



Uniting Europe's Energy, Today

State aid in Energy

Workshop 2 for the State Aid Authorities of the Contracting Parties of the Energy Community

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Three balloons are shown against a teal background: one red balloon floating higher than two white balloons.

STATE AID: WHY?

- Ensure level playing field
- Avoid subsidy races
- Avoid undue market distortions
- Avoiding crowding out private investments

STATE AID: WHAT?

Art. 107 (1) TFEU: “*Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*”

And also:

- Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01)
- Case-law of the Court of Justice of the European Union
- Decisional practice of the European Commission

STATE AID ONLY IF

Has all the criteria (cumulative and exhaustive):

1

By State (i.e.,
from public
budgets) or
through State
resources (directly
or indirectly)

2

To undertaking
(i.e., not to
individuals)

3

Aid confers
advantage

4

Selective (to
certain
undertakings or
production of
certain goods)

5

Affects trade and
distorts (or
threatens to
distort)
competition

COMPATABILITY ASSESSMENT: TOOLBOX

MAIN NON-CRISES STATE AID RULES FOR ENERGY

	NOTIFIABLE AID	
GBER – 2014 (revised GBER is planned to enter into force on 1 January 2027)	CEEAG – 2022	CISAF – 2025
The GBER lays down ex ante compatibility conditions on the basis of which Member States can implement State aid measures without prior notification to the Commission. No notification to the Commission for aid below the notification thresholds defined per objective and type of aid. <i>NB:</i> MSs must comply with obligations as per Articles 9 (Publication and information) and 11 (Reporting)	Notification to the Commission. • Technology-neutral approach • Competitive bidding process • Public consultation • Calculation of CO2 abatement costs	Notification to the Commission. Simplifications compared to the CEEAG: • No public consultation required • No mandatory bidding processes • Aid based on aid intensities is possible (up to EUR 200 million) • No ex-post evaluation • No calculation of CO2 abatement costs

CEEAG – MAIN FRAMEWORK



CEEAG is the main framework to support Green Deal objectives

Scope includes variety of measures:

Section 4.1 Aid for reduction/removal of GHG emissions (incl., direct support for RES generation, industrial decarbonisation)

Section 4.8 Aid for the security of electricity supply

Section 4.9 Aid for energy infrastructure

Strict compatibility requirements:

- technology-neutral competitive bidding is the default mechanism for awarding most categories of aid
- public consultation requirement for most measures above a certain threshold to enhance transparency
- requirement to calculate the subsidy per CO2 emission avoided to ensure that aid is necessary and cost-effective

CEEAG – COMPATIBILITY

Core assessment grid

Positive condition: aid facilitates development of economic activity

- Identification of the **economic activity** which is being facilitated by the measure, its **positive effects for the society** at large and, where applicable, **its relevance for specific policies** of the EU;
- Substantive **incentive effect** (contrary to formal incentive effect under the GBER), i.e., aid induces the beneficiary to change its behaviour;
- **Compliance** with EU law

Negative condition: aid does NOT unduly affect trading conditions to an extent contrary to the common interest

- **Need for State intervention**;
- **Appropriateness** of the aid (double-appropriateness test: Less distortive policy instrument available? Less distortive form of aid available?);
- **Proportionality** of the aid (limited to the minimum needed for carrying out the aided project/activity); Maximum allowable aid for investment projects is defined as a % of eligible costs of the initial investment; aid cannot be higher than the funding gap (costs necessary to meet the objective of the aid measure, compared to the counterfactual scenario in the absence of aid);
- **Transparency** of the aid (publication);
- **Avoidance of undue negative effects** of the aid on competition and trade;
- **Weighing up** the positive and negative effects of the aid

CEEAG – USE BY CPs

State aid control in the energy sector of the Contracting Parties*

Contracting Party	<u>Application of CEEAG / EU framework</u>	Types of energy measures assessed	<u>Application of compatibility criteria similar to CEEAG / EU framework</u>	Proactive monitoring of energy market
Albania	No	RES	Yes	No
Bosnia and Herzegovina	Yes	RES	Yes	No
Georgia	No	None	No	No
Moldova	In transposition	RES; EE; infrastructure	Yes	Yes
Montenegro	Yes	RES; EE	Yes	Yes
North Macedonia	Yes	RES	Yes	No
Serbia	No	RES	Yes	Yes

*based on the survey responses of the participating State aid authorities of the Contracting Parties (May 2026)

COMPATIBILITY (under draft GBER)

Basic principles

Aid must be necessary, i.e., should be granted only if it changes the behaviour of the beneficiary

Aid must have an incentive effect (i.e., a written application for aid submitted before start of works
(=formal incentive effect, contrary to the substantive incentive effect under the CEEAG)

Aid must be proportionate

Aid must be granted in a transparent manner

Aid must NOT adversely affect competition and trade to an extent contrary to the common interest



THANK YOU!



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