

NOTAT

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The Danish Government's response to the consultation on the targeted revision of the GBER – InvestEU, ETC and Horizon

The Danish government welcomes the opportunity to comment on the proposal to revise the General Block Exemption Regulation ("GBER") to accompany the next Multiannual Financial Framework ("MFF").

Generally, we welcome the Commission's initiative to strengthen the interplay between state aid policy and cohesion policy. We can support the proposal to simplify the rules for granting state aid combined with financial support from the EU-funds. Please find below the Danish comments to the three areas in which the Commission proposes to extend the GBER:

- National funding involved in financial products supported by the InvestEU Fund;
- Research and Development and Innovation ("R&D&I") projects having received a Seal of Excellence under H2020 or Horizon Europe
- European Territorial Cooperation projects ("ETC")

The Danish government acknowledges that the proposed compatibility conditions for exemption of state aid combined with financial support from the EU-funds are complementary to the relevant conditions and scrutiny in the EU-programs. Hence, a level of safeguard against distortions of competition is already included in the programs and by the involvement of the Commission in the management of the programs.

However, for any new category of aid in the GBER it must be ensured that public funding does not replace private investment, that the aid address a market failure, that it serves general policy objectives and does not go beyond the amounts needed to meet these objectives. It is also important that the Commission in cooperation with the Member States continue its work to ensure state aid discipline in individual Member States when applying the GBER.

Furthermore, the GBER must provide sufficient safeguards against state aid being granted or linked to relocation of jobs or activities between Member States. We are aware that the Commission attaches great importance to this issue, which it also stated under the latest revision of the enabling regulation.

InvestEU

The proposed thresholds for granting state aid in combination with the InvestEU-program take into account that this type of aid will not be direct grants

but rather aid through financial instruments such as guarantees. Hence, we do not oppose to the proposed threshold levels.

The Danish government finds that the conditions for exemption of the new areas in the GBER should rely on the conditions that already apply for the corresponding categories of state aid in the current GBER.

It is proposed that the general condition in the GBER that the beneficiary cannot be an undertaking in difficulty should not apply for state aid grants supplementing the InvestEU-program. The exemption from this general compatibility condition is to apply to SME's and financial intermediaries only. Hence, large undertakings that are not financial intermediaries are required to demonstrate that they are not undertakings in difficulty in order to receive state aid related to the InvestEU-program under the GBER.

While we acknowledge that a level of safeguard against the beneficiary being an undertaking in difficulty is already included in the EU-program we do not see a need to exempt any of the beneficiaries of national aid combined with aid under the InvestEU-program from this fundamental horizontal condition in the GBER.

In the current GBER exemptions from the condition that aid cannot be granted to undertakings in difficulty only apply to e.g. aid schemes to make good damage caused by natural disasters and start up aid. We do not find that the same considerations for exemption is present in the case of combining national aid with aid from the InvestEU-program. If the undertaking demonstrates that it is not in difficulty in the process of approval of aid at EU-level it seems that it will not be an excessive administrative burden to also provide this evidence to the granting authority on a national level in advance of receiving national aid.

Research development and innovation – seal of excellence

The Danish government can generally support the Commission's proposal to amend the GBER on R&D&I so it also covers situations where national state aid is granted to projects awarded a Seal of Excellence quality label.

European Territorial Cooperation projects (ETC)

The Danish government finds that the existing GBER regulation contributes to a fair balance between the necessities of granting aid to ETC-projects from participating Member States while ensuring that distortion of competition is limited. We also take note that undertakings participating in ETC-projects can in principle apply to all GBER provisions.

The ETC-projects in which Denmark participates are primarily financed under the De Minimis Regulation. Furthermore, the current GBER already provides

for a block exemption for ETC-projects to SMEs. From our point of view, there is not an immediate need for changing the status quo.

In Article 20, the Commission proposes that state aid under the GBER to ETC-projects should not be limited to SMEs. According to the proposal, large undertakings should be able to receive state aid of up to 65 per cent of costs relating to infrastructure, equipment and construction works. Up to 2 million. EUR per company per project.

The Danish government has great concerns about the proposal to include large undertakings in the scope of the GBER for ETC-programs. In our view, public support to large undertakings should always be limited to a minimum, as these undertakings are likely to be able to cover expenses themselves. In case state aid to large undertakings' participation in ETC-projects will be included in the GBER it should be strictly limited to the proposed article 20a. I.e. state aid should not exceed EUR 20.000 per undertaking per project.

As the Commission proposes that state aid to large undertakings can cover costs for infrastructure, equipment and construction works, it is furthermore our concern that the aid could lead to relocation of undertakings and jobs in the EU. This would be a highly unwelcome negative side effect of the proposal. Therefore, the Commission should provide a protection against relocation. We propose to introduce a safeguard against relocation similar to that provided for in article 14(16) of the GBER.

Alternatively, we would urge the Commission to exclude large undertakings from receiving aid for equipment, infrastructure and works under the GBER, since these categories of expenditure are connected with a higher risk of relocation effects.

Finally, in respect to the proposed aid intensities we note they are substantially increased. Thus, a small enterprise can receive aid of up to 80%, while medium-sized enterprises can receive up to 75%. In general, we cannot support that state aid granted to an ETC-project under the GBER exceeds the co-financing rate set out in the ETC-programs, which generally cannot exceed 70%.