

Foreword

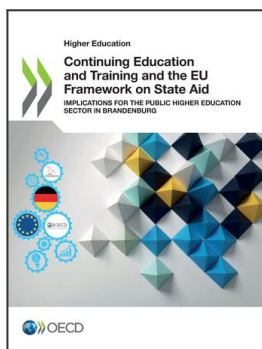
Ageing populations and rising skill demands have heightened expectations that higher education systems will widen their offer of continuing education and training (CET) for adults aiming to renew or augment their skills at an advanced level. CET is becoming increasingly important for maintaining a highly skilled workforce in Germany, and particularly in the state of Brandenburg in support of the undergoing structural change of its economy. Coal production in Brandenburg is being phased out, while the state government is seeking to encourage the development of advanced manufacturing and to increase the capacity for innovation activity. These developments will likely increase the demand in the labour market for high-level skills. At the same time, Brandenburg's workforce is ageing; its people will likely be expected to participate longer in the labour market than in past.

However, Brandenburg's public higher education institutions have so far been only marginal providers. To expand their offer of CET, they require more legal certainty about the use of public funding in light of European Union (EU) state aid policy. EU state aid policy ensures public subsidies (state aid) are not used by state agencies to crowd out markets (economic activity). There are no clear EU, federal or state-level directions about whether CET is a non-economic activity and thus exempt from EU state aid rules.

This report analyses the reasons for this legal uncertainty and provides recommendations to the state government and public higher education institutions in Brandenburg about how to clarify the status of CET as a state-aided activity. It also proposes pointers for interpretation and future reform of the EU framework on state aid with respect to CET, and provides impulses for policy action in other German states and at the federal level.

The OECD project team commissioned a legal analysis of this question to KPMG Law. KPMG Law was asked to investigate how the different categories of education and training are reflected in the EU legal framework and to develop recommendations aimed at increasing legal certainty. The OECD project team further engaged a German tax expert on higher education institution operations to advise the work. This report benefited substantially from feedback and comments received from Bernhard von Wendland, a senior expert on state aid law and research and innovation policy from the European Commission.

This report is an output of the project "Analysis and advice for a renewed tertiary education strategy for Brandenburg and guidance on categorisation of scientific continuing education", which consisted of two sub-projects and was funded by the EU through the Structural Reform Support Programme. The application for funding of the sub-project on categorisation of CET in higher education was submitted by the University of Applied Sciences Potsdam (*Fachhochschule Potsdam, FH Potsdam*) on the initiative of its President, Prof. Dr. Eva Schmitt-Rodermund, in agreement with the other seven public HEIs in Brandenburg and the Ministry for Science, Research and Culture of the State of Brandenburg (*Ministerium für Wissenschaft, Forschung und Kultur, MWFK*). The project was conducted in close collaboration with FH Potsdam, the state's seven other public HEIs, MWFK, and the Directorate General for Structural Reform Support of the European Commission.



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