

HT.5934 - Targeted review of the General Block Exemption Regulation (State aid): revised rules for State aid promoting the green and digital transition (I draft)

Estonia's position on the I draft of GBER

In general we support the draft and new possibilities under GBER. But once again we have to note that GBER has now become a very lengthy and quite a complicated document not easy to implement. So all kind of guidance, explanations and examples are very welcome – either in the form of analytical grids, templates or in other form.

Please find below our comments on the first draft of GBER:

- 1) **Article 1 paragraph 4 point (c)** (*exceptions when aid to undertakings in difficulty is allowed*): we propose to provide for an exemption for undertakings in primary agricultural production – especially in case of Article 44 (Article 44 – Aid in the form of reductions in taxes under Directive 2003/96/EC).

In Estonia, aid on the basis of Article 44 is *inter alia* granted to farmers as an excise duty reduction for special purpose diesel.

The definition of „undertakings in difficulty“ does not take into account the reasons for the difficulty. Estonian Ministry of Rural Life is of the opinion that in the primary agricultural production sector, an exemption from the ban to grant aid to undertakings in difficulty should be considered due to the specificities of the agricultural sector.

The reasons for becoming undertaking in difficulty could be, for example, unfavourable weather conditions, crises caused by animal or plant diseases or other exceptional circumstances, price volatility in agricultural markets and agricultural products, import bans on products, market closures, seasonality in agricultural sector etc.

- 2) **Article 2 point 18** (*definition of “undertaking in difficulty”*): COVID-19 pandemic has given important experience on how to interpret “undertaking in difficulty”, so in our opinion the definition needs more clarity. We understand that the notion of undertaking in difficulty can only be changed by amending the R&R guidelines. But before that it might be helpful to e.g. consolidate the questions and answers in eState aid wiki on the interpretation of “undertaking in difficulty” in one document and if possible, to add examples.

- 3) **Article 9 paragraph 1 point (c)** (*publication of information on individual aid award exceeding 100 000 euros*): Estonia has a State aid and *de minimis* aid registry where all state aid awards are published without any thresholds (i.e. starting from 1 euro cent). So far we have published aid awards granted under GBER exceeding 500 000 euros also in TAM (by hand) but the publishing of all aid awards exceeding 100 000 euros will be too heavy administrative burden as most state aid in Estonia is granted on the basis of GBER.

So we are not in favour of decreasing the threshold to 100 000 euros and invite the Commission to maintain the 500 000 euros threshold in GBER.

- 3) **Article 25** (paragraph 6, point (b), new subpoint (iii)): it is not understandable what is meant under “on timely basis” (“*the beneficiary commits to widely disseminate the research results, including where the beneficiary commits to, on timely basis, makes*

available licences for research results ...”). From the oral explanation given by the Commission at Advisory Committee meeting on 7 December we have understood that it has to be interpreted on case by case basis by Member State itself and there are no strict deadlines. Nevertheless and as the GBER conditions have to be applied by the Member States strictly we ask the Commission either to explain in GBER what is meant by “timely basis” or leave this phrase out of the draft.

- 4) **Article 36** (paragraph 2, replaced points (a) and (b)): it is not understandable what is meant by “another entity” (“*it shall enable the beneficiary or another entity to increase the level of environmental protection ...*”). Although it was explained orally at the Advisory Committee meeting on 7 December we ask the Commission to give the explanation also in the draft.
- 5) New **Article 36b** (paragraph 4): it is stipulated that aid under this article (*investment aid for the acquisition of clean vehicles, zero-emission vehicles or for the retrofitting of vehicles*) shall be granted in a competitive bidding process. We are of the opinion that there should be left a possibility to grant aid also based on aid applications – as it is the case in Article 36 of the current GBER. We ask the Commission to consider adding this possibility to the draft.
- 6) **Transitional provisions:** we ask the Commission to explain what will happen to the existing aid schemes which were implemented before the new amendments of GBER will come into force. This is particularly important in case of GBER articles which will be significantly amended. We note that the 6 months transitional period stipulated in Article 58 is not enough to amend the existing measures e.g. in case state aid is granted under Act or Law (in Estonia all Act have to be adopted by the Parliament and there are three readings before adoption).

Technical comments on Estonian translation:

- 1) Article 2(102b): the translation in Estonian should be “*tankimistaristu*” – *paikne või teisaldatav rajatis, mis võimaldab tankida sõidukeid vesinikuga transpordi otstarbel*” (currently: “*tankimistaristu*” – *paikne või teisaldatav taristu, mis võimaldab tankida sõidukeid vesinikuga transpordi otstarbel*”);
- 2) Article 13(c): the translation in Estonian should be “*regionaalabi selliste kavade vormis, mis on suunatud piiratud arvule konkreetsetele majandussektoritele; kavasid, millega soodustatakse turismindust või põllumajandustoodete töötlemist ja turustamist, ei peeta konkreetsele majandussektorile suunatuks*” (currently: “*regionaalabi selliste kavade vormis, mis on suunatud piiratud arvule konkreetsetele majandussektoritele; kavasid, millega soodustatakse turismindust või põllumajandustoodete tootmist ja turustamist, ei peeta konkreetsele majandussektorile suunatuks*”);
- 3) Article 36(2a)(b), first sentence: the translation in Estonian should be “*investeeringuprojekti nüüdispuhasväärtus kogu selle majandusliku eluea vältel peab olema negatiivne*” (currently: “*investeeringuprojekti nüüdispuhasväärtus koguse selle majandusliku eluea vältel peab olema negatiivne*”);
- 4) Article 39(2): the translation in Estonian should be “*Käesoleva artikli alusel abi saamiseks on abikõlblikud investeeringud, mis parandavad hoonete energiatõhusust*” (currently: “*Käesoleva artikli alusel abi saamiseks on kõlblikud investeeringud, mis parandavad hoonete energiatõhusust*”);

- 5) Article 41(10), first sentence: the translation in Estonian should be “*Kui abi antakse eelnevalt kindlaks määratud selgetest, läbipaistvatest ja mittediskrimineerivatest kriteeriumidest lähtuva võistupakkumise alusel kooskõlas meetme eesmärgiga ja strateegilise pakkumise riski minimeerimiseks, võib abi osakaal ulatuda 100 %ni abikõlblikest kuludest*” (currently: “*Kui abi antakse strateegilise pakkumise riski mõõtmiseks ja minimeerimiseks eelnevalt kindlaks määratud selgetest, läbipaistvatest ja mittediskrimineerivatest kriteeriumidest lähtuva võistupakkumise alusel, võib abi osakaal ulatuda 100 %ni abikõlblikest kuludest*”);
- 6) Article 42(2), first sentence: the translation in Estonian should be “*Abi antakse eelnevalt kindlaks määratud selgetest, läbipaistvatest ja mittediskrimineerivatest kriteeriumidest lähtuva võistupakkumise alusel kooskõlas meetme eesmärgiga ja strateegilise pakkumise riski minimeerimiseks*” (currently: “*Abi antakse strateegilise pakkumise riski mõõtmiseks ja minimeerimiseks eelnevalt kindlaks määratud selgetest, läbipaistvatest ja mittediskrimineerivatest kriteeriumidest lähtuva võistupakkumise alusel*”);
- 7) Article 44(5), second sentence: the translation in Estonian should be “*Kui nende kavade abisaajad on suurettevõtjad, siis teevad nad lisaks järgmist*” (currently: “*Kui nende kavade abisaajad on suurettevõtjad, siis teevad nad samuti järgmist*”);
- 8) Article 46(5): the translation in Estonian should be “*Lõike 3 erandina võib abi osakaal jõuda kuni 100 %ni rahastamispuudujäägist, mis arvutatakse positiivsete ja negatiivsete rahavoogude erinevuse alusel investeringu eluea jooksul ning mis diskonteeritakse kapitalikulu nüüdisväärtusele*” (currently: “*Lõike 3 erandina võib abi osakaal jõuda kuni 100 %ni rahastamispuudujäägist, mis arvutatakse positiivsete ja negatiivsete rahavoogude erinevuse alusel investeringu eluea jooksul ning mis diskonteeritakse kapitalikulu jooksvale väärtusele*”);
- 9) Article 48(5): the translation in Estonian should be “*Abi osakaal võib jõuda kuni 100 %ni rahastamispuudujäägist, mis arvutatakse positiivsete ja negatiivsete rahavoogude erinevuse alusel investeringu eluea jooksul ning mis diskonteeritakse kapitalikulu nüüdisväärtusele*” (currently: “*Abi osakaal võib jõuda kuni 100 %ni rahastamispuudujäägist, mis arvutatakse positiivsete ja negatiivsete rahavoogude erinevuse alusel investeringu eluea jooksul ning mis diskonteeritakse kapitalikulu jooksvale väärtusele*”).

Tallinn,
8 December 2021