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HT. 4404 Estonia's comments on the draft of R&R Guidelines

Hereby we submit Estonia's opinion on the draft Communication from the Commission "Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (hereinafter referred to as *Draft* or *R&R Guidelines)*.

Estonia in general supports the amendments proposed by the Commission in the Draft, which aim to reflect today's changed economic context. We are in favour of the amendment of the definition of a firm in difficulty so that certain types of hybrid financial instruments are taken into account when determining equity when assessing whether a firm is in difficulty. Estonia considers this to be one of the most positive amendments to the Guidelines.

Estonia proposes further amendments to R&R Guidelines**:**

1) <u>In the introductory sentence of point 21 and in point 24(b), we suggest extending the period during which SMEs may benefit from the derogation of being in difficulty from 3 years to 5 years</u>.

The Commission has acknowledged that the business model of undertakings, in particular SMEs, in the early years may be based on heavy investment and rapid growth, which may result in them temporarily meeting the criterion for being in difficulty without actually being in financial distress. The 3-year derogation period is therefore not sufficient and extending it to 5 years would allow for better taking into account the real development cycles and capital needs of SMEs.

2) <u>In point 24(c) we suggest extending the 5-year period of innovative start-up, for which the derogation of being in difficulty applies to, to 10 years.</u>

It is not clear why the derogation to grant aid to innovative start-ups, which are considered in difficulty, applies for 5 years but not for 10 years. The definition of innovative start-up (in footnote 24) applies to undertakings operating for less than 10 years. We suggest extending the period from 5 to 10 years for innovative start-ups because the business model of innovative start-ups differs significantly from that of traditional undertakings. The activities of such undertakings are often based on long-term research and development, technology validation and preparation for market entry, during which undertakings can operate for years without generating positive cash flow or profit. This is particularly characteristic of undertakings in deep tech, biotechnology, the defence industry, clean technologies and other knowledge-intensive sectors, where development cycles are long and capital requirements are significant. The 5-year exemption no longer corresponds to the actual development cycle of many innovative undertakings. In practice, many innovative undertakings only reach the phase where the technologies or products being developed start to generate sales revenue after the 5th year of operation. Therefore, an undertaking may be formally in difficulty on the basis of its balance sheet, even though it continues to have strong growth potential, investor support and the ability to continue its activities. In the case of innovative star-ups, accumulated losses are often not an indicator of financial difficulties but a natural consequence of the extensive investments made in research and development. Treating such undertakings as undertakings in difficulty solely on the basis of a reduction in capital may unduly restrict their access to State aid measures at the very time when public support can have the greatest impact on the market uptake of innovation. Extending the period to 10 years would better take into account the specificities of innovative undertakings, support the innovation and competitiveness objectives of the European Union and reduce situations where economically viable undertakings with long development cycles remain not eligible for aid solely on the basis of formal balance sheet indicators.

3) <u>We suggest to develop guidance material to accompany the Guidelines</u>.

The granting of restructuring aid requires the submission to the Commission of a restructuring plan, a model of which (*Indicative model restructuring plan)* is set out in Annex II to the Draft. The content of the model restructuring plan remains unchanged compared to the current Guidelines. The example shows the 11 points to be included in the restructuring plan, including a comparison with a credible non-State aid scenario, a description of the beneficiary's difficulties and a SWOT analysis. We propose that the Commission compiles guidance document to accompany the Guidelines, as it is intended to do for the new GBER. In the guidance, the Commission could provide examples and guidance on how to demonstrate the plausible alternative scenario for which the SWOT analysis is used and how detailed it needs to be, etc.

4) <u>We suggest exempting the companies active in food production from the requirement to reduce production capacity as a condition for granting restructuring aid.</u>

In food production (i.e. both the production and processing of agricultural products), capacity reductions can only have a limited impact on production costs, and in some cases the cost price of the unit is very likely to increase. This can happen, for example, in a situation where the number of animals is reduced, but loan payments, labor costs and other fixed costs remain the same. Therefore, a reduction in production can lead to the execution of healthy animals without leading to a significant reduction in costs. In addition, cuts in production output could lead to redundancies, which is particularly problematic in rural areas, where food production companies are important employers. It may also be very costly to restore production capacity at a later stage, for example because of the need to acquire breeding animals or to restart factories and may cause additional difficulties for the establishment. Together with energy security, food security constitutes a strategic priority essential for maintaining our resilience and operational capacity.

5) <u>In point 61 we suggest stipulating more clearly whether the restructuring aid can also be granted in the form of a grant.</u>

According to the draft (and the current Guidelines), rescue aid or temporary restructuring aid can only be granted in the form of a loan or loan guarantee but as regards restructuring aid, it is stated that Member States may choose the form of restructuring aid. Still, it is not clear if grants are allowed in case of restructuring aid.

6) We suggest adding a possibility to use grants for giving rescue aid and temporary restructuring aid in case the aid amounts are small, for example if the amount of aid is below the de minimis threshold. Alternatively, we suggest adding a possibility for granting rescue aid to food producers for a period of longer than six months.

The use of loans and guarantees may not be efficient enough for food production, as the financial burden on the sector has increased significantly. In the agricultural sector in Estonia, interest expenses increased from EUR 27.0 million in 2021 to EUR 51.6 million in 2024, and the interest coverage ratio, which shows how many times the company's operating profit covers interest expenses, decreased from 6.03 to 3.24 over the same period. At the same time, investment in fixed assets decreased from EUR 342.0 million to EUR 281.8 million, indicating a decrease in the corporate financial buffer.

In the food industry, interest expenses increased from EUR 10,1 million in 2021 to EUR 26,8 million in 2024, and the interest coverage ratio decreased from 7,34 to 4,85 over the same period. This also indicates an increase in the financial burden and a lower buffer to cover interest costs.

We ask the Commission to include to the R&R Guidelines the document referred to in the point 3 of the Draft, which provides that „*These Guidelines are accompanied by a Staff Working Document, which analyses the effects of the Guidelines, including a cost/benefit analysis, competitiveness check and an SME check)*

Yours sincerely,

(signed digitally)
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