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## **Revision of approval requirement rules - the General Block Exemption Regulation**

*Business & Science Poland position*

The ongoing review of the General Block Exemption Regulation (GBER) is an opportunity to improve and simplify the EU State aid framework so that it better responds to the challenges of industrial, energy and climate transition. From the perspective of Polish enterprises – both small and medium-sized companies as well as large strategic companies – it is essential to ensure regulatory coherence, legal predictability, and equal access to support measures.

In our position, we focus on three areas requiring particular attention:

1. **Extension of the scope of the Regulation** – covering the full spectrum of technologies, digitalisation and strategic investments in the spirit of technological neutrality, in order to ensure coherent and equal support conditions for all solutions essential to decarbonisation and the competitiveness of the EU economy,
2. **Just transition in high-emission regions** – dedicated support mechanisms for Member States and areas with historically more challenging energy mixes, to guarantee equal opportunities in the decarbonisation process and to maintain social acceptance of the transition,
3. **Consistency of the definition of the “incentive effect”** – clarification of the definition and allowing for flexibility, following the CISAF model, so as to enable financing of transitional investments requiring preparatory actions at an earlier stage,
4. **Regulation of the relationship between parallel frameworks** – establishing the hierarchy and scope of application of the various State aid instruments (GBER, CISAF, CEEAG, IPCEI), so that enterprises can take investment decisions in an efficient and predictable manner.
5. **Transparency and simplification** – simplifying the structure and improving the clarity of the provisions in order to reduce administrative burdens and facilitate the practical application of the Regulation.
6. **Balance between SMEs and strategic enterprises** – maintaining specific support for SMEs while at the same time addressing the needs of large enterprises implementing projects of key importance for the EU’s industrial transition and economic security.

In the following part of this position paper, we present detailed proposals which, in our view, should be taken into account in the context of the GBER review, in order to ensure regulatory coherence, predictability for investors and the overall effectiveness of the State aid framework.

## 1. Extension of the scope of the Regulation

The ongoing industrial and energy transition requires that the GBER covers not only the traditionally supported areas, but also new technologies, digitalisation and strategic infrastructure investments. Extending the scope of the Regulation will allow Member States to support, in a flexible manner, solutions that address current challenges related to decarbonisation and the competitiveness of the EU.

### *Technological neutrality and the full spectrum of solutions*

The Regulation should be broadened in the spirit of technological neutrality, enabling Member States to support all solutions that genuinely contribute to decarbonisation, including renewable fuels, recycled carbon fuels (RCF), low-carbon fuels (LCF) and low-carbon hydrogen as well as renewable hydrogen. The inclusion of all these technologies under the GBER is essential both from the perspective of energy security and the preservation of the EU's industrial competitiveness, while at the same time aligning with the approach taken in the Clean Industrial Deal and the EU taxonomy.

However, limiting the provisions of the GBER limited to to renewable hydrogen hinders the development of a broader hydrogen market and discourages investment. The revised GBER should therefore ensure equal treatment of renewable and low-carbon hydrogen in order to preserve policy coherence. In this context, we call for a clarification of Article 36(1)(b) so that, in the case of investments in low-carbon hydrogen, the method of production is not used as an eligibility criterion – provided that the definition of low-carbon hydrogen is met. The current restriction to hydrogen produced exclusively from electricity excludes, for example, blue hydrogen produced from natural gas with CCS.

### *Strategic autonomy and decarbonisation infrastructure*

At the same time, the GBER does not fully address the strategic challenges to the resilience of the EU economy, in particular in the energy sector. The categories of aid should be broadened so as to support the development and diversification of supply chains and domestic production capacities in areas that are critical for the transition. This includes, in particular, investments in the full CO<sub>2</sub> value chain – from capture installations, through transport, storage and utilisation, up to transmission terminals and hubs – as well as projects for the decarbonisation of existing industrial assets, the development of SMRs (small modular reactors), and strategic supply chains for renewable technologies. In this context, it is also necessary to update Article 36(6), so that the level of support for CCS projects reflects their key role in the decarbonisation of industry and is aligned with other low- and zero-emission technologies.

### *Digitalisation as a new aid category*

In addition, the Regulation should be complemented with a new category of State aid dedicated to digitalisation, also covering large enterprises. It is precisely large entities that have the greatest potential to develop and deploy innovative digital technologies at scale, thereby significantly contributing to the innovativeness and competitiveness of the European economy. At the same time, support for SMEs remains essential, as they drive

market flexibility and dynamism and provide solutions that can be rolled out at scale by larger companies. The current limitations, which rely mainly on regional investment aid, considerably restrict the scope for granting support – since digitalisation concerns the transition of processes rather than the launch of new business activities. These exclusions also prevent access to aid for strategic sectors such as energy, where digitalisation plays a crucial role for efficiency, security and a sustainable transition.

### ***Notification thresholds and aid intensities***

It is essential to adjust aid intensities and notification thresholds to the realities of the industrial and energy transition. This concerns, in particular, raising the thresholds in Article 41 for investments in renewable energy and storage to a uniform level, in order to ensure consistency and eliminate interpretative uncertainties, as well as increasing the threshold for investments in district heating and cooling systems (Article 4(1)(w)) so as to reflect rising transition costs and inflation.

In the case of heat storage, it is necessary to amend Article 41(1a) – by removing the requirement to absorb at least 75% of energy exclusively from the connected renewable source, and by allowing support for storage facilities supplied from efficient district heating systems in line with Article 26(1) of Directive (EU) 2023/1791, in analogy to the approach taken under the EPBD. At the same time, Article 46(7) should be adjusted by raising the aid intensity threshold for investments in the district heating sector from 30% to 60% of eligible costs. Decarbonisation of this sector entails enormous investment needs (estimated in Poland at EUR 70–110 billion by 2050), which, under regulated heat prices, cannot be passed on to final consumers. Increasing the aid intensity is therefore indispensable both for the implementation of projects and for maintaining social acceptance of the transition. Including such investments under the block exemption would enable faster launch of projects of key importance for the transition, increase regulatory certainty and reduce administrative burdens.

## **2. Just transition in high-emission regions**

The current GBER only partially addresses the challenges of a just transition. It lacks mechanisms dedicated to regions whose energy mix has historically been based on fossil fuels. In such areas, the transition process requires not only industrial investments, but also substantial programmes for worker reskilling and reinvestment in local communities.

At the same time, the categories of aid related to skills development in sectors undergoing decarbonisation are weakly linked to investment aid, which often results in training being detached from the projects actually implemented in the fields of renewable energy or low-carbon fuels. Strengthening the integration of these two aspects is a precondition for the success of the transition in high-emission regions and for maintaining social acceptance of change.

## **3. Consistency of definitions**

Certain definitions in the GBER are outdated or do not reflect the realities of transition projects. There is

therefore a need to align the terminology with the current EU taxonomy and the language of industrial policy.

- **“Incentive effect”** (Article 6)

In the State aid framework for supporting the Clean Industrial Deal (CISAF), exceptions were introduced to the classical definition of the “incentive effect” contained in Article 6(2) GBER. CISAF allows the commencement of works before the aid application is submitted, provided that the aid scheme has been adopted and implemented in advance, and that the granting of aid takes place in an automatic, objective and non-discriminatory manner. In some areas (e.g. flexibility mechanisms, de-risking), the incentive effect is even recognised regardless of the moment when works are started. This divergence of approaches means that, in practice, enterprises and implementing institutions may face difficulties in determining which rules should apply – the classical and more restrictive provisions of the GBER, or the more flexible CISAF regulations. This risk is particularly visible in the case of large-scale, multi-stage projects with long investment cycles, where preparatory actions often need to be launched well before the formal application for support.

In addition, the current treatment of the incentive effect in the GBER, linked to the criterion of investment “irreversibility”, does not correspond to the realities of transition projects. Even ongoing investments may be suspended or modified, and their scope is often redefined multiple times. In such cases, the incentive effect is not simply a condition for taking the investment decision, but functions as a risk-mitigation instrument, making it possible, for example, to unlock a frozen project. We therefore call for a broader and more flexible approach to the definition of the incentive effect – one that is framed in terms of the results achieved (e.g. earlier reduction of GHG emissions) rather than the formal moment of project commencement.

- **“Start of works”** (Article 2, point 23)

The current definition is linked to the moment when construction works are initiated or the first binding commitment is made to order equipment or services. We propose updating this definition by eliminating the overly restrictive criterion of “irreversibility” and by allowing certain preparatory actions (such as feasibility studies, obtaining permits or preliminary, reversible orders) to be undertaken before the formal submission of an aid application. The justification for this proposal is that many transition projects require early preparatory measures, while the current wording of the definition discourages investors and remains inconsistent with the more flexible approach adopted under CISAF.

- **“Initial investment”** (Article 2, point 49)

The current definition of “initial investment” creates difficulties for corporate groups in developing viable business models for decarbonisation projects. There should be no restrictions on the eligibility of asset purchases, provided that the market price is documented, and the ownership structure of such assets should not be relevant for their eligibility. Removing this restriction would increase the flexibility of transition projects and allow for more efficient use of existing resources.

- **“Energy from renewable sources”** (Article 2, point 109)

The current definition refers exclusively to classical renewable sources. We propose updating it so that “renewable energy sources” also include hybrid systems combining renewables with energy storage, as well as carbon capture, utilisation and storage (CCUS) technologies, which are an integral part of the energy transition.

The definition should be consistent with the EU taxonomy and the priorities of the Net-Zero Industry Act, under which hybrid technologies and CCUS have been recognised as key for the decarbonisation of energy-intensive sectors.

- **“Energy infrastructure”** (Article 2, point 130d)

The definition of energy infrastructure requires expansion. It should cover not only elements related to the transmission and distribution of energy, but also the full CO<sub>2</sub> value chain: CO<sub>2</sub> storage, as well as terminals and hubs for its transport and transfer. Such clarification would make it possible to include under State aid the key elements necessary for the functioning of the CO<sub>2</sub> market and for supporting carbon capture, transport, utilisation and storage (CCUS) technologies, in line with the EU’s climate neutrality priorities.

#### **4. Regulation of the relationship between parallel frameworks**

In the EU, several different instruments governing the granting of State aid operate in parallel – GBER, CISAF, CEEAG, IPCEI as well as the R&D&I framework and regional guidelines. Each of them was established for a specific purpose and in response to concrete needs. However, the absence of clear rules on their mutual application creates serious challenges for both enterprises and national authorities.

In practice, uncertainty arises as to whether a given project should be implemented under the GBER, or whether it qualifies for support under CISAF or CEEAG. In the case of complex projects – for example large industrial investments in the area of the energy transition – elements of a single undertaking may potentially fall under different frameworks. The lack of clear guidance on the hierarchy of their application leads to interpretative fragmentation. The consequences are investment delays, increased advisory costs and the risk of aid being challenged by the Commission.

This situation also encourages divergences between Member States, which may adopt different interpretations. In turn, this results in fragmentation of the internal market and unequal conditions of competition. Instead of focusing on innovation and investment, enterprises are forced to devote time and resources to determining which aid regime is applicable and whether they risk double compliance scrutiny. We therefore call on the European Commission, in the context of the GBER review, to clearly formulate general principles governing the relationship between the various State aid frameworks. Such a “framework application map” would help avoid parallel legal analyses, shorten investment decision-making processes and increase legal certainty.

In addition, the GBER needs to be better aligned with the conditions applied in EU budget-financed programmes such as the Innovation Fund or Horizon Europe. At present, these programmes cover broader categories of eligible costs than the GBER, which leads to inconsistencies and confusion among beneficiaries. Harmonising the definitions of eligible costs, rules on cumulation and the incentive effect would allow enterprises to combine different sources of support more efficiently.

Transitional provisions are also required to ensure continuity in the application of block exemptions during the gap between successive Multiannual Financial Frameworks of the EU and the period of application of the GBER.

The absence of such continuity would risk disrupting the implementation of co-financed projects and increase regulatory risk.

## **5. Transparency and simplification of the GBER**

The GBER contains numerous exceptions and cross-references, both to other articles and to separate legal acts. In practice, this creates significant difficulties in determining whether a given investment can be granted support. The process of analysing and interpreting the provisions places additional administrative burdens on project promoters and limits the actual use of the instruments provided for under the GBER. The high level of complexity results not only from the systematic expansion of the Regulation – both to new areas and to additional exceptions – but also from the lack of a transparent structure.

An additional barrier is posed by the requirements concerning the calculation of eligible costs in relation to an alternative scenario. The current approach is excessively complex and generates considerable administrative burdens. We call for maintaining flexibility in the choice of aid-awarding method, while simplifying the requirements concerning alternative scenarios. The preparation by the Commission of an indicative list of alternative scenarios for different types of investments would facilitate the application of the provisions and help to maintain an adequate level of support for large transition projects.

At the same time, it is appropriate to adjust the notification thresholds in Article 4 (in particular paragraphs 1(sc) and 1(sd)) to the scale and costs of contemporary district heating and cooling projects. Updating these thresholds would accelerate the launch of investments and better reflect inflation and increasing transition expenditures. We therefore call for the GBER review to lead to the simplification of the Regulation and to improving the clarity of its provisions. Enhancing transparency and practical applicability is of key importance for the effective functioning of the State aid framework.

## **6. Balance between SMEs and strategic enterprises**

In its review of the GBER, the European Commission rightly emphasises the importance of small and medium-sized enterprises, including start-ups and scale-ups, which are a vital source of innovation, flexibility and economic growth dynamics in the EU. For many SMEs, access to capital and the financing of high-risk investments remains a key barrier, which is why the simplified State aid rules provided under the GBER play an important role for them. Faster procedures, reduced administrative burdens and improved regulatory predictability can effectively enhance SMEs' capacity to deploy new technologies, expand their activities and compete in the EU market.

At the same time, it must be recalled that the EU's industrial and energy transition also relies to a significant extent on large strategic enterprises implementing projects of major scale and importance for the entire economy, such as the decarbonisation of the chemical industry, energy production or food processing. These entities have the potential to reshape the structure of European industry and contribute decisively to the achievement of climate objectives.

It is therefore necessary, in the context of the GBER review, to maintain a balance – on the one hand by preserving dedicated support for SMEs, and on the other by creating flexible and adequate mechanisms for large enterprises. Both segments of the economy are closely interlinked: innovative solutions developed by start-ups and scale-ups are often applied in the industrial processes of large entities, while large-scale projects generate demand for products and services supplied by smaller companies. Ensuring complementarity and equal opportunities for both groups within the State aid framework is thus a precondition for building a strong, competitive and resilient internal market.

### *Summary*

Clarifying the relationship between parallel instruments would not only reduce administrative burdens but also strengthen the coherence of the State aid system across the European Union. This would enable enterprises to take investment decisions on the basis of predictable and uniform rules, while providing Member States with a clear reference point when designing support programmes. The clarification of the definition of the “incentive effect” and its relationship to the CISAF provisions is essential to avoid interpretative divergences and ensure greater legal certainty for beneficiaries. At the same time, maintaining dedicated support for SMEs alongside creating space for large strategic enterprises would allow the full potential of both groups to be harnessed in the industrial transition process. Equally important is the extension of the scope of the GBER in the spirit of technological neutrality, as well as the establishment of dedicated support mechanisms for high-emission regions, so that the transition is not only economically effective but also socially just. As a result, the GBER review should lead to the creation of a simpler, more transparent and predictable State aid framework – one that strengthens the competitiveness of the European economy while safeguarding the integrity of the internal market.

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