



*Employers entrusted to deliver
Sustainability Growth Innovation*

Position Paper

SGI Europe's response to
General Block Exemption Regulation (GBER)

8 December 2021

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As an employers' organisation and one of the EU cross-industry social partners, SGI Europe represents **enterprises active in services of general interest (SGIs)**. SGI Europe members are active in sectors such as energy, healthcare, telecommunications, waste management, water sector,... On the one hand, these sectors contribute to society as a whole and facilitate the development of less privileged areas and play an indispensable role in inclusion of the less privileged people. On the other hand, they **also face the greatest challenges in the twin transition**. SGIs can play a crucial role in achieving smart, sustainable, and inclusive growth.

SGI Europe welcomes the opportunity to answer the consultation on General Block Exemption Regulation (GBER), a vital part of the twin, green and digital, transition. Therefore, SGI Europe welcomes the tailored revision, in particular, the **development of renewable energy and its infrastructure, the ramp-up of hydrogen and support of decarbonisation of heat supply**. In addition to that, we would like to suggest the following improvements.

Definition of small and medium enterprises

Annex I to General Block Exemption Regulation, Article 3 (4)

The current definition of micro, small and medium enterprises, as included in the General Block Exemption Regulation, **does not consider enterprises that are owned by public bodies**. As it follows from the Annex, Art. 3 Paragraph 4 of the GBER, enterprises owned at least 25% by public authorities/bodies do not qualify as SMEs. Consequently, **despite their small size and similar limitations that they are facing as SMEs, local public enterprises cannot benefit from the bureaucratic leniency or access to less strict funding rules**. In other words, local public enterprises must comply with often very burdensome obligations that do not correspond to their capacities and often despite their undeniable positive and indispensable role in providing services of general interest. This is to the detriment of the provision of services of general interest that these local public enterprises provide. Therefore, SGI Europe calls here to consider publicly owned enterprises as SMEs.

Aid for environmental protection

Article 36a: Investment aid for recharging or refuelling infrastructure

When it comes to the construction of recharging and refuelling infrastructure, **tariffs are one of the most significant contributors** to higher costs, which are not eligible for aid. Including them in the recharging infrastructure would facilitate the construction of affordable infrastructure.

The same article, 36a in paragraph 8, requires an **ex-ante open public consultation or an independent market study to establish the incentive effect**. In the field of e-mobility, this is not understandable. In particular, the requirement that within three years, no refuelling and recharging infrastructure would be installed. This infrastructure has to be built to reach the climate goals regarding decarbonising transport and the deployment of e-mobility, as also included in the Renewable Energy Directive and the Alternative Fuels Infrastructure Regulation.

The requirement of the **necessity of aid for recharging infrastructure for electric vehicles or vehicles powered at least partially by hydrogen** (for refuelling infrastructures), **which represent respectively less**

than 2% of the total number of vehicles of the same category registered in the Member State concerned, is to be seen critically. The decarbonisation of road transport is necessary and therefore a limitation to 2% is not reasonable.

Article 43: Operating aid for the promotion of energy from renewable sources and renewable hydrogen in small scale installations and for the promotion of renewable energy communities

According to point 2a, aid measures for renewable energy **are exempted from the notification obligation only for projects with an installed capacity of less than 1 MW** undertaken by entities falling with the definition of renewable energy community. The threshold is set too low and could slow down the creation of renewable energy communities. SGI Europe suggests changing **the threshold to less than 3 MW**.

Articles 41 and 43: Investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration (concerning hydrogen)

The draft regulation provides that hydrogen production can be supported only when the hydrogen is renewable – excluding low carbon hydrogen projects. This contradicts the CEEAG (with which the GBER should be aligned), which state in recital 75 that public support for projects for the production of "hydrogen and other low carbon gases" is possible. Articles 41 and 43 should then explicitly apply to low carbon hydrogen projects.

Furthermore, **the definition of renewable hydrogen is referred to the delegated act, which is not yet published**. This creates legal uncertainty, especially for hydrogen used in transport, which could lead to public buses powered by low carbon hydrogen and could therefore be categorised as not renewable anymore. Moreover, the **definition of low carbon hydrogen is highly questionable as it refers in a footnote to "the marginal generator in the bidding zone where the electrolyser is located"** for the calculation of the carbon content of the electrolyser. The condition set out in this footnote goes beyond the rules provided in the taxonomy regulation and presents difficulties of principle and implementation which justify its deletion:

- There is no reason to attribute the carbon content of the marginal production unit to the hours when the electrolyser is operating. This is an arbitrary choice since there are other flexible electricity consumers.
- There is no reason to make electrolysers responsible for not increasing the carbon content of the whole electricity system.
- Determining the carbon content of hydrogen by the marginal generation unit in the bidding area is hardly feasible under real conditions.
- This method will significantly reduce the number of hours during which it is possible to produce low-carbon hydrogen, making projects unprofitable, when in fact, they do avoid CO₂ emissions compared to SMRs.

This is another reason why both **including and clarifying the definition of low carbon hydrogen are so important**.

Article 41: Investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration.

The support for cogeneration has been adapted in article 41, point 7: the aid intensity is set at 30% of the eligible costs for energy generation from renewable sources, renewable hydrogen and highly efficient cogeneration. The **aid intensity can be increased by 15% for investments using only renewable energy sources**, including green cogeneration. However, the exclusive use of renewable energy sources is not feasible. The **threshold should be reduced by 70% for large heat pumps**.

Article 46: increasing of the threshold for the exemption for aid for district heating or cooling systems

Lastly, we **especially welcome increasing** the threshold up to **EUR 50 million per undertaking per project**. Projects for decarbonising the heat supply via district heating systems are often related to high investment costs, and the threshold in the previous Regulation was set too low.