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Subject: **Invitation to the 1st Advisory Committee meeting on a targeted revision of the General Block Exemption Regulation (HT.5934)**
(Written comments from authorities of Slovenia)

Draft COMMISSION REGULATION amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

Slovenia welcomes the Commission proposal for the new amendment of the GBER Regulation. However, the new draft has become a very complicated document and will not be easy to implement in practice. The proposal is not always going in the direction of simplification. We would therefore like to ask the Commission to provide the simplified option for smaller measures. Please find below our comments.

- **Article 9:** The new transparency threshold will cause additional administrative burden as well as adjustments of IT solutions, which will attribute to significant increase of costs by the MS. We propose to the EC to maintain the threshold of 500.000 EUR.

We understand the interest of the EC to have information on most of awarded state aid in EU, but we do not agree that this information should be published and available to the WWW (world wide web) as this puts companies in the EU to an un-advantaged position to the ones from the rest of the world. Everyone can see what kind of state aid a certain company received and from who. This is problematic especially for aid for RDI. Every member state should have its own register of the state aid awards, available to all granting authorities to enable them the properly evaluate eventual recipients of the aid but this information should not be published on the WWW as it distorts the fair competition of EU companies opposite the companies outside the EU.

Further we would like to comment on the elements of transparency provisions to be published (Annex III) as we believe some of them should not be published, like "Objective of the aid". Reference to the aid measure should be enough. The date of the publication should be available only to the users of TAM and not to the public.

- **Article 13:** (e) aid covering investment costs for buildings, land, and equipment to the extent and as long as they are part of a project supported under Article 25.”

We are wondering if it will be possible to support a single investment project that receives aid in the first phase under Article 25 (RDI) (project in the development phase) and in the second under regional schemes (production phase). We have a similar question for pilot demonstration projects.

- **Article 14:** in paragraph (3) the third sentence is replaced by the following: “Aid to large enterprises shall only be granted for an initial investment that creates a new economic activity in the area concerned.”

We propose that in areas receiving aid and fulfilling the conditions of Article 107(3)(c), initial investment aid may be granted, regardless of the size of the beneficiary, also to large companies, at least to promote the development of strategically important activities (e.g. medicines, medical and protective equipment, food products, critical technologies (e.g. semiconductors, medical and pharmaceutical technology, aerospace and defense technology, etc.) which are important for the whole European interest. The outbreak of COVID-19 and its impact on the economy has further demonstrated the importance of ensuring the production and supply of the before mentioned activities in Europe.

In this context we propose that in Article 14 of Regulation 651/2014, the second and third sentences in paragraph 3 be amended as follows:

"In assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty, the aid may be granted to large enterprises for the benefit of strategically important activities and to SMEs for any form of initial investment. However, outside strategically important activities, aid to large enterprises shall only be granted for an initial investment that creates a new economic activity in the area concerned."

- **Articles 25, 25a and 25b:** In the context of the public consultation on the draft amendments of Regulation (EU) No 651/2014, we propose that Articles 25, 25a and 25b could take into account not only Seal of Excellence quality projects but also positively evaluated projects that have run out of Horizon 2020 or Horizons Europe funding.

EC and MS would like to promote synergies between different funding sources and reduce administrative burdens for beneficiaries. Not only projects that have received the Seal of Excellence (this is currently only awarded by the EIC Accelerator, Teaming, MSCA IF and MSCA COFUND, ERC proof of concept), but also others positively evaluated projects above the co-financing threshold which demonstrate appropriate scientific and research excellence, social, economic and environmental impact and quality of implementation should be exempt from State aid rules or aid granted to these projects should be considered as compatible with State aid rules under the conditions set out in the GBER. This would make procedures at MS level easier, encourage them to co-finance projects, which have already been evaluated by independent experts at EU level and have demonstrated appropriate quality. The number of co-financing would increase, which would also have a positive effect on performance of applicants. A broader definition would also cover those parts of Horizon Europe programme that do not award the Seal of Excellence, but with proper placement in the GBER, they could significantly increase co-financing with other sources of funding (e.g. ERA Chair).

- **Article 27** is amended as follows: paragraph 2 is replaced by the following: Investment aid for the innovation cluster should be granted exclusively to the entity owning the cluster facilities. Operating aid for the innovation cluster shall be granted exclusively to the owner of the facilities unless the facilities are rented out, against a market fee, to an entity operating the cluster and bearing the financial risk of its operation. In the latter case, the operating aid shall be granted exclusively to the entity operating the innovation cluster at its own risk. In cases where the cluster operator is also the owner of the cluster or a user of the cluster, or both, and in cases where the cluster operator is a consortium of actors without a separate legal personality, the financing, costs and revenues of the activities as cluster operator shall be accounted for separately, on the basis of consistently applied and objectively justifiable cost accounting principles, from all other types of activities of the same legal entity.”

The proposed statement narrows the space of entities as operators, as it conditions the ownership of cluster facilities. For example, our Strategic development-innovation partnership is a group of business entities that have their own facilities and they are not tied to the cluster operator. A clear and precisely interpretation of this provision is needed, as well as the correction itself.

- **Article 36:** The new methodology for calculating the extra environmental investment costs is even more complicated. We believe that the term "hypothetical investment that would have been carried out without the granting of aid" is too general and indefinite, which could lead to many problems in the implementation.

For example, in 2015 vehicles with an internal combustion engine were considered as a comparable investment for electric vehicles. Over the years, however, determining comparable investment has become increasingly difficult as it has required increasingly difficult technical judgment. The market for electric vehicles is developing rapidly and for many electric vehicles the model of a vehicle with an internal combustion engine no longer exists, but the electric vehicle is developed as an independent vehicle type (eg Tesla, Porsche Taycan, Volkswagen ID.3, BMW i3, tricycles for mail delivery, Renault Twizy, etc.).

We propose to the EC to introduce a simplified option for calculating the aid for small projects and to provide MS with practical examples how to determine the counterfactual situation.

- **Article 36b:** the eligible costs are calculated as the difference between the net present value of the lease of a clean / zero emission vehicle and the net present value of the lease of the same category, in accordance with Union standards and would be leased without aid. We propose to the EC to introduce a simplified option for calculating the aid for small projects and to provide MS with practical examples how to determine the counterfactual situation: precise instructions at the level of the European Union for determining a comparable investment in electricity or electricity clean / emission-free vehicles (e.g. what technical and possible other characteristics should be compared; whether the electric / emission-free and comparable vehicle must be from the same manufacturer, or the same engine power; etc.). At the same time, we propose to draw up a uniform list of comparable vehicles for electric / zero-emission vehicles sold on the European market. With such a list, all Member States would have the same conditions for determining eligible costs.

- **Support for ESCOs:** State aid rules on energy efficiency measures in buildings regulate aid when investments are made by the owner or the user of the building. In the case of Energy

Performance Contracts Guaranteed Savings models provided by ESCOs to building owners, however, investments are made by a third party on behalf of the owner of the building. As generally all energy efficiency measures (window replacement, roof insulation etc.) are related to the building, they are reflected in the growth of the value of building owner's assets, not in the balance sheets of ESCOs. This renders the ESCO business very capital intensive with a requirement of high liquidity of ESCOs. ESCOs that are SMEs are unable to compete for projects with larger companies, especially when such companies belong to the energy sector. Since ESCOs have basically no assets, they are also unable to provide suitable collateral for the loans they need to take to acquire new projects. In line with the intentions of the Commission, as listed under paragraphs 6, 7 and 11 of the preambles of the draft document, similar reasoning for specific compatibility provisions should be used for the support for ESCO SMEs and thus contribute to the development of a functioning ESCO market.

- **Transitional period:** We propose to the EC that the GBER scheme in force, with duration till 2023 could remain in force as they are till 2023, to simplify the procedure and maintain the legal expectations of the companies.

We would appreciate if the Commission would publish the additional explanations provided to MS on its web site.

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