



ADH CR response in public consultation on the draft Commission regulation (EU) amending Regulation (EU) N. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

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Association for District Heating of the Czech Republic ("ADH CR") welcomes opportunity to comment on draft Commission regulation (EU) amending Regulation (EU) N. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

There are approximately 4 million people connected to District Heating ("DH") systems in the Czech Republic, of which **3.3 million people, approx. one third of the Czech Republic's total population use heat supplies from DH installations that are covered by the EU ETS**. These are mostly panel blocs of flats inhabited by middle- and low-income households at risk of energy poverty. DH plants also supply the tertiary sector, including schools, hospitals, social services, small businesses.

In 2020, 55% of the DH heat supplied came from coal, 11% from renewable sources and waste heat, and 27% from natural gas. The year-on-year increase in the price of EU allowances means an increase in the price of DH heat produced from coal by approximately 15% and in the case of natural gas by 7% for the next year.

The Czech DH sector pledged to coal exit by 2030, while the Czech Republic's current strategies assume its use beyond 2040. The Coal Commission of the Czech Republic recommended coal exit in 2038. **The cost of this transformation is estimated at CZK 100 billion (EUR 4 billion)**. There is a need to **keep sufficient electricity production and provide ancillary services for the stability of the electricity grid** with a growing share of electricity from intermittent sources. **There is an imperative to keep acceptable heat prices especially for households and public customers.**

As part of the National energy and climate plan, the Czech Republic already counted on the **maximum use of available biomass and municipal waste for coal replacement in DH plants by 2030**. These energy sources can replace at best **half of the DH heat production from coal**. **Until 2030, there is no alternative other than natural gas to replace the second half of DH heat production from coal**. An alternative is the disintegration of DH systems and the transition to natural gas in the form of local domestic boiler rooms. This would lead to a deterioration of the air quality in cities and other negative phenomena, including an escalation of energy poverty.

Thus key conditions for the transformation of DH sector in the Czech Republic while maintaining social integrity and preventing the escalation of energy poverty is the use of funds from the Modernization Fund also for investments to the transition from coal to natural gas in DH sector. This should be enabled also by state aid rules and GBER regulation in particular so that support schemes for modernization of DH systems can be approved in expedite manner.

Taking into account needs of the DH sector in the Czech Republic to transform and substantially decrease GHG emissions by 2030 while maintaining acceptable heat prices ADH CR has the following comments on the above-mentioned proposal amending Regulation (EU) N. 651/2014:

1. Article 1(1) (as)

Suggested changes:

(as) points (124a) and (124b) are inserted:

“(124a) ‘district heating’ and/or ‘district cooling’ means district heating or district cooling as defined in Article 2, point (19), of Directive ~~2010/31/EU~~ **2018/2001/EU** of the European Parliament and of the Council*;

(124b) ‘district heating and cooling systems’, consist of heat generation facilities (heating/cooling production plants), the heating/cooling storage and distribution network (both ‘primary’- or transmission- and ‘secondary’ network of pipelines to supply heat to ~~consumers~~ **final users**).

Reference to district heating is to be interpreted as district heating and/or cooling systems (DH/CS), depending on whether the networks supply heat or cooling jointly or separately;

~~* Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).”;~~

***Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82–209).”;**

Justification:

Directive 2018/2001/EU provides more up to date definition of district heating including decentralized sources:

(19) ‘district heating’ or ‘district cooling’ means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from central **or decentralised sources** of production through a network to multiple buildings or sites, for the use of space or process heating or cooling;

Term ‘consumer’ is misleading. We suggest using term ‘final user’ as defined in the directive 2012/27/EU.

2. Article 1 (1) (av)

Suggested changes:

(av) point (130) is replaced by the following:

“(130) ‘energy infrastructure’ means any physical equipment or facility which is located within the Union or linking the Union to one or more third countries and falling under the following categories:

...

(e) infrastructure used for transmission or distribution of ~~heat/~~ **thermal energy in the form of steam, hot water or chilled liquids** from multiple producers or users, based on use of ~~zero or low carbon heat, steam or residual heat from industrial applications or from production processes (waste heat)~~ **renewable energy including green cogeneration or waste heat;**

Following definition should be included:

‘waste heat’ means waste heat as defined in article 2 point (9) of the Directive (EU) 2018/2001.

Justification:

Term 'zero or low carbon heat' is not defined and very ambiguous and should be replaced with clearly defined and tangible terms – namely energy from renewable sources and waste heat or cold. Regarding waste heat or cold definition from directive 2018/2001/EU should be used. It is broader than just residual heat from industrial installations and covers also data centers and tertiary sector.

3. Article 1 (2) (e)

Suggested change:

(e) point (v) is replaced by the following:

“(v) for operating aid for the promotion of electricity from renewable sources, as referred to in Article 42, **operating aid for high efficiency cogeneration, as referred to in Article 42a** and operating aid for the promotion of energy from renewable sources, **high efficiency cogeneration** and renewable hydrogen in small scale installations and for the promotion of renewable energy communities, as referred to in Article 43: EUR **20 30** million per undertaking per project;”;

Justification:

Current limit of EUR 15 million should be doubled in order to support achievement of climate and energy targets. It should also apply to operating aid for high-efficiency cogeneration as we suggest to be introduced in new article 42a and article 43.

4. Article 1 (2) (f)

Suggested change:

(f) the following point (va) is inserted:

“(va) for operating aid for the promotion of energy from renewable sources, **high efficiency cogeneration** and renewable hydrogen in small scale installations and for the promotion of renewable energy communities, as referred to in Article 43, and for operating aid for the promotion of electricity from renewable sources, as referred to in Article 42 **and for operating aid for the promotion of high efficiency cogeneration in Article 42a** : EUR **250 300** million per year taking into account the combined budget of all schemes falling under the respective Article;”;

Justification:

Current limit of EUR 150 million should be doubled in order to support achievement of climate and energy targets. It should also apply to operating aid for high-efficiency cogeneration as we suggest to be introduced in new article 42a and article 43.

5. Article 1 (2) (g)

Suggested change:

(g) points (w) and (x) are replaced by the following:

“(w) for aid for district heating or cooling systems, as referred to in Article 46: EUR **50 70** million per undertaking per project;

(x) for aid for energy infrastructure, as referred to in Article 48: EUR 70 million per undertaking per project;”;

Justification:

There are quite large district heating schemes across EU that will need to be substantially refurbished until 2030, especially in Central and Eastern Europe. It is hard to see why notification threshold for district heating or cooling systems should be lower than the one for energy infrastructure.

6. Article 1 (25) (f) 3d.

Suggested changes:

3d. Aid may also be granted for the improvement of the energy efficiency of the heating or cooling equipment inside the building. **Aid for heating or cooling equipment directly connected to district heating and cooling systems will be assessed under the conditions applicable to aid for district heating and cooling set out in Article 46.** Aid for the installation of oil-fired, coal-fired or gas-fired energy equipment shall not be exempted under this Article from the notification requirement of Article 108(3) of the Treaty. Aid may be granted for the installation of more energy-efficient gas-fired energy equipment provided that it replaces oil-fired or coal-fired energy equipment and that it is ensured that the gas-fired energy equipment is replaced by equipment using renewable fuels by 2050 at the latest.”;

Justification:

Connection of a building to district heating can contribute to primary energy savings and significantly improve level of environmental protection. It should be clarified that aid for heating or cooling equipment directly connected to district heating and cooling systems will be assessed under the conditions applicable to aid for district heating and cooling set out in Article 46.

7. Article 1 (26) (e)

Suggested change:

“11. Aid may also be granted for the improvement of the energy efficiency of the heating or cooling equipment inside the building. **Aid for heating or cooling equipment directly connected to district heating and cooling systems will be assessed under the conditions applicable to aid for district heating and cooling set out in Article 46.** Aid for the installation of oil-fired, coal-fired or gas-fired energy equipment shall not be exempted under this Article from the notification requirement of Article 108(3) of the Treaty. Aid may be granted for the installation of more energy-efficient gas-fired energy equipment provided that it replaces oil-fired or coal-fired heating equipment and that it is ensured that the gas-fired energy equipment is replaced by equipment using renewable fuels by 2050 at the latest.”;

Justification:

Connection of a building to district heating can contribute to primary energy savings and significantly improve level of environmental protection. It should be clarified that aid for heating or cooling equipment directly connected to district heating and cooling systems will be assessed under the conditions applicable to aid for district heating and cooling set out in Article 46.

8. Article 1 (28) (c)

Suggested change:

(c) paragraphs 2, 3 and 4 are replaced by the following:

“2. Investment aid for the production of biofuels, bioliquids, biogas and biomass fuels shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts **and are made from the feedstock listed in Part A of Annex IX to that Directive.**

...

Justification:

Annex IX to the Directive 2018/2001 applies to feedstocks for the production of biogas for transport and advanced biofuels, the contribution of which towards the minimum shares referred to in the first and fourth subparagraphs of Article 25(1) may be considered to be twice their energy content and hence is completely irrelevant for heat and electricity production from biomass fuels and article 41 of GBER which does not apply to fuels used in transport.

9. Article 1 (28) (d)

Suggested changes:

(d) the following paragraph 4a is inserted:

“4a. Investment aid for high-efficiency cogeneration shall be exempted from the notification requirement of Article 108(3) of the Treaty only if it is not for fossil fuel fired cogeneration installations, with the exception of natural gas where compliance with **national climate and energy plan in view of the 2030 and 2050 Union's climate targets** is ensured.”;

Justification:

Compliance with 2030 and 2050 climate targets cannot be verified on project level (beneficiary of aid). Compliance of the investment with national climate and energy plan which provides for concrete measures to reach climate and energy targets on national level can be ensured.

10. Article 1 (28) (e) and (f)

Suggested changes:

(e) paragraphs 5, 6 and 7 are replaced by the following:

“5. The investment aid shall be granted in respect of newly installed or refurbished capacities. The aid amount shall be independent from the output.

6. The eligible costs shall be the total investment cost.

7. The aid intensity shall not exceed:

(a) 30 % of the eligible costs for the production of energy from renewable energy sources, renewable hydrogen, **waste heat** and high-efficiency cogeneration;

(b) 15 % of the eligible costs for projects involving electricity storage.”;

(f) paragraphs 9 and 10 are replaced by the following:

“9. The aid intensity may be increased by 15 percentage points for investments using only renewable energy sources, including green cogeneration **or waste heat**.

Justification:

It is neither realistic nor appropriate to require that by 2030 district heating systems use only energy from renewable energy sources. In line with the Energy Efficiency First principle, projects with a very high share of renewable energy and/or waste heat should be entitled for the green bonus (higher aid intensity).

11. Article 1 (29a) new

Suggested changes

(29a) the following Article 42a is inserted:

“Article 42a

Operating aid for the promotion of electricity from high-efficiency cogeneration

1. Operating aid for the promotion of electricity from high-efficiency cogeneration shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. High-efficiency cogeneration shall not use fossil fuels with the exception of natural gas where compliance with national climate and energy plan in view of compliance with the 2030 and 2050 Union’s climate targets is ensured.
1. Aid shall be granted in a competitive bidding process on the basis of clear, transparent, non-discriminatory and objective criteria, defined ex ante in accordance with the objective of the measure and minimising the risk of strategic bidding. Those criteria shall be published at least 6 weeks in advance of the deadline for submitting applications, to enable effective competition. The competitive bidding process shall fulfil all of the following criteria:
 - (i) the budget or volume related to the bidding process shall be a binding constraint in that it can be expected that not all bidders would receive aid;
 - (ii) the expected number of bidders shall be sufficient to ensure effective competition;
 - (iii) the design of undersubscribed bidding processes during the implementation of a scheme shall be corrected to restore effective competition in the subsequent bidding processes or as soon as possible;
 - (iv) ex post adjustments to the bidding process outcome (such as subsequent negotiations on bid results or rationing) shall be avoided as they may undermine the efficiency of the process’s outcome.
2. The bidding process can be limited to specific technologies where a process open to all generators would lead to a suboptimal result.
3. Aid shall be granted as a premium in addition to the market price whereby the generators sell their electricity directly in the market.

4. Aid beneficiaries shall be subject to standard balancing responsibilities. Beneficiaries may outsource balancing responsibilities to other undertakings on their behalf, such as aggregators.
5. Aid shall not be paid for any periods where prices are negative. For the avoidance of doubt, this applies as of the moment when prices turn negative.
6. Aid shall only be granted until the plant generating the electricity from high-efficiency cogeneration has been fully depreciated in accordance with generally accepted accounting principles. Any investment aid received shall be deducted from the operating aid.”;

Justification:

Operating aid for promotion of high-efficiency CHP is important for number of Member states in order to achieve climate and energy targets. Provision of this aid by competitive bidding process has limited impact on internal market and should be facilitated by GBER.

12. Article (1) (30) (a)

Suggested changes:

“Article 43

Operating aid for the promotion of energy from renewable sources, high efficiency cogeneration and renewable hydrogen in small scale installations and for the promotion of renewable energy communities

1. Operating aid for the promotion of energy from renewable sources, high-efficiency cogeneration and renewable hydrogen in small scale installations and for the promotion of renewable energy communities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Operating aid for small-scale installations shall be exempted from the notification requirement of Article 108(3) of the Treaty only up to the following size thresholds:

(a) for electricity generation or storage projects: projects below the applicable threshold set out in Article 5 of Regulation (EU) 2019/943;

(b) for heat generation and renewable gas production technologies: projects below 400 kW 1 MW installed capacity.

For the purpose of calculating those maximum capacities, small scale installations with a common connection point to the electricity grid shall be considered as one installation.”;

Justification:

Article 43 should apply also to small scale high-efficiency cogeneration installations which are important element for achieving climate and energy targets of the EU.

Suggested threshold of 400 kW for heat generation is very low and would hamper necessary transformation. There is no need to apply the same threshold as for electricity also for heat generation. 1 MW threshold was already suggested for renewable energy communities. We believe that the same threshold should apply to all installations regardless of their owner.

13. Article (1) (30) (b)

Suggested change:

(b) the following paragraphs 2a and 2b are inserted:

~~"2a. Aid to renewable energy communities shall be exempted from the notification requirement of Article 108(3) of the Treaty only for projects with an installed capacity of less than 1 MW undertaken by entities falling with the definition of renewable energy community."~~

"2a. Operating aid to high efficiency cogeneration shall be exempted from the notification requirement of Article 108(3) of the Treaty only if it is not for fossil fuel fired cogeneration installations, with the exception of natural gas where compliance with national climate and energy plan in view of the 2030 and 2050 Union's climate targets is ensured."

2b. Operating aid for the production of hydrogen shall be exempted from the notification requirement of Article 108(3) of the Treaty only for installations producing exclusively renewable hydrogen.";

Justification:

We do not see reason for different maximum capacity for renewable energy communities. The same rules should apply to all projects serving the same purpose regardless of who is the owner. Renewable energy communities cannot be preferred against other owners of projects because that would create serious distortion of competition on internal market.

Article 43 should apply also to small scale high-efficiency cogeneration installations which are important element for achieving climate and energy targets of the EU. high-efficiency cogeneration installations should not use fossil fuels other than natural gas where compliance with national climate and energy plan is ensured.

14. Article (1) (33)

Suggested changes:

Article 46

Investment aid for energy efficient district heating and cooling

1. Investment aid for the construction or upgrade of energy efficient district heating and cooling systems shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

1a. Aid shall only be granted for the construction or upgrade of district heating and cooling systems which are or are to become energy efficient. Where the system does not yet become energy efficient as a result of the supported works, the further upgrades required to ~~reach the standard of energy efficiency~~ **meet the standard of efficient district heating and cooling** shall commence within three years ~~from following the start~~ **completion** of the supported works.

1b. Aid shall not be granted for the construction or upgrade of fossil fuel based generation facilities, except for natural gas. Aid for the construction or upgrade of natural gas based

generation may be granted only where compliance with **the national climate and energy plan in view of** the 2030 and 2050 **Union's** climate targets is ensured.

1c. Aid for upgrades of storage and distribution networks that transmit heating and cooling generated based on fossil fuels may only be granted where all of the following conditions are met:

(a) the distribution network is or becomes suitable for the transmission of heating or cooling generated from renewable energy sources, **waste heat or carbon neutral sources**;

(b) the upgrade does not result in an increased generation of energy from fossil fuels except for natural gas;

(c) in case of an upgrade to the storage or network distributing heating and cooling generated from natural gas **the most polluting fossil fuels such as coal, lignite, oil, diesel clear timeline involving commitments for transitioning away from the most polluting fossil fuels in view of** compliance with the 2030 and 2050 **Union's** climate targets is ensured.

...

3. The aid intensity shall not exceed 30 % of the eligible costs **for production plants and 60 % for the network**. The aid intensity may be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.

4. The aid intensity may be increased by 15 percentage points for investments using **only at least [60 %]** renewable energy sources, including green cogeneration, **waste heat or carbon neutral sources or combination thereof**.

Following definition should be included:

'waste heat' means waste heat as defined in article 2 point (9) of the Directive (EU) 2018/2001.

Justification:

Instead of referring to ambiguous 'standard of energy efficiency' Article 46 should clearly refer to the definition of efficient district heating in Article 2, point (41) of Directive 2012/27/EU.

According to CEEAG where a Member State invests in the upgrade of a district heating and cooling system without meeting the standard of efficient district heating, it needs to commit to start the works to reach that standard within three years following the upgrade works. The same requirement exists under RRF. GBER should stick to the same requirement. It should be noted that works to upgrade DH network typically take 2 to 3 years as the work has to be done out of heating season. Investment into reaching efficient heating status would therefore need to start simultaneously with district heating network upgrade which is not realistic and it would prevent large share of planned district heating refurbishments.

Compliance with 2030 and 2050 climate targets cannot be verified on project level (beneficiary of aid). Compliance of the investment with national climate and energy plan which provides for concrete measures to reach climate and energy targets on national level can be ensured.

Paragraph 1c. refers to storage and distribution networks that transmit heating and cooling generated based on fossil fuels. Letter (c) in paragraph 1c. should therefore also refer to fossil fuels in general and not specifically to natural gas. It is not realistic to expect that the only fossil

fuel used in district heating networks will be natural gas. In accordance with energy efficiency first principle refurbishment of distribution network should be possible even in case heat is produced from the most polluting fossil fuels such as coal, lignite, oil or diesel provided that clear timeline involving commitments for transitioning away from the most polluting fossil fuels consistent with Union's 2030 and 2050 climate targets is ensured.

Aid intensity of 30 % in paragraph 3 is grossly insufficient in case of refurbishment of district heating networks or construction of new networks. District heating networks are highly capital-intensive and much higher aid is typically needed to trigger necessary investment. Calculation using paragraph 5 can be difficult and clear aid intensity limit in paragraph 3 would provide more certainty and would significantly improve applicability of the whole article.

Utilisation of waste heat can provide even bigger environmental benefits than renewable energy sources and it should be included in paragraph 4. It is also not realistic to expect that district heating system will use only energy from renewable energy sources or waste heat. District heating systems with very high share of renewable energy or waste heat should get the green bonus.

15. Article (1) (37) (a)

Suggested change:

(a) in paragraph 4, point (b), point (iv) is replaced by the following:

“(iv) in case of installations producing biofuels, aid shall only be granted for installations producing biofuels compliant with the sustainability and greenhouse gases emissions saving criteria referred to in article 29 of Directive (EU) 2018/2001 and its implementing or delegated acts **and are made from the feedstock listed in Part A of Annex IX to that Directive.**”;

Justification:

Annex IX to the Directive 2018/2001 applies to feedstocks for the production of biogas for transport and advanced biofuels, the contribution of which towards the minimum shares referred to in the first and fourth subparagraphs of Article 25(1) may be considered to be twice their energy content and hence is completely irrelevant for heat and electricity production from biomass fuels and article 41 of GBER which does not apply to fuels used in transport.

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