

# **The application of the EU public policies in the Outermost Regions (ORs) - constraints and opportunities -**

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## **Summary**

### **What are the ORs?**

See article 349 of the Treaty on the Functioning of the European Union (TFEU) and its modifications (Saint-Barthelemy, Mayotte)

Not to be confused with Overseas Countries and Territories (OCTs) “associated with” the EU;

### **Being an OR implies:**

Being an overseas territory, but still legally integrated within the EU. It's the “differentiated integration” statute: in principle Union Law applies but considering their own difficulties some special provisions can be made.

Thus being part of the EU comes with constraints but also with advantages; those are illustrated by the two following examples.

## **I. One example of the constraints of being an OR part of the EU: Free movement of goods within the EU customs union**

Here we'll study examples of local taxation concerning goods: the “dock dues” in French ORs, the “arbitrio” in the Canary Islands.

### **A - Principle: discrimination is forbidden, according to internal market law**

Local representatives decree higher taxes on imported goods than on domestic goods, to promote local production.

This is a forbidden discrimination according to “internal market” law; The Luxembourg Justice Court confirms so in the early 1990s.

Local representatives called for a revision of the treaty, which they got in the treaty of Amsterdam (put into effect in 1999):

### **B - The possibility to obtain an exemption if decided by the Council of the European Union**

The new article of the revised treaty takes into account ORs' difficulties; this is why the Council can decide for a softening of the constraints that come with being part of the EU.

In both examples, there is a certain limitation of the powers of local authorities:

- limitation in terms of time;
- limitation of the differences with the rules as applied in Europe;
- obligation to be under Union authorities' surveillance.

## **II. One example of the advantages of being an OR part of the EU: softened conditions for financing**

Here we'll see financing coming from the European Regional Development Found (ERDF), in the context of the “Strategy for smart, sustainable and inclusive growth” between 2014 and 2020 (or Europe 2020 Strategy). As parts of the EU, ORs are concerned by it. Two “goals” have been decided by EU authorities for financing:

### **A - EU support according to the “Investment for growth and jobs” goal**

- ORs have opportunities for additional financing. First, the European regions are sorted by annual GDP *per capita* to define a scale for upper limit European co-financing rate; but all ORs benefit from the highest co-financing rate of 85%. They also get an “additional financing” of 30 €/inhabitant/year.
- European financing must be used for “thematic objectives”, going towards the project of a “smart, sustainable and inclusive growth”, with a particular focus on the transition to an economy with low carbon footprint. It's lawful for ORs to also use the “additional financing” to balance additional costs deriving from their own peculiar handicaps, e.g. for goods transport.

### **B - EU support according to the “European territorial cooperation” goal**

ORs get guaranties to help their cooperation with other regions. For example, between 2014 and 2020 they'll receive 50% more than between 2007 and 2013.

ERDF participation outside of the EU, in case of cooperation with out-of-the-EU-regions, is also facilitated: in Europe, ERDF can only participate up to 20% in third countries; overseas it can go as high as to 30% which can be interesting for ORs whose neighbours are mostly third countries.

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