



State Aid in Energy

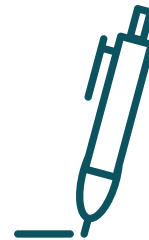
Agenda

Framework Selection & Commission Practice

GBER vs CEEAG vs CISAF vs ETS vs IPCEI

Focus: structuring + legal tests

Expert-level interpretation of Commission reasoning



Framework Comparison

| When to use which instrument

01 GBER → standardised / small-mid projects

02 CEEAG → large / complex cases

03 CISAF → crisis-related measures

04 IPCEI → strategic projects

05 ETS → sector-specific compensation





GBER – Architecture

| GBER deep dive

- Safe harbour regime

- Direct applicability

- Strict ex-ante compliance required



GBER – Eligible Measures

| GBER deep dive

- RES support (Art 41–43)

- Energy efficiency (Art 38)

- Infrastructure (district heating, Art 46)



GBER – Incentive Effect

| GBER deep dive

- Application before project start mandatory

- Counterfactual rarely required

- Formal criterion strictly enforced



GBER – Risk Areas

| GBER deep dive

- Incorrect cost base

- Aid intensity miscalculation

- Project start before application → fatal risk



CEEAG – Legal Structure

| CEEAG expert analysis

- Balancing test central

- Economic analysis required

- Case-by-case assessment



CEEAG – Funding Gap

| CEEAG expert analysis

- Core proportionality tool

- NPV-based analysis

- Counterfactual required



CEEAG – Auctions

| CEEAG expert analysis

- Default allocation mechanism

- Ensures proportionality

- Reduces need for individual assessment



CEEAG – Complex Cases

| CEEAG expert analysis

● Industrial decarbonisation

● Hydrogen projects

● CCU/CCS investments



CEEAG – Risk Areas

| CEEAG expert analysis

- Overcompensation

- Weak counterfactual

- Insufficient competition in tenders



CISAF – Purpose

| CISAF deep dive

● Crisis mitigation

● Energy price shock response

● Bridge to green transition



CISAF – Instruments

| CISAF deep dive

● Liquidity aid

● Guarantees

● Energy cost compensation



CISAF – Legal Constraints

| CISAF deep dive

- Strict temporality

- Crisis link required

- No structural overreach



CISAF – Risk Areas

| CISAF deep dive

- Reclassification under CEEAG

- Overduration

- Crisis impact?



ETS Aid – Objective

| ETS detailed

- Prevent carbon leakage

- Protect competitiveness

- Indirect cost compensation



ETS – Methodology

| ETS detailed

- Benchmark-based calculation

- Reduction factors

- Electricity consumption metrics



ETS – Legal Constraints

| ETS detailed

- Sector eligibility limited

- Conditionality increasing

- Audit obligations



IPCEI – Structure

| IPCEI expert

- Exceptionally large projects

- Strategic EU value

- State aid beyond normal limits



IPCEI – Funding Gap

| IPCEI expert

- Extensive financial modelling

- High uncertainty scenarios

- Long-term investments



IPCEI – Spillovers

| IPCEI expert

- Mandatory knowledge sharing

- EU-wide benefits

- Open access elements



IPCEI – Risk Areas

| IPCEI expert

- Insufficient spillovers

- Overfunding

- Coordination failure between States



SA.101951 France Renewable / Low Carbon Hydrogen (CEEAG)

| Commission case analysis

- Scheme for renewable and low-carbon hydrogen production.

- Support for new electrolysers producing hydrogen for industrial use only.

- Designed to cover cost gap vs fossil hydrogen / competitive bidding

- Commission → incentive effect + positive effects on the environment outweigh negative effects concerning competition

| Commission case analysis

- Facts → 27.5bn German scheme to compensate energy-intensive industries for indirect ETS carbon cost

- Objective → prevent carbon leakage and maintain EU industrial competitiveness

- Measure → partial reimbursement / aid based on electricity consumption benchmarks

- Conditionality → energy management / decarbonisation investment obligations (incl. reinvestment of aid)

- Commission → measure necessary, proportionate, and limits competition distortions



Hydrogen IPCEI - “IPCEI Hy2Use”

| Commission case analysis

- Facts → cross-border hydrogen

- Context → new market

- Measure → large public support

- Commission → funding gap + spillovers

- Lesson → IPCEI flexibility

Decision Tree

| Selecting correct framework

- 01 Small standard project → GBER
- 02 Large/complex → CEEAG
- 03 Crisis-driven → CISAF
- 04 Strategic → IPCEI

Thank you!

Speaker



Marlene Wimmer-Nistelberger

CMS Partner

Tel: +43 1 40443 5100

E-Mail: marlene.wimmer-nistelberger@cms-rrh.com