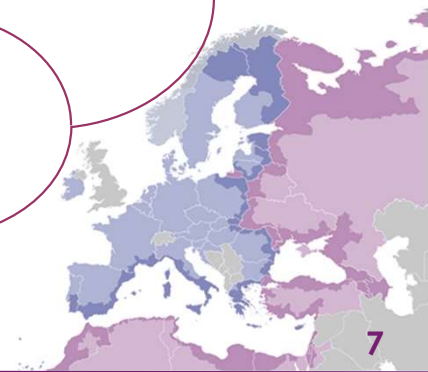
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<https://tesim-enicbc.eu/library/>

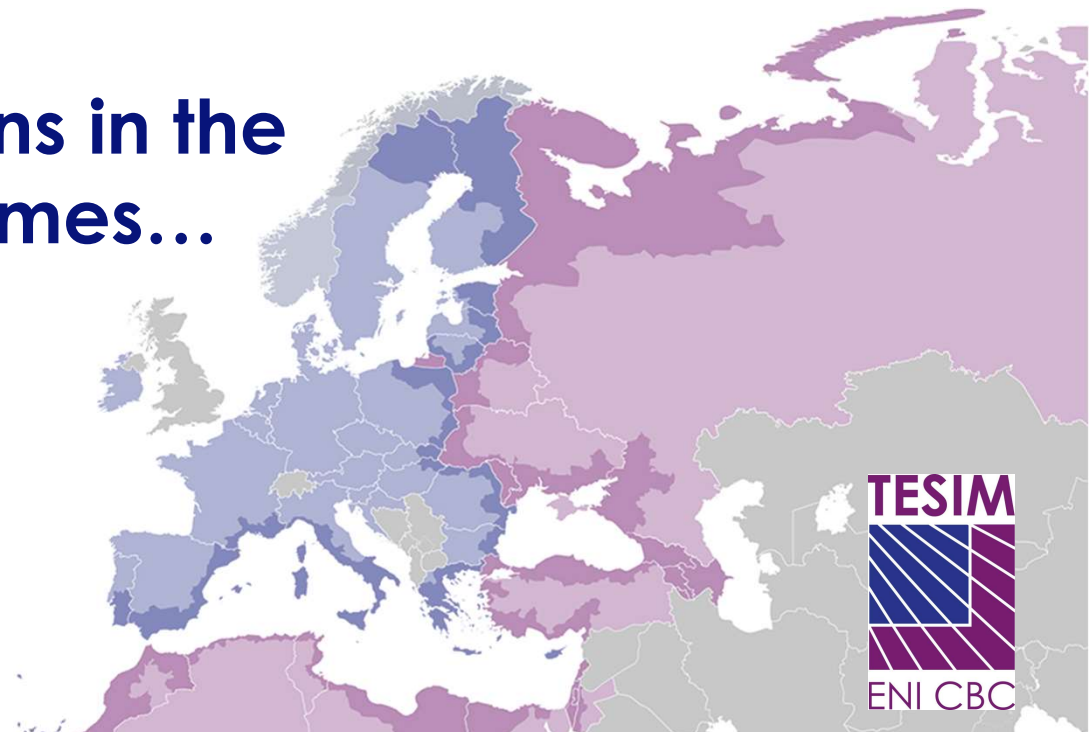


- Where State aid provisions were included... the common feature → conditions for **avoiding a distortion** of the trade/competition between **the EU and the concerned country**

Key element - affects the type of assessment of the potential State aid in the projects (both EU/non-EU beneficiaries)!



**This is how it happens in the
ENI CBC programmes...**



Two ways

For the programmes, where state aid is not eligible

For example, **Black Sea Basin** or **Romania-Ukraine**, focus on State aid assessment!

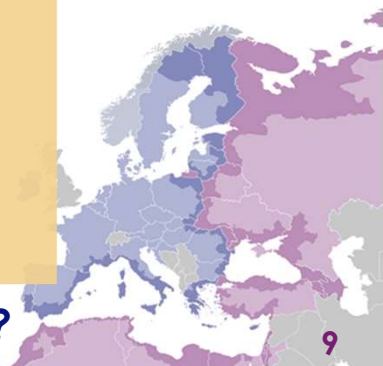


For the programmes, where state aid is eligible

- For example, **ENI MED**, the work involves State aid assessment and management.



Is the trade/competition between the EU and the concerned country affected?



Example of the ENI MED programme



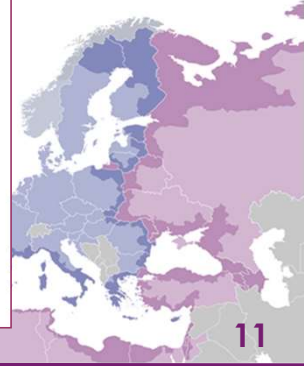
- **Self-assessment** state aid check grid incl. **Jordan, Tunisia, Egypt**);
- State aid de **minimis declarations** by partners;
- List of state aid **recipients for events** to be filled in by the LBs/Partners organizing training, events and other activities for third parties that can be considered undertaking.



Example of the ENI MED programme



SECTION 5 – Effect on the trade (only for organisations established in Egypt, Tunisia and Jordan)	
5.1 Are goods or services affecting the trade between EU and your country?	
<input type="checkbox"/> Yes, goods or services, produced under the project, affect the trade between EU and (specify country).	
<input type="checkbox"/> No, goods or services, produced under the project, do not affect the trade between EU and (specify country).	
Description of goods or services	Estimated budget

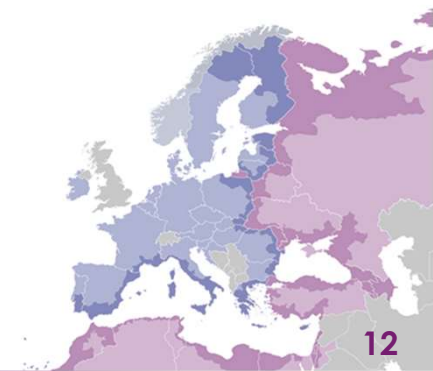


Example of the ENI MED programme

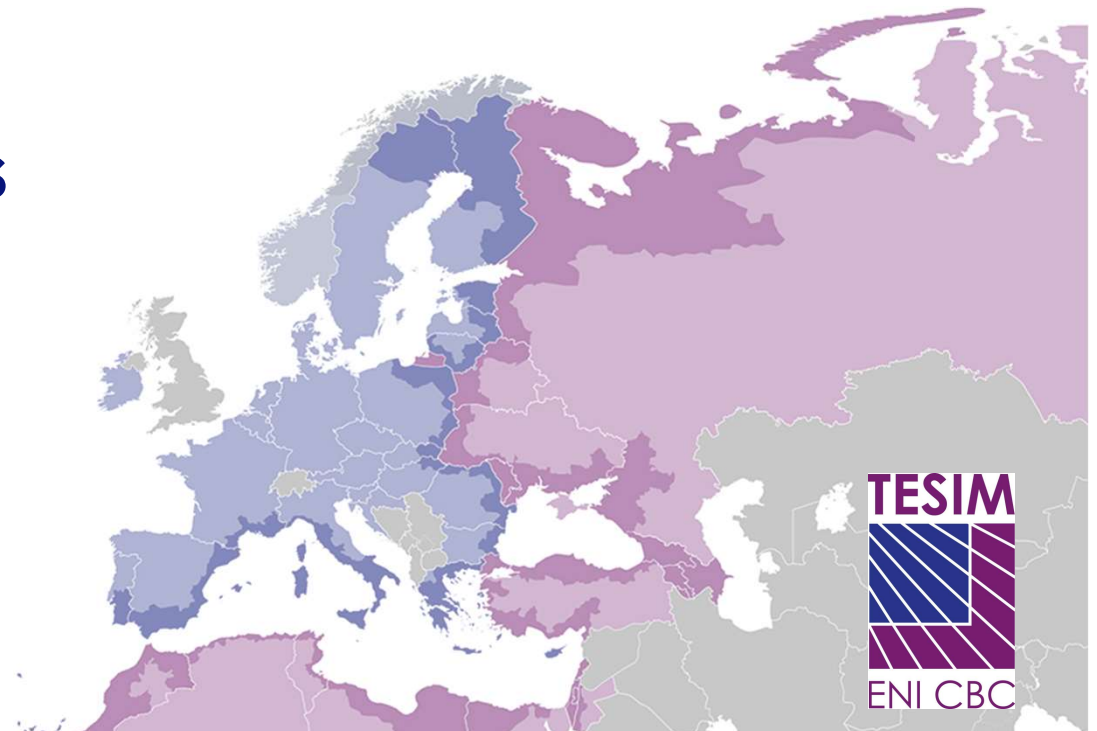


- Tool for indirect aid: List of state aid recipients for events to be filled in by the LBs/partners organising training

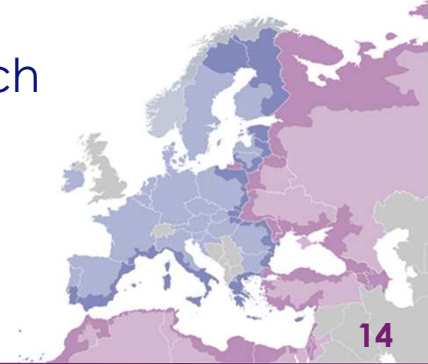
The list of de minimis recipients at the events/activities							
Programme:		ENI CBC Med 2014-2020		Reporting period:			
Project acronym/reference number:				Name of the event/activity:			
Lead Beneficiary/Partner:				Date of the event/activity:			
Nr.	Name of the participant	Name of the organisation	Registration number of the organisation	E-mail of the legal representative or the organisation	Indirect <i>de minimis</i> aid granted per participant - EUR (to be pre-filled in by the LB/PP)	The organisation that the participant represents has not received any aid exceeding the ceilings of the <i>de minimis</i> Regulations during the current fiscal year and the previous two fiscal years (see point 1, 2, 3 below)	Signature of the participant
1.						YES/NO	
Total amount of indirect <i>de minimis</i> aid granted (cost of the event)					0,00		
The confirmations of the participants' organisations							
<p>1. The amount of <i>de minimis</i> aid granted by the Lead beneficiary/Partner is based on the Commission Regulation (EU) 316/2019 (or any regulation replacing it) together with the <i>de minimis</i> aid from the programme does not exceed the <i>de minimis</i> aid ceiling 20 000 euros during the current and two previous fiscal years in case the beneficiary is acting in the following economic sectors as stated in the article 1 paragraph 1 in the Commission Regulation (EU) No 1407/2013:</p> <ul style="list-style-type: none"> - Primary production of the agricultural products as listed in the as listed in Annex I to the Treaty; - Processing and marketing of agricultural products listed in the Annex I to the Treaty as stated in the Commission Regulation (EU) No 1407/2013 article 1 paragraph 1 point c. 							
<p>2. The amount of <i>de minimis</i> aid granted by the beneficiary is based on the Commission Regulation (EU) 717/2014 (or any regulation replacing it) together with the <i>de minimis</i> aid from the programme does not exceed the <i>de minimis</i> aid ceiling 30 000 euros during the current and two previous fiscal years in case the beneficiary is acting in the following economic sector as stated in the article 1 paragraph 1 in the Commission Regulation (EU) No 1407/2013:</p> <ul style="list-style-type: none"> - fishery and aquaculture sector, as covered by Regulation (EU) No 1379/2013 of the European Parliament and of the Council. 							
<p>3. The amount of <i>de minimis</i> aid granted by the beneficiary is based on the Commission Regulation (EU) No 1407/2013, 1408/2013 and 717/2014 (or any regulation replacing it) together with the <i>de minimis</i> aid from the programme does not exceed the <i>de minimis</i> aid ceiling 200 000 euros during the current and two previous fiscal years.</p>							
<p>4. The recipient is not an "undertaking in difficulty" within the meaning of Commission Regulation (EU) 651/2014 (http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014R0651&from=EN), including no liquidation, compulsory dissolution or bankruptcy proceeding has been initiated, or bankruptcy decision made against the beneficiary or a person exercising dominant influence over the beneficiary.</p>							
If the undertaking organization fails to meet the conditions listed above, it must pay the costs of its participation							



Conclusions



- State aid granted in EU countries:
 - **well-known path** of assessment and management, where applicable;
- State aid outside EU countries (ENI CBC programmes):
 - Depends on the **provisions** of the Joint Operational Programmes / bilateral agreement between the EU and each country;
 - If State aid eligible in the programmes, requires **modified** approach (depending on the countries involved).



Thank you! Any questions?

