



European Commission  
Directorate-General for Competition  
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## **HT. 6365 Estonia's comments on the first draft of GBER**

Dear Sir/Madam

Hereby we submit Estonia's opinion on the draft General Block Exemption Regulation (hereinafter referred to as GBER).

Estonia supports the simplifications proposed in the draft GBER, which aim to reduce the administrative burden and increase legal clarity. Estonia is in favour of simplifying general provisions (e.g. calculation of aid amount, start of works), abolishing the obligation of ex post evaluation for aid schemes with large budgets, expanding simplified cost options, special conditions for small amounts of aid, extending the scope of the Regulation to the agriculture, fisheries and aquaculture sectors. Estonia also supports simplifications in the granting of aid for research and development, for renewable energy and industrial decarbonisation and for infrastructure.

Please find our more specific comments and suggestions below:

- 1) Draft GBER and Communication on EU's eastern regions bordering Russia, Belarus and Ukraine. The European Commission has adopted a Communication on EU's eastern regions bordering Russia, Belarus and Ukraine<sup>1</sup>, setting out a strategy to support economic and security conditions in these regions. The Communication states that, as part of the review of GBER, it will be assessed whether GBER needs to be amended to address the challenges posed by Russian aggression in the Eastern border regions. The current version of the draft GBER does not include such provisions, and we would like to know whether the Commission intends to make any specific changes to GBER in light of the aforementioned Communication.
- 2) Food security. Estonia proposes to include in the draft GBER additional opportunities to support investments aimed at increasing the resilience and crisis preparedness of the food industry.
- 3) Separate article for supporting the defence industry. In 2025, Estonia proposed, in its response to the GBER questionnaire, to include an article in the future regulation on aid for the production of defence-related products and services. Such an article has not been included in the draft GBER and Estonia is re-suggesting the same.

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<sup>1</sup> [communication-eastern-border-2026.pdf](#)

- 4) Making an exception to the prohibition on supporting undertakings in difficulty in the case of small amounts of research and development aid (amendment in Article 1(5)(g)). Article 32 allows to increase the aid intensity for small-scale R&D projects (aid amount up to 1.2 million per undertaking) by 20% for all undertakings, regardless of their size, is positive. This allows for the design of simpler measures with a lower administrative burden, as determining the size of an undertaking is a very resource-intensive activity. However, even for small amounts of R&D aid, there is an obligation to verify whether the undertaking is in difficulty, which means that the size of the undertaking has to be determined in advance. We propose to amend Article 1(5)(g) of the draft GBER so that it also reflects the exception for small amounts of R&D aid. We propose to amend the wording of the said provision as follows: “(g) aid for research and development and innovation under Chapter III, Section 4, to undertakings which qualify as innovative enterprises under Article 2, point (89) and which are unlisted and have been operating for less than 10 years following their registration or , **where the total help amount does not exceeds EUR 1.2 million per undertaking, to any undertakings which do not qualify as undertakings in difficulty under Article 2, point (32)(a) to (c)**”.
- 5) New Article on aid in the form of financial instruments (Article 4). The objective of Article 4 is not clear, e.g. does it mean that any aid granted on the basis of Chapter III (except Sections 3 and 10) has to follow the conditions stipulated in Article 4 (*inter alia* paragraph 4(7)(a) - i.e. to organise the tender to find the intermediary)? Does it mean that the State has no right to appoint an aid grantor in case aid is granted in the form of financial instruments (e.g. a state foundation)? We would also like to clarify what is meant by the requirement in paragraph 7(b) stating that “*They shall be managed on a commercial basis and ensure profit-based financing decisions*”. In conclusion, we propose reviewing the entire Article 4.
- 6) Article 21 of the draft GBER uses the term “*cash amount*”, which is not defined. We ask the Commission to clarify what is meant by “*cash amount*” or whether the term should be “*nominal amount*”.
- 7) New Article 28. We propose to remove from Article 28(1) the reference to Article 25(3), which sets out the requirements that the eligible SME must have been in operation for either less than 10 years following its first registration or less than 7 years following its first commercial sale and that the investment in the new economic activity must exceed 30% of the average annual turnover of the preceding five years. The purpose of these conditions remains unclear, given that aid under Article 28 is primarily granted in the form of guarantees for repayable loans. Introducing such requirements will increase bureaucracy rather than help to reduce it.
- 8) Article 38 – Notification thresholds for research infrastructure and testing and experimentation infrastructure. The draft GBER lowers the notification threshold for investment aid for research infrastructure from the current EUR 35 million to EUR 25 million, bringing it to the same level as for testing and experimentation infrastructure. Estonia proposes to leave the notification thresholds in Article 38 unchanged: EUR 35 million for research infrastructure and EUR 25 million for testing and experimentation infrastructure.
- 9) Articles on aid for environmental protection (section 6 of the draft GBER). The draft provides for the possibility of using an aid intensity of 5% in the case of a simplified calculation of the aid amount (total investment costs). This principle generally corresponds to Estonia's position on simplification, but the draft does not justify why

the aid intensity of 5% has been chosen, and in Estonia's opinion, such an aid intensity may prove to be of little motivation and does not encourage investments.

- 10) New Article 40. We consider that Article 40 is disproportionately burdensome for small-scale knowledge transfer transactions and infrastructure use. We propose to include Article 40 under the exceptions of Article 8(5), i.e. aid under Article 40 should be deemed to have incentive effect and no written application for aid must be submitted before the activity starts.
- 11) Article 53. The current GBER (Article 36a) excludes aid for port infrastructure investments, but no such exclusion appears in Article 53 of the draft. Please clarify whether aid under Article 53 can be granted for recharging or refuelling infrastructure investments in ports?
- 12) Article 54. Estonia proposes to allow a combined approach to retrofitting of maritime vessels (ships), which would allow the retrofitting to be viewed as a whole and the total impact of the modernization of different parts to be considered, rather than the impact of each individual activity separately. Example: the cumulative effect of three small retrofits on a ship (hull optimization, propeller replacement, automation upgrade) can result in 10% energy savings, although none of the measures individually would not meet the conditions of the article.

We also suggest allowing a simplified evidence framework for retrofitting for smaller ships, as it would be disproportionately burdensome if retrofitting of all ships were subject to the same burden of proof (e.g. a ship under 500 GT operating in local coastal traffic cannot afford CFD analyses or verification by classification society).

- 13) Article 70. We propose to define difficult audiovisual works more precisely in the draft. The wording in the draft has not been changed compared to the current regulation, but we believe that the corresponding definition should be written in a more clear and concrete manner.
- 14) Article 79. Estonia is of the opinion that the conditions on granting aid set out in Article 79 (Aid to airports) of the draft GBER should allow for greater flexibility in granting state aid to airports and airlines in the peripheral Member States of the European Union, where air connections play an important role in European integration and improving competitiveness, especially given the current situation in Eastern Europe. We consider it important to have sufficient flexibility that considers the security and geopolitical aspects of the Eastern European Member States, including additional obligations related to aviation safety and security, such as responding to GNSS interference or detecting and repelling unmanned aircraft.
- 15) The explanatory provisions in the current GBER are moved out of the Regulation into separate guidance document, which in our opinion does not contribute to legal certainty (e.g. Article 2(14) “outermost regions”; Article 2 point 3 “transport sector”; Article 2 point 144 “reasonable profit”; Article 69(5)). We propose not to remove the explanatory or illustrative provisions that contribute to the interpretation and implementation of GBER and that would be legally binding if set out in GBER.

Technical comments:

- 1) Article 1: There is no list of categories to which GBER shall apply (as it is in Article 1(1) of the current GBER. This means that there is no easy overview of which categories of aid the GBER applies to, please add such list.

- 2) Article 1(2)(c-e): it is not clear why the provisions concerning fisheries and aquaculture are set out in separate subparagraphs – this makes it difficult to understand in which cases the GBER does not apply to aid for fisheries and aquaculture.
- 3) Article 2: The definitions of terms are arranged according to the order in which they appear in the chapters and sections of GBER. This is also the case in current GBER, but in current GBER it is explained which aid category (objective) the terms fall under (e.g. Definitions for regional aid), but in the draft only the sections and chapters of the GBER are referred to (e.g. Definitions of terms that first appear in Section 1 of Chapter III) – it is no longer immediately clear which category of aid the definition of term applies to. We propose also adding categories of aid.
- 4) Article 2 point 109 (operating profit): please consider whether the term needs to be defined, as this term will not be used in the draft further.
- 5) Article 2, point 117: “small mid-cap” in case of implementation of the InvestEU-programme – please clarify whether only the number of employees (“employs up to 499 workers”) counts and whether turnover and balance sheet size (as in Annex IV in general) do not need to be taken into account.
- 6) Article 3(2)(a) (relevant entity is undertaking): it is not clear how, in such a case, aid granted to one undertaking, but to different entities under different articles should be taken into account (cumulation).
- 7) Article 4: the title of Article 4 does not mention “financial intermediary” (only “intermediary”) - it is not clear what is meant by “intermediary”, e.g. does it mean “financial intermediary” (as defined in Article 2, point 33)?
- 8) Article 6(2)(e) (“repayable advance”): it is not clear why the text of the current GBER “if total nominal amount ... does not exceed the thresholds applicable under this regulation” has been omitted from the draft GBER. Does this mean that the draft only leaves the option “to notify the method to Commission”?
- 9) Article 7(2)(b): reference is made to “appropriate authority”. For the sake of clarity please define “appropriate authority”, e.g. “*Appropriate authority – the managing authority of the Structural Funds programme or the authority responsible for the national support measure*”.
- 10) Article 8(2)(a): we propose to add to “undertaking's size”, the text “if appropriate”. Please consider whether it would be necessary to also add “small mid-cap” (SMC), because under some articles of the draft GBER, aid can only be granted to SMCs.
- 11) Article 9(1): incorrect reference to (old) Article 4 – probably should be “Article 5”.
- 12) Article 10(3): we propose to refer to a specific article (Article 49), currently there is no reference.
- 13) Chapter III: it is not clear under which articles aid can be granted only to “aid schemes” and when also as “individual aid” – this should be explained somewhere in the draft (e.g. in Article 1). E.g. in Articles 16, 25, 26, 27, 29, 61 etc. aid can be granted to “aid scheme”, but in Article 15 to “aid measures” – is “aid measure” the same as “aid scheme”?
- 14) Article 41, paragraph 6: it is not clear how this paragraph fits into the article (it seems to be in the wrong place or has been pasted here by mistake).
- 15) Article 45(1): in Article 32 of the current GBER it is referred to “aid scheme”, in Article 45 (1) of the draft it has been replaced by “aid” - does this mean that individual aid can also be provided under Article 45 of the draft?
- 16) Article 51: We propose to clarify Article 51 of the draft. It replaces the current Article 36, which is already complicated, but the wording of Article 51 that replaces it is even more complicated. The solution is not in line with the principle of simplification (e.g.

- it is difficult to understand whether the aid intensities in Article 51(8)(a)(ii) are alternatives to subparagraph (i)).
- 16) Article 53(2): it is not clear why in case of “investment aid for recharging and refuelling infrastructure” in addition to the specific notification threshold, the condition that “average annual budget of the measure may not exceed 300 million euros” (also in the current GBER art 4(1)(sb)) is left in the draft? However, such a requirement is abolished in Articles 59 and 60 of the draft GBER (Articles 42, 43 of the current GBER).
  - 17) Article 53(3): please clarify whether ports are covered by the article, as the former Article 36a excluded the granting of State aid to ports.
  - 18) Article 65(8): for the sake of clarity, the text "Investments related to technologies constituting an already profitable established commercial practice throughout the Union without the aid" has to be explained. This is a vague condition that increases the administrative burden, as there is no clarity on what exactly “throughout the Union” means, as well as how to define the concept of “already profitable established commercial practice”. The terms of GBER must be unambiguous and the cited text is also not in line with the principle of simplification.
  - 19) Article 69(3)(a): we propose to add also “press” (“except for **press** and magazines that are exclusively cultural”), because it is not clear why cultural magazines are preferred but cultural newspapers are left out.
  - 20) Article 78(3): clarification is needed on whether aid for local infrastructure can be granted for sports infrastructure and cultural infrastructure. Or is such infrastructure always regarded as “dedicated infrastructure” (which is not eligible anyway)?
  - 21) Article 84: for the sake of clarity, please specify which specific funds are meant under “*Union funds implemented under shared management for the remainder of the 2021-2027 programming period*” (e.g. ERDF, Social Fund, JTF).  
We also ask for clarification as to whether it is not necessary to submit new block exemption notifications in this case (in case the duration of the existing structural funds measures is stated in the existing block exemption notification as 31.12.2026)? We also need clarification as to whether the RRF measures can or cannot continue to be implemented under the current GBER.
  - 22) ANNEX II, Part I, budget: we propose to add the box “total budget planned”, this would simplify the work of aid providers and help monitor whether the 20% limit is exceeded when increasing the budget - in which case a new block exemption notification must be submitted for the measure.
  - 23) ANNEX II, Part II (bonuses): we propose to create separate boxes for different bonuses (e.g. Article 32(7) points a-d), including adding a box if the bonus is for a small amount of aid (e.g. Article 32(7)(8)).
  - 24) ANNEX III, reference to Article 9(1): incorrect reference, correct reference to Article 10(1).
  - 25) ANNEX III, footnote 76: incorrect references to Articles 16a, 24-28; Article 9(2) should be Article 10(2).
  - 26) ANNEX III, size of enterprise (SME/ large enterprise): please consider whether “small mid-cap” should also be added (the same comment also on Article 8(2)).
  - 27) Future Guidance document:
    - a. We ask to clarify in the guidance document the distinction between economic and non-economic activities of research and development institutions or research infrastructure.
    - b. Please explain and provide examples of the “simplified funding gap” provision in Article 2, point 48 of the draft GBER.

c. Please clarify the practical implementation of Article 40 of the draft GBER.

Yours sincerely,

(signed digitally)

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