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NOTE

From:	Presidency
To:	Delegations
Subject:	Hungarian Presidency report on certain proposals regarding the future of EU State aid rules

Delegations will find attached the report by the Hungarian Presidency on certain proposals regarding the future of EU State aid rules.

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ANNEX

Hungarian Presidency report on certain proposals regarding the future of EU State aid rules

Follow-up on the Working Party exchange of views on current State aid issues - Simplification of State aid rules and State aid and digitalisation

In the context of the Hungarian Presidency's general objective to strengthen European competitiveness, the Presidency presented two discussion papers to the Working Party on Competition on 28 October 2024, focusing on current State aid issues: the possibilities for simplification of State aid rules and whether Member States consider that there would be added value in introducing a new, targeted category of support for digitalisation in the European State aid framework.

Enrico Letta and Mario Draghi have recently stressed the importance of simplifying State aid rules in their respective reports on the future of the Single Market and competitiveness. Simplification has also been identified as a priority in Executive Vice-President Teresa Ribera's and Commissioner Valdis Dombrovskis' mission letters. Simplification of State aid rules and procedures should contribute to a strengthened internal market and to more efficient State aid control in line with the 'big on big, small on small' approach. In order to achieve the policy objectives of the green and digital transition, we will need, among many other changes, both improvements of the existing State aid frameworks and targeted aid measures. However, when analysing the possible avenues for simplification, it is important to bear in mind that the principles of proportionality, appropriateness and minimising negative effects on competition and trade should not be weakened.

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With regard to the twin transition – green and digital – the Presidency has also started to explore Member States' views on targeted support for investment in digitalisation. Some argue that the green transition seems to be overshadowing the digital transition. The twin transition is key to Europe's competitiveness. Digitalisation can also bring efficiency and cost savings. From the perspective of European competitiveness, the green and digital transitions are complementary to each other. Yet, State aid rules supporting the green transition are much more prominent and elaborated, while it seems that the same level of detailed State aid rules are not available in the area of digital transition.

The Presidency has asked Member States to share their input on the two discussion papers so that the views and ideas of different delegations could be forwarded to the European Commission in order to contribute to the future discussions on the possible improvements of the EU State aid regime. Most of the Member States have provided their oral and written comments. The ideas presented below are based on those comments and are supported by the majority of the respondent Member States.

Member States agree that clear and predictable rules are essential for fostering a business-friendly regulatory environment. Such rules can significantly shorten the time required to grant aid and reduce the compliance costs for beneficiaries.

On the GBER

Among the responding Member States, simplification of Commission Regulation (EU) No 651/2014 (General Block Exemption Regulation, GBER) enjoys widespread support, with recommendations to consolidate articles, reduce compatibility conditions, and clarify sector-specific rules. Environmental-related aid rules are frequently cited as an area needing greater thematic cohesion. Many Member States also propose a simplified approach for smaller aid amounts and administratively determined aid intensities to replace complex funding gap calculations.

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Other problematic points identified in the GBER are the inconsistent use of terms and definitions (e.g. competitive bidding process, selection process, selection procedure) within the Regulation creating unnecessary complexity. The structure of the rules within the specific aid categories is not standardised, causing difficulties in application. The large number of eWiki questions regarding certain articles (especially environmental ones) indicates difficulties in application, which creates legal uncertainties, slows down the aid granting process and discourages investment.

Moreover, the upcoming revision of the GBER presents an excellent opportunity to update the text in line with current EU policy objectives and the insights gained, including those from the crisis management of recent years.

On the SME definition

Most responding Member States advocate for updating the definition of small and medium-sized enterprises (SMEs) to reflect inflationary trends and current financial conditions. In line with the political guidelines of Commission President Ursula von der Leyen, there is support for introducing a new, separate category for small mid-cap companies outside the SME definition. A proposal was also put forward going beyond State aid, but one which could improve the life of many law enforcers within the EU: the SME definition should be aligned with other areas of EU law, a standardised, horizontal SME definition should be created as part of a secondary law instrument. This way different SME-thresholds in different parts of EU law could be avoided.

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On the funding gap calculation

Member States consider the funding gap calculation to be an effective tool in determining aid amounts for large projects and measures subject to notification. However, requiring SMEs (including micro enterprises) to calculate the funding gap creates a disproportionate administrative burden contrary to the principle of 'big on big, small on small'. Many respondents consider funding gap calculations to be one of the most time-consuming and complex aspects of State aid granting. There is broad agreement on the need for simplification, particularly for smaller aid amounts, especially if one takes into account that the funding gap is often coupled with a claw-back mechanism: therefore there is an additional obligation of monitoring the beneficiaries' economic output for years, which is highly burdensome. Several Member States suggest introducing fixed aid intensities as an alternative to detailed funding gap calculations, particularly for smaller projects or aid amounts. Nevertheless, simplification should not jeopardise compliance with the principle of proportionality.

On the use of SCOs

Respondent Member States broadly endorse expanding the possibilities for the use of Simplified Cost Options (SCOs) within State aid measures, such as lump-sum aid and standardised cost reporting. These measures, particularly beneficial to SMEs and start-ups, are seen as crucial for reducing administrative burdens on both beneficiaries and granting authorities. This would require harmonising State aid rules with regulations on the Structural Funds, an objective that is generally supported by Member States (not limited to SCOs). Another approach could be extending the SCO-based methodology for calculating the eligible costs in Article 25 of the GBER to other articles.

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On transparency and reporting

Several Member States advocate for limiting annual reporting requirements to specific high-impact cases, reducing administrative burdens while maintaining transparency. Proposals include raising thresholds for mandatory reporting to reflect inflation and revising evaluation obligations for short-duration schemes and successor schemes.

On fast track procedures of twin transition measures

Most Member States would welcome accelerated approval processes for aid measures related to digitalisation and the green transition. However, such fast-track procedures should not compromise the integrity or thoroughness of standard procedures. The practice created to the measures involving the Recovery and Resilience Funds could be an example to follow.

On the concept of undertaking in difficulty

A significant number of Member States have proposed revising the concept of ‘undertaking in difficulty’. The reasons cited include improving the practical applicability of the notion, reducing ambiguity, and addressing situations where businesses, especially start-ups with real growth potential are not eligible for State aid as they finance their growth using their own capital.

On Important Projects of Common European Interest

Member States agree that IPCEI is a valuable tool for advancing the knowledge-based economy within the EU. However, opinions diverged regarding the detailed compatibility conditions for IPCEIs and the proposals outlined in the Draghi Report. Nonetheless, Member States broadly support simplifying the applicable rules, making procedures faster and more predictable, and addressing procedural inefficiencies.

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On digitalisation

The Hungarian Presidency’s proposal for the introduction of a dedicated State aid category within the GBER for digitalisation, particularly for SMEs, is widely supported among the respondent Member States. Many respondents highlight the potential for this measure to accelerate digital transformation through support for activities such as the adaptation of digital equipment, training in digital skills, and advisory services. While most respondents agree that SMEs should remain the primary focus of digitalisation aid, several highlight the importance of extending support to large enterprises. Larger companies, especially in smaller Member States, are seen as pivotal in driving rapid technological adaptation and contributing significantly to economic development.

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