

Art. 4(1)x - notification threshold

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Article	Article 4 - Notification thresholds
Key words	threshold of EUR 50 million per undertaking, per investment project
Member State	BG
Question	<p>According to Art. 4, paragraph 1 (x) of the GBER the threshold of EUR 50 million per undertaking, per investment project is set for investment aid for energy infrastructure.</p> <p>We would like to kindly ask the Commission for the following clarifications:</p> <ol style="list-style-type: none"> 1. Is it possible for a single project, carried out by one undertaking, two different Member States (which are shareholders in the contracting entity) to provide EUR 50 million each, as a State aid under the GBER in the following options: <ol style="list-style-type: none"> 2. A) for the same eligible costs 3. B) for different identifiable eligible costs but within one project? 1. Is it possible the two Member States to apply different aid regimes to this project of common interest, for example, the first one to notify and the other/second one to apply the GBER? <p>In the specific example, the first one of the Member States, upon a notification to the EC, will support an undertaking implementing an energy infrastructure project with more than EUR 100 million. In the same company that implements this project, a Bulgarian state-owned enterprise has a 20% stake. Considering that the project contractor should also provide its own funds for the implementation of the project, the Bulgarian state would like to support it with about EUR 20 million (in proportion to the share held by the Bulgarian state-owned enterprise), and we wish to do so under the GBER.</p>
Creation Date	2020.04.15

COMP Reply	<p>As also mentioned in your question, the relevant notification threshold laid down in Article 4(1)(x) is expressed as a maximum amount <i>per undertaking and per project</i>. This means it is not possible for any one undertaking to receive aid exceeding EUR 50 million (i. e. the notification threshold) for one project, regardless of whether it is granted by one or several Member States.</p> <p>For the scenario also mentioned in your question of cumulation of aid following a notification and approval decision on the one hand and aid under the GBER on the other hand, Article 8(3)(b) lays down that cumulation of aid for the same identifiable eligible costs is only possible if it does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation. Based on the short description provided in your question, it appears that the aid in question would be granted for an investment in energy infrastructure. As such, all costs eligible for this category of aid constitute the “same identifiable eligible costs”. It is not allowed to split up the costs of the project into sub-categories of identifiable eligible costs, as this would allow a circumvention of the notification thresholds and maximum aid intensities laid down in the GBER.</p> <p><i>Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.</i></p>
COMP Reply date	2022.04.02
COMP Responsible	<input checked="" type="checkbox"/> COMPsupport ESTATE-AID-WIKI

¹ Article numbers & names

- Article 1 - Scope
- Article 2 - Definitions
- Article 3 - Conditions for exemption
- Article 4 - Notification thresholds
- Article 5 - Transparency of aid
- Article 6 - Incentive effect
- Article 7 - Aid intensity and eligible costs
- Article 8 - Cumulation
- Article 9 - Publication and information

² AT, BE, BG, HR, CY, CZ, DE, DK, EE, EFTA, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SE, SI, UK.