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Revision of the General Block Exemption Regulation (GBER) – comments on industrial transformation, decarbonisation and strategic resilience

Business & Science Poland position paper

The revision of the General Block Exemption Regulation (GBER) is an important step in adapting EU State aid rules to changing economic, technological and regulatory conditions.

Business & Science Poland (BSP) welcomes the overall direction of the changes proposed by the Commission, including the simplification of the GBER structure, the reduction of certain administrative burdens, and the better reflection of new technological and market developments. We also note with satisfaction that the draft reflects some of the proposals put forward during earlier consultations, in particular as regards a broader opening of the framework to solutions supporting decarbonisation, including low-carbon hydrogen and CCS, the extension of the definition of energy infrastructure, as well as greater flexibility in relation to selected elements of the investment process. We also positively assess those elements of the draft that may contribute to increasing the effectiveness and practical usability of the Regulation, including in particular the possibility, in selected cases, of using competitive mechanisms to determine the level of support and a clearer inclusion of new aid categories related to climate protection.

At the same time, in our view, the draft still requires further refinement in several important areas so that its final shape more fully reflects the needs of undertakings carrying out investments of strategic importance for competitiveness, transformation and the resilience of the European economy. This concerns in particular the need for a fuller reflection of the principle of technological neutrality, greater flexibility in the rules on incentive effect, better account being taken of the specific nature of large industrial and infrastructure projects, stronger conditions for supporting strategic sectors, and greater clarity as regards the relationship between the GBER and other State aid instruments.

In light of the above, we set out below our comments on the draft and proposals for amendments that would make it possible to better align the revised Regulation with the challenges of transformation, competitiveness and the resilience of the EU economy.

1. ADEQUACY OF SUPPORT PARAMETERS FOR DECARBONISATION AND TRANSFORMATION

1.1. Aid intensity

In our view, the draft does not sufficiently reflect the need to increase aid intensity for investments that are key to transformation and decarbonisation. This problem concerns in particular the following categories of investment covered by the draft:

- **Article 51(8)** - climate protection, including the decarbonisation of industrial installations, electrification, CCS and low-carbon fuels,
- **Article 58(9)** - renewable energy sources, energy storage, related infrastructure and high-efficiency cogeneration,
- **Article 64(8)** - district heating and cooling systems, including generation sources, heat storage and distribution networks,
- **Article 53(10)** - recharging and refuelling infrastructure.

In the current draft, the basic support levels (20–45%) provided for these categories of investment remain too low and do not reflect the actual cost structure of transformation projects. In practice, the aid is not sufficient to effectively support undertakings' investment decisions. Many investments require additional expenditure related to grid connection, the expansion of transformers and lines, the construction of CO₂ infrastructure, energy storage, and the modernisation of related infrastructure. These costs significantly affect the total cost of a project, and their weight means that the actual level of support is lower than would nominally result from the aid thresholds provided for. **Although analyses indicate that some projects would require an even higher level of support, the thresholds proposed below should be treated as the minimum level necessary to materially improve the feasibility of such investments.**

a. Industrial projects: electrification, CCS and low-carbon fuels

Particular importance should be attached to increasing aid intensity for industrial investments covered by Article 51, including the electrification of industrial processes, CCS and low-carbon fuels. For such investments, the level of support should reflect not only the formal eligible costs, but also the actual scale of risk, infrastructure-related costs and difficulties in obtaining financing. Increasing the aid intensity for CCS projects to a level analogous to that applicable to investments related to RFNBO hydrogen would be consistent with the principle of technological neutrality, given that CCS technologies constitute one of the key pathways for industrial decarbonisation and for achieving climate objectives.

In addition, in the case of CCS and CCU projects, it is justified to broaden the scope of eligible costs. Under **Article 51(7)(a)** of the draft GBER, the Regulation in principle covers the total investment costs, while **at the same time excluding the costs related to the permanent storage of CO₂ under CCS and the costs related to the use of CO₂ under CCU**. Such a limitation does not reflect the actual structure of CCS and CCU projects, which require support for the entire investment chain. Including these costs in the pool of eligible costs is of key importance for the energy transition and the development of CCS technologies, as it would allow support to cover the full scope of the investment, reduce the financial barrier for undertakings and increase the economic feasibility of projects. Providing more comprehensive support for CCS and CCU would also be more consistent with the EU's decarbonisation objectives and would enable Member States to implement their climate commitments more effectively.

b. District heating and cooling systems

Particular importance should also be attached to increasing aid intensity for district heating and cooling systems. In regulated sectors such as district heating, undertakings have limited ability to pass investment costs on to end users. Given the high costs of network modernisation, RES integration, heat storage and the development of related infrastructure, the current level of support remains insufficient. **Aid intensity that is too low may in practice slow down the modernisation of district heating systems, despite their importance for achieving the EU's climate objectives.**

Investment costs are currently one of the main barriers to development for district heating undertakings. In many Member States, heat prices remain regulated, which means that undertakings are often unable to recover investment costs through tariffs, even though this mechanism is intended to protect end users. At the same time, funding gap analyses show that the justified aid intensity for this type of project often exceeds 50%. In such circumstances, increasing the level of support is necessary not only to accelerate the decarbonisation of the sector, but also to limit the impact of the transition on heat prices and maintain public acceptance for changes in district heating systems.

c. Recharging and refuelling infrastructure

It is also justified to increase the aid intensity for recharging and refuelling infrastructure. In this respect, the draft provides for a basic support level of 20% of eligible costs under an aid scheme, which should be regarded as insufficient in view of the scale of expenditure required to develop the infrastructure necessary for the transport transition. This concerns in particular investments in high-power charging stations, hydrogen refuelling infrastructure and related energy infrastructure elements. **Such a low level of support may slow down the implementation of investments necessary to achieve the objectives arising from EU policies on the decarbonisation of transport.** It is important to note that in developed third countries such as the United States and Canada, higher support levels are applied for recharging and refuelling infrastructure (up to 70–80%) than those provided for in the draft GBER. This shows that the 20% level provided for in the draft GBER remains low also from a comparative perspective.

In light of the above, we propose increasing the maximum aid intensities for the most important categories of transformation investments to the following levels:

- **55–65%** for electrification investments,
- **60–65%** for CCS projects,
- **60–65%** for low-carbon fuel investments,
- **60%** for high-efficiency gas cogeneration,
- **55%** for other investments related to the development of transformation infrastructure,
- **50%** for district heating and cooling systems,
- **50%** for recharging and refuelling infrastructure.

Increasing aid intensity to a more appropriate level is necessary to enable decarbonisation projects to be implemented in practice, accelerate the transformation of industry and transport, and reduce the risk that

investments essential for achieving the EU's climate objectives will remain unrealised due to an insufficient level of support.

d. Competitive bidding procedures and full aid intensity

It is also justified to allow, under **Articles 53 and 54**, for aid intensity of up to 100% of the eligible costs where competitive bidding procedures are applied. A significant number of projects of strategic importance, particularly at an early stage of market development, will not be implemented in the absence of a high or full level of support, due to insufficient commercial viability. At the same time, the use of a competitive project selection procedure constitutes an important safeguard for the efficient and proportionate use of public resources. In such circumstances, the possibility of granting aid of up to 100% of the eligible costs should not be excluded.

1.2. Notification thresholds

In our view, the notification thresholds should be increased, in particular with regard to investments covered by **Article 51 and Article 66**, since the limits currently provided for no longer reflect present-day economic and investment realities. In particular, the EUR 30 million threshold remains at a level inherited from GBER Regulation 651/2014 and has not been systematically updated since then, despite the marked increase in investment costs.

In recent years, inflation, the significant increase in the cost of materials, technologies, energy, logistics and financing have substantially increased the cost of implementing transformation and infrastructure projects. In addition, the effects of the war in Ukraine have further intensified cost pressures and increased investment risk. As a result, the current thresholds no longer reflect the actual scale of contemporary investments in infrastructure supporting decarbonisation. The problem of insufficiently adjusted notification thresholds also concerns investments in renewable energy sources, high-efficiency cogeneration and district heating systems, the scale and costs of which have increased significantly.

This is particularly evident in the case of projects required under EU policies such as Fit for 55, AFIR or RED III, which presuppose the rapid deployment of large-scale and capital-intensive investments, including energy, grid, hydrogen and recharging infrastructure, as well as other projects supporting the transition. Maintaining notification thresholds at an unduly low level leads in practice to the artificial splitting of projects, prolongs their implementation and increases administrative burdens by channeling an excessive number of investments into the full notification procedure.

The scale of the proposed changes should take due account of the specific features of the individual categories of investment. **Article 51** concerns a very broad group of industrial decarbonisation investments, including electrification, CCS, hydrogen and low-carbon fuels, that is to say projects which increasingly approach the scale of large industrial projects and require significant expenditure also on related infrastructure. In their case, the EUR 30 million threshold is particularly disconnected from cost realities. This is especially apparent in the case of CCS projects, which are among the most capital-intensive investments covered by Article 51 and require

substantial expenditure not only on the capture installation itself, but also on the related infrastructure necessary for the implementation of the decarbonisation project as a whole. Maintaining such a low notification threshold may in practice limit the pace of deployment of this category of investment, despite the fact that CCS constitutes one of the key pathways for industrial decarbonisation.

A similar assessment should be made in relation to the notification threshold provided for investments covered by **Article 58(2)**, in particular as regards BESS (Battery Energy Storage System) projects. The current EUR 30 million threshold significantly limits the possibility of using the block exemption for larger energy storage projects, even though their scale, costs and system relevance have increased markedly. In practice, this limit may cover only installations with a capacity in the order of 250–300 MWh, depending on the technological configuration, connection costs and the scope of related infrastructure, whereas modern BESS projects are increasingly reaching 1000–1200 MWh. At the same time, the costs of such investments are rising not only with capacity, but also due to requirements relating to cybersecurity, control systems, fire safety and integration with energy and ancillary services markets. An unduly low notification threshold may therefore, in practice, exclude from the simplified support regime projects of key importance for the flexibility of the electricity system and the security of its operation.

Article 66, by contrast, concerns energy infrastructure, for which the threshold in the draft is already higher and amounts to EUR 70 million. The proposed increase to EUR 100 million should therefore be regarded as a moderate, yet still necessary, adjustment in light of the growing costs of grid, hydrogen, CO₂ and heat infrastructure projects.

In light of the above, it is necessary to:

- increase the notification threshold from EUR 30 million **to EUR 150 million** for environmental projects covered by Article 51(2);
- increase the notification threshold from EUR 30 million **to EUR 120 million** for energy storage projects covered by Article 58(2);
- increase the notification threshold from EUR 70 million **to EUR 100 million** for energy infrastructure investments covered by Article 66(2).

1.3. Budgetary ceilings under aid schemes

Additional concerns also arise in relation to the average annual budget threshold of EUR 300 million provided for in **Article 53**. This limit may significantly constrain the implementation of projects involving the development of publicly accessible recharging or refuelling infrastructure for alternative fuels, notwithstanding the fact that investment needs in this area remain very substantial. As a result, the block exemption partially loses its character as a generally available instrument and begins to function as a quantitative constraint on the scale of support. In our view, such an approach does not correspond to the objective of the Regulation, which should facilitate the rapid and broad deployment of infrastructure necessary for the decarbonisation of transport. For this reason, it would be justified to delete from Article 53 the average annual budget threshold of EUR 300 million.

2. SCOPE OF THE REGULATION AS REGARDS TECHNOLOGIES AND INFRASTRUCTURE SUPPORTING DECARBONISATION

2.1. Upstream activities and the full CO₂ value chain

While the draft contains positive changes as regards the definition of CO₂ infrastructure and more broadly acknowledges the role of such infrastructure in the decarbonisation process, it still requires further refinement in order to cover the full chain of activities necessary for the effective development of CCS and CCU. This concerns, in particular, support for projects reducing emissions in existing extraction installations, the reduction of methane emissions, CCUS systems, and the use of depleted oil and gas fields as CO₂ storage sites. At the same time, the current definition of CO₂ infrastructure does not sufficiently cover all elements necessary for the functioning of a full CCS/CCU system, in particular CO₂ terminals, transport and transshipment hubs, and appropriately defined storage infrastructure.

Such an approach leaves a significant regulatory gap, since support limited solely to capture and transport is not sufficient for the development of the CCS/CCU value chain as a whole. Storage sites, terminals and transfer hubs constitute key infrastructure elements enabling the safe transport, permanent storage or use of CO₂. Their omission increases the investment barrier, raises project risk and reduces the attractiveness of investment, notwithstanding the fact that CCS and CCU are among the most important emission reduction technologies in hard-to-abate sectors.

2.2. Support for decarbonisation investments by gas operators

The draft GBER, in its current wording, addresses decarbonisation investments carried out by gas operators in an overly restrictive manner. Pursuant to **Article 66(3)(c)**, aid may not be granted for gas infrastructure unless such infrastructure is dedicated to the use of hydrogen and/or renewable gases, or serves for the transport of more than 50% hydrogen and/or renewable gases. This approach should be regarded as excessively restrictive, since it does not reflect the realities of the gradual transformation of gas infrastructure. At the same time, the draft itself defines energy infrastructure broadly and includes within that notion also gas infrastructure and smart gas grids serving the integration of renewable and low-carbon gases, including hydrogen and gases of non-biological origin.

In practice, the development of decarbonised gas markets requires the financing of anticipatory investments preparing infrastructure, in particular distribution networks, for the future injection and transport of biomethane, hydrogen and other renewable and low-carbon gases, before their physical share in transported volumes reaches a high level. This concerns, in particular, investments ensuring the technical readiness of infrastructure, increasing connection capacity and enabling the injection of such gases into the system. Existing gas infrastructure may play an important role in the gradual scaling-up of renewable and low-carbon fuels and in stabilising the energy system during the transition period. In this context, maintaining a rigid threshold of more than 50% hydrogen and/or renewable gases may, in practice, prevent support for projects that genuinely

contribute to the decarbonisation of the gas system but, at an early stage, are not yet able to demonstrate such a high share of decarbonised gases.

In addition, the draft does not specify how the share of transported hydrogen or renewable gases is to be measured. This gives rise to significant interpretative uncertainty and may lead to divergent application of the provision by Member States and operators. For that reason, it would be more appropriate to move away from a rigid quantitative threshold in favour of a criterion based on the technical readiness of infrastructure to accommodate renewable and low-carbon gases. In light of the above, it would be justified to replace the current wording of **Article 66(3)(c)** with a solution that would enable support for investments preparing gas infrastructure for gradual decarbonisation, in particular by ensuring readiness for the injection of renewable and low-carbon gases into the system.

2.3. A technologically neutral approach to the production and use of hydrogen

The sections relating to the production or use of hydrogen or its derivatives should not be linked exclusively to the production or use of renewable or low-carbon hydrogen, or of its derivatives. In practice, the production of hydrogen through electrolysis makes it possible to produce renewable hydrogen only where the electrolyser is powered by electricity from renewable sources. However, given the hydrogen production process itself, the intermittent nature of electricity generation from renewable sources and, in certain cases, the need to ensure a very high level of reliability of hydrogen supply, situations may arise in which an electrolyser will, on a temporary basis, produce hydrogen that does not qualify as renewable.

Similarly, having regard to the need to meet the 70% emission reduction threshold and the high carbon intensity of the electricity mix in many Member States, it is not possible to produce low-carbon hydrogen from non-renewable electricity at all times. The production or use of even limited amounts of hydrogen that does not qualify as renewable or low-carbon should not result in additional restrictions being imposed, since in many cases this constitutes a transitional and technically necessary element for the development of renewable and low-carbon hydrogen production pending the full decarbonisation of the electricity grid.

Such an approach would also be consistent with other solutions adopted in the draft, in particular in relation to investment aid for recharging or refuelling infrastructure, where the excessively restrictive term “exclusively” has been abandoned. In this regard, it would be justified to clarify the relevant provisions accordingly, in particular **Article 2(141)(c)(vi)**, **Article 80(5)(e)**, **Article 82(6)(b)(iii)** and **Article 82(8)(a)(i)**, so as to ensure that they do not result in the exclusion of projects that genuinely contribute to the development of the hydrogen economy but in practice require a certain degree of technological and operational flexibility.

2.4. Support for investments in SAF and biofuels

Article 52(3)(b), in its current wording, may unduly restrict the possibility of supporting investments related to the production of SAF and biofuels. The exclusion covers not only installations using fossil fuels, but also investments in which fossil fuels are used in combination with other energy sources. In practice, this may exclude projects implemented in phases or making use of transitional solutions, notwithstanding the fact that

their objective is to reduce emissions and support the development of alternative fuels. It is therefore justified to soften this provision so that it does not prevent investments supporting the transition, in particular SAF and biofuel projects.

2.5. Nuclear energy and technological neutrality

Article 50 introduces an explicit exclusion of aid for nuclear energy generation from the section concerning environmental protection, notwithstanding the fact that such investments are in any event subject to a separate assessment under the general State aid rules and do not automatically benefit from the simplified block exemption regime. No analogous general exclusion existed in the current GBER. The addition of this provision therefore does not appear necessary and may at the same time be interpreted as a regulatory signal narrowing the approach to technologies that are relevant from the perspective of decarbonisation and energy security.

2.6. Exclusion of energy investments from regional aid

The draft GBER, in **Article 14(b)**, excludes from the scope of regional aid investments in the energy sector, including generation, storage, transmission, distribution and energy infrastructure. In our view, such an exclusion is too broad and does not reflect the current needs of economic transformation and the decarbonisation of regions. The energy sector plays a key role in the modernisation of regional economies, especially in areas facing greater development challenges and in regions historically dependent on conventional energy sources. Maintaining the exclusion of energy investments from regional aid limits the possibility of supporting projects related to infrastructure modernisation, the deployment of low-carbon technologies and the strengthening of energy security. Such an approach is also difficult to reconcile with the principle of territorial cohesion and with the objectives of *the Green Deal* and decarbonisation strategies. In light of the above, it would be justified to remove from Article 14(b) the reference to generation, storage, transmission, distribution and energy infrastructure, or to narrow that exclusion appropriately, so that regional aid may cover energy investments supporting the transition and regional development.

2.7. Electrode boilers in district heating and cooling systems

It would be justified to extend **Article 64(6)** so as to explicitly cover electrode boilers. The current wording of the provision provides for the possibility of granting aid for energy generation based on renewable energy sources, heat pumps compliant with Annex VII to Directive (EU) 2018/2001, waste heat, high-efficiency cogeneration and heat storage solutions, but does not expressly refer to power-to-heat technologies such as electrode boilers. In our view, their explicit inclusion would be justified from the perspective of the transformation of the district heating sector. The main function of electrode boilers is to make use of surplus electricity, in particular electricity generated from renewable sources, and convert it into clean heat. As a power-to-heat technology, electrode boilers support the decarbonisation of district heating systems, facilitate compliance with the criteria for an energy-efficient district heating system, and increase the flexibility of the electricity system in periods of oversupply of electricity from renewable sources. Such a solution would be fully consistent with the objectives of EU climate and energy policy.

3. SUPPORT FOR STRATEGIC SECTORS AND THE RESILIENCE OF SUPPLY CHAINS

3.1. Sector-specific derogation under regional aid for investments in APIs and critical medicines

Consideration should be given to introducing into the GBER a sector-specific derogation from the regional aid map for investments in the production of active pharmaceutical ingredients (APIs) and critical medicines. Under the current rules, investment support is unavailable in certain more developed regions of the EU, notwithstanding the fact that a significant share of existing pharmaceutical manufacturing capacity is located precisely in those regions. This concerns, inter alia, capital regions such as Warsaw, Budapest, Prague, Ljubljana and Bucharest. In practice, **this limits the possibility of carrying out investments of strategic importance for medicinal security and the economic resilience of the European Union.** Introducing a sector-specific derogation for investments in APIs and critical medicines would make it possible to better align the GBER with the objectives of rebuilding European manufacturing capacities and reducing dependencies on supplies from outside the EU.

3.2. Flexible use of the supported investment in strategic sectors

It is also important to introduce into the GBER a **mechanism enabling the flexible use of an investment supported by State aid for purposes other than those originally indicated in the application**, provided that the new use remains consistent with the beneficiary's business profile and serves the public interest. In strategic sectors such as pharmaceuticals, the possibility of rapidly redirecting existing infrastructure towards the production of products of particular public importance, including critical medicines, may be of key importance in crisis situations. Such a solution would strengthen the resilience of supply chains and improve the efficiency of the use of supported infrastructure.

4. INCENTIVE EFFECT AND START OF WORKS

While the draft partially clarifies the rules relating to the moment of start of works, it continues to maintain an unduly rigid approach to the incentive effect in transformation projects. Pursuant to **Article 8(2)**, aid is deemed to have an incentive effect if the beneficiary has submitted a written application for aid before the start of works on the project or before the start of the activity. In our view, such an approach does not fully reflect the realities of large-scale, multi-stage decarbonisation investments, which require a number of preparatory, organisational and formal steps to be carried out in parallel.

The pace of implementation of transition-related measures does not fully correspond to the timelines of calls for applications, in particular under EU funds, which are cyclical in nature. Beneficiaries must simultaneously coordinate State aid procedures, contractor selection, contract implementation, the obtaining of the necessary permits and administrative decisions, as well as the technical preparation of the investment. In practice, this often requires some of these activities to be undertaken in parallel even before the formal submission of the aid application. In such circumstances, the simplified verification of the incentive effect provided for under aid schemes complying with the GBER becomes insufficient and may lead to the unjustified exclusion of projects which, from an economic perspective, still require aid in order to be implemented. This is particularly relevant in the case of projects of a large scale, with a long investment cycle and a high degree of complexity, where

limited preparatory steps do not yet predetermine the final implementation of the investment. In such cases, the incentive effect should be assessed not solely by reference to the formal date of submission of the application, but also taking into account the actual degree of maturity of the project and the impact of the aid on the investment decision. Such an approach would also be consistent with the direction of more flexible solutions adopted under the CISAF.

In light of the above, it would be justified to introduce greater flexibility into Article 8(2) by allowing the application for aid also to be submitted after the start of works on the project, provided that the financial progress of the project and the value of commitments entered into remain limited and do not exceed a level at which it can be concluded that the project has already reached the stage determining its irreversible implementation.

5. BETTER ALIGNMENT OF THE GBER WITH THE IMPLEMENTATION OF TRANSFORMATION PROJECTS

5.1. Eligible costs in research, development and demonstration projects

Article 32(4) requires clarification as regards the eligible costs for research and development projects. The current wording of the provision refers to general cost categories such as personnel, instruments and equipment, buildings and land, contractual research and operating costs, but does not expressly indicate the costs of large-scale demonstration installations. This may give rise to interpretative uncertainty, particularly in the case of industrial projects in which the demonstration phase is of key importance for the transition from the research stage to deployment. In our view, it would be justified to clarify explicitly that the costs of large-scale demonstration installations constitute eligible costs under Article 32. This would be consistent with the underlying logic of the draft Regulation itself, which, in the definition of research and development activities, refers to demonstration, piloting, testing and validation of technologies, as well as to demonstrators and pilot lines. An explicit reference to such costs in Article 32(4) would reduce the risk of divergent interpretation and better reflect the realities of large-scale demonstration projects carried out in industry.

5.2. Just transition in high-emission regions

The inclusion in the draft of higher training aid intensities for the upskilling and reskilling of workers in regions covered by territorial just transition plans should be assessed positively. This constitutes a step in the right direction. At the same time, the draft continues to address just transition primarily through the lens of training aid and does not establish broader mechanisms linking support for workers with investment aid for transformation projects implemented in regions historically reliant on fossil fuels. In practice, the effective transformation of such areas requires a more integrated approach, encompassing in parallel industrial investment, workforce reskilling, and support for local communities and economies.

About BSP

Business & Science Poland (BSP) combines the experience of leading Polish enterprises with the European Union's agenda. We represent the knowledge and interests of Polish companies employing over 280,000 people in Poland, the EU, and worldwide. Our goal is to support the EU Single Market, taking into account the need for its responsible and effective transformation.