



Declaration on the status of the Applicant according to the State Aid discipline

Title and acronym of the project: **<Waste management for inland Navigation on the DAnube - WANDA>**
 Undersigned representing the following organisation:

Water Research Institute Bratislava,

declares that:

1. Within the State Aid discipline, the institution I represent shall be considered as ~~undertaking~~/not undertaking.¹
2. In the framework of the South East Europe project proposal, the institution I represent shall be considered as ~~undertaking~~/not undertaking*
3. The activities described in the project proposal ~~are~~/are not* market oriented and ~~are~~/are not affecting trade between Member States for the following reasons:

The project objective is to solve problems related to ship waste management, develop common framework concept of ship waste disposal, implement pilot actions and develop financing model. The project has no impact on inland transport intensity. It is non-profit-making for project partners and thus it has no impact on the market.

4. The institution I represent ~~will~~/will not* be the end user of the ERDF contribution (i.e.: it will involve its own staff or it will delegate the implementation to one of its controlled institutions). Please also mention whether, in case of controlled institution, it should be considered or not as an undertaking and why.

No controlled institution is included in the project.

I acknowledge that untruthful/false declarations, in addition to the administrative sanctions and the request of refunding unduly received contribution charged with the interests, can also be prosecuted by the penal code.

.....


Signature

14.11.2008

Date

Ing. Ľubica Kopčová, Director General

Title of the Signatory



(Official stamp of the Partner Institution)

¹ Select by striking through the not needed parts (e.g. are/are not)

State Aid discipline

According to art. 87 of the Treaty of the European Union and to art. 2.4 of Reg. (EC) No. 1083/2006, **it is not the legal aspect (public or private) but the nature of the activities that the Applicant intends to implement that determines whether the State aid discipline has to be respected or not.**

In particular, art. 87.1 of the Treaty of the European Union states:

"(...)any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market."

Based on the above, **all the following three conditions** have to be identified in a request for funding in order to consider the aid subject to the State Aid discipline:

1. The **aid is provided by a public body**, that means all resources coming from public bodies (EU COM; national, regional, local public bodies etc.);
2. The final beneficiary of the aid is an undertaking, that is "any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed";
3. The aid distorts or can potentially distort the competition and affects trade among the Member States.

The provision of aid by a public body

Due to the fact the funds to be granted by the South East Europe Programme are of a public nature, point 1. above has to be considered as existing "de facto".

The definition of undertaking

Within the domain of competition law, an undertaking is identified as any entity which exercises an activity of an economic nature and which offers goods and services in competition (actual or potential) with other operators active in the market, carrying out activities of an economic nature, devoted to the production and marketing of goods and services in the market.

This is a very wide concept of undertaking also includes all private and public firms and the entire what they produce. Activities carried out within the framework of statutory tasks normally performed by public authorities do not fall within the concept of an undertaking, in view of their non-business purposes and procedures.

In many cases, however, local public or administrative bodies may be considered to be similar to undertakings. In this regard the Commission has observed:

"Admittedly, municipalities and local authority associations are not normally regarded as undertakings. But, even though they may carry out a range of public tasks and exercise public powers, they can, according to the ruling given by the Court of Justice of the European Communities on 16 June 1987, in Case 118/85

(Commission v Italy), be regarded as undertakings if they carry out an economic activity on the market. This is to be assumed to be the case here especially if the municipalities are active via an owner-operated municipal enterprise":

When assessing the whole range of activities of these bodies a pragmatic approach that takes into account the activities that will be implemented within the market is required. Waste disposal or treatment, for example, which in the past was the prerogative of local administrations or was provided by them outside the market logic, is now largely considered a business activity. In general, such activities are often carried out by entities that are mainly or completely controlled by public bodies and directed towards a public interest are considered business activities.

The distortion of the market

The third element required for the application of the State Aid discipline occurs when competition is distorted and affects trade among Member States. Two are the exceptions: when the aid is granted for activities that can be considered as local and when the aid is limited amount.

As far as the first exception is concerned, the Commission, at 2.1 of the Community Guidelines on State Aid for Small and Medium Sized Enterprises of 1996 stated:

“Nevertheless, some SMEs, and certain micro-enterprises in particular, carry on businesses in which there is no trade between Member States...Aid is given to them for activities of this sort falls outside the scope of Article 92 (now 87)(1)”

What is important is not the size of the enterprise but the activities carried out by it, which, by their nature, are not found on a competitive international market. As a result, any public aids in its favour are not such as to affect trade among Member States.

The principle was then confirmed in the “Guidelines on State Aid for Undertakings in Deprived Urban Areas” of 1997, where the Commission exemplified the activities which can be defined as being “local”, citing, among others, the retail trade and repair of household goods, taxis, community, social and personal activities, the sale and repair of motor vehicles; and even arriving at taking into consideration hotels and restaurants and construction companies, specifying that they do not fall within the application of art. 92 (now 87), (1), “to the extent that the activities are not of a transnational nature”. To sum up, it should be noted that, for the activities listed above, they have to be implemented by small enterprises operating in a local and particularly disadvantaged context, like that represented by deprived urban areas.



Declaration and co-financing Statement for Project Partners applying for ERDF funding under the SEE Transnational Programme

Title and acronym of the project: <Waste management for inland Navigation on the Danube - WANDA>

In the event of approval of the above mentioned project applying to the SEE Transnational Programme the

Water Research Institute Bratislava,

states that

- has the legal status of public authority
 - body governed by public law
 - body governed by private law
- commits itself to the project, and intends to provide EUR <18 000> as public co-financing to the project's budget as follows:

State co-financing¹ EUR <insert amount, if applicable >

From <<insert name of the contributing institution, if applicable >

Regional co-financing EUR <insert amount, if applicable> of which in kind contribution²: EUR _____

From <insert name of the contributing institution, if applicable>

Local co-financing EUR <insert amount, if applicable> of which in kind contribution²: EUR _____

From <insert name of the contributing institution, if applicable>

Other public co-financing EUR <18 000> of which in kind contribution²: EUR 0

From < Ministry of Environment of SR >

- declares that it is not under a bankruptcy proceedings, bears full legal capacity and is financially reliable, and that its foundation and activities are in line with the respective national legislation;
- confirms that no expenditure related to the above mentioned project has been, is or will be funded by any other EU funded programme;
- declares to accept the obligations as a partner deriving from the Subsidy Contract, which will be signed by the Lead Partner of the project after the approval.
- commits itself in following the relevant public procurement rules (EC and national) and in making the results available to the public according to the requirements of the Subsidy Contract, which will be signed by the Lead Partner of the project after the approval.

Signature _____

Date 14.11.2008 _____

Ing. Lubica Kopčová, Director General



(Official stamp of the institution)

¹ To be filled in only in case the member state/partner state provides (by automatic or by specific calls) national public contribution at state level for the project selected by the Monitoring Committee, therefore the amount indicated as state contribution will be reimbursed to the project partner.

² Only project partners with a legal status of public authority or body governed by public law are eligible for in kind contributions.



Herewith I confirm that I have read the WANDA Partnership agreement (version 1.0 from the 29.10.2008) and agree to cooperate in the described way.

Name of Project Partner: Výskumný ústav vodného hospodárstva (Water Research Institute Bratislava)
 Name of legal responsible: Ing. Ľubica Kopčová, Director General



BRATISLAVA, 14. 11. 2008

Place, Date Signature of PP legal responsible:

stamp of the Project Partner

Name of Lead Partner: via donau – Österreichische Wasserstraßen-Gesellschaft mbH

Name of legal responsible: Mag. Manfred Seitz
 DI. Hans-Peter Hasenbichler

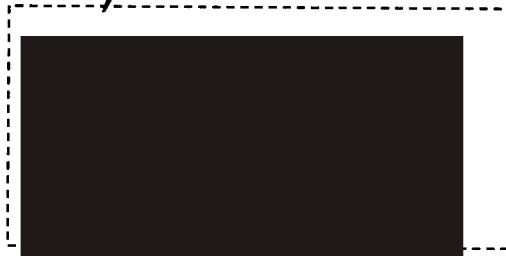


Place, Date Signature of LP legal responsible:

Place, Date

Signature of LP legal responsible:

15/11/08



stamp of the Lead Partner



Herewith I confirm that I have read the WANDA Partnership agreement (version 1.0 from the 29.10.2008) and agree to cooperate in the described way.

Name of Project Partner: Výskumný ústav vodného hospodárstva (Water Research Institute Bratislava)
 Name of legal responsible: Ing. Ľubica Kopčová, Director General



BRATISLAVA, 14.11.2008

Place, Date Signature of PP legal responsible:

stamp of the Project Partner

Name of Lead Partner: via donau – Österreichische Wasserstraßen-Gesellschaft mbH

Name of legal responsible: Mag. Manfred Seitz
 DI. Hans-Peter Hasenbichler



Place, Date / Signature of LP legal responsible:

Place, Date

Signature of LP legal responsible:

15/11/08



stamp of the Lead Partner