



HUNGARIAN STATE AID MONITORING OFFICE

**Hungarian position on amendments to (i) the Implementing Regulation and (ii) the Code of Best Practices for the conduct of State aid control procedures**

**Comp(2025)2013037–HT.6062- State aid and Aarhus Convention**

**21 March 2025**

Hungary is thankful for the Commission's hard work on the draft amendments and providing the Member States with the possibility to share their views.

In general we would like to highlight that the application of the Aarhus Convention to State aid procedures will increase the overall duration of the procedures, and will introduce an additional layer of uncertainty. We also believe that State aid rules are already compliant with the Aarhus Convention, since no aid may be granted in breach of the EU environmental law.

Despite our general remark, Hungary understands the obligation of the Commission to modify the Implementing Regulation and the Code of Best Practices.

A general remark concerning the amendment of the *Code of Best Practices for the conduct of State aid control procedures*: Hungary considers that a more user-friendly text would enhance legal certainty.

- In this regard, Hungary proposes incorporating a precise definition or at least illustrative examples of what constitutes a State aid measure being '*indissolubly linked*' to EU environmental law. We believe that for aid schemes it is very difficult, if not impossible to show the indissoluble link, as the future beneficiaries and projects to be financed by the aid are not known at the time of the Commission's approval.
- We seek clarification on paragraph 81(f), specifically regarding '*any other document providing evidence*' that would allow NGOs to be eligible for submitting a request for internal review. Providing concrete examples would be beneficial and contribute to increasing the clarity of the text.

To further enhance legal certainty concerning future Commission decisions closing formal investigations under Article 108(2) TFEU, Hungary proposes that such decisions explicitly state whether the objective of the aid is *indissolubly linked* to EU environmental law or not.

Additionally, paragraph 96 states that NGOs may submit a request for internal review within 8 weeks following the publication of the State aid decision. Does this refer to publication on the DG COMP's website or in the Official Journal?

Nevertheless, we consider that the deadlines set out in the procedure are too long, negatively impacting legal certainty and potentially deterring investment. While we acknowledge that the internal review does not impose a standstill obligation, in practice, companies may choose to delay their investments until the review process is completed or even not to carry out investments after realising that the Commission's decision is still subject to a specific procedure after its adoption.

Finally, we would appreciate further clarification on the relationship between the internal review procedure and the statements in the judgment of the Court in the recent *Neos* case (C-490/23 P). The Court held that, given the extremely large number of provisions and principles of EU law that may be infringed by the granting of aid, the Commission cannot be required to provide specific reasoning concerning each one when assessing compatibility. This appears to contrast with the requirement to assess the environmental compatibility of a measure. We would appreciate a written answer on this matter.