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## TEXTS ADOPTED

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### **P9\_TA(2021)0441**

#### **Climate, Energy and Environmental State aid guidelines (“CEEAG”)**

##### **European Parliament resolution of 21 October 2021 on the climate, energy and environmental State aid guidelines (CEEAG) (2021/2923(RSP))**

*The European Parliament,*

- having regard to Article 3(3) of the Treaty on European Union establishing that the Union’s internal market must work for the sustainable development of Europe, and to Articles 9 and 11 of the Treaty on the Functioning of the European Union (TFEU) and Article 37 of the Charter of Fundamental Rights of the European Union, which call for the integration of environmental and human health protection into the definition and implementation of the Union’s policies,
- having regard to the draft Commission communication of 7 June 2021 entitled ‘Guidelines on State aid for climate, environmental protection and energy 2022’,
- having regard to the Commission communication of 13 October 2021 entitled ‘Tackling rising energy prices: a toolbox for action and support’ (COM(2021)0660),
- having regard to the Commission communication of 17 September 2020 entitled ‘Stepping up Europe’s 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people’ (COM(2020)0562),
- having regard to the Commission communication of 14 October 2020 entitled ‘A Renovation Wave for Europe – greening our buildings, creating jobs, improving lives’ (COM(2020)0662),
- having regard to the Commission communication of 11 December 2019 entitled ‘The European Green Deal’ (COM(2019)0640),
- having regard to the Paris Agreement of the 21st Conference of the Parties (COP21) to the United Nations Framework Convention on Climate Change and to the 11th Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP11), held in Paris, France from 30 November to 11 December 2015,
- having regard to the Commission communication of 14 July 2021 entitled “‘Fit for 55’”: delivering the EU’s 2030 Climate Target on the way to climate neutrality’ (COM(2021)0550),

- having regard to the Commission Recommendation (EU) 2021/1749 of 28 September 2021 entitled ‘Energy Efficiency First: from principles to practice’ and its annexed guidelines<sup>1</sup>,
- having regard to the Commission’s evaluation of EU State aid rules,
- having regard to the public consultation on the revised climate, energy and environmental aid guidelines (CEEAG),
- having regard to the public consultation on the targeted review of the General Block Exemption Regulation (State aid): revised rules for State aid promoting the green and digital transition,
- having regard to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources<sup>2</sup> (Renewable Energy Directive),
- having regard to Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency<sup>3</sup>,
- having regard to Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU<sup>4</sup>,
- having regard to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity<sup>5</sup>,
- having regard to Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action<sup>6</sup>,
- having regard to Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088<sup>7</sup> (the Taxonomy Regulation),
- having regard to Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies<sup>8</sup> (the Aarhus Regulation),

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<sup>1</sup> OJ L 350, 4.10.2021, p. 9.

<sup>2</sup> OJ L 328, 21.12.2018, p. 82.

<sup>3</sup> OJ L 328, 21.12.2018, p. 210.

<sup>4</sup> OJ L 158, 14.6.2019, p. 125.

<sup>5</sup> OJ L 158, 14.6.2019, p. 54.

<sup>6</sup> OJ L 328, 21.12.2018, p. 1.

<sup>7</sup> OJ L 198, 22.6.2020, p. 13.

<sup>8</sup> OJ L 264, 25.9.2006, p. 13.

- having regard to its resolution of 19 May 2021 on a European strategy for energy system integration<sup>1</sup>,
  - having regard to Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’)<sup>2</sup> ,
  - having regard to the Commission report of 7 July 2021 on Competition Policy 2020 (COM(2021)0373),
  - having regard to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention),
  - having regard to Rule 132(2) and (4) of its Rules of Procedure,
- A. whereas the rules on State aid for climate, energy and environmental projects should be fit for the sustainable transition and should be in line with the climate, energy, circularity, zero-pollution and biodiversity goals and ambitions of the Union;
  - B. whereas the current 2014-2020 guidelines on State aid for environmental protection and energy (EEAG) will expire on 31 December 2021;
  - C. whereas a wide-ranging and deep review of the EEAG is required in order to fully align the guidelines with the European Green Deal, the Paris Agreement and the EU’s 2030 and 2050 climate goals;
  - D. whereas a robust and transparent State aid framework is necessary to maintain competitive markets and avoid disproportionate and unjustified market distortions;
  - E. whereas the EEAG set out the conditions under which State aid for energy and environmental protection may be considered compatible with the single market;
  - F. whereas the EU’s ambitious energy and climate objectives present unprecedented challenges that will require enormous levels of public and private investment; whereas inaction in the field would be more costly as failing or delaying investments to achieve the ecological transition could cost the EU up to 5,6 % of its GDP in 2050;
  - G. whereas the European Green Deal communication specifically sets out that State aid rules should be revised to reflect the European Green Deal’s objectives, support a cost-effective transition to climate neutrality by 2050 and facilitate the phasing out of fossil fuels, in particular those that are most polluting, thereby ensuring a level playing field in the internal market;
  - H. whereas the list of energy-intensive sectors eligible for State aid has been reduced in the Commission’s draft CEEAG;

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<sup>1</sup> Texts adopted, P9\_TA(2021)0240.

<sup>2</sup> OJ L 243, 9.7.2021, p. 1.

- I. whereas the current CEEAG exclude a differentiated approach based on regional specificities and distribution, which slows down the necessary expansion of renewable energy in the countryside in Member States with heterogeneous natural conditions;
- J. whereas on 7 June 2021, the Commission launched a targeted public consultation and published the draft CEEAG; whereas the consultation period ended on 2 August 2021;
- K. whereas the Commission has stated that the two main drivers of the revision of the EEAG are an enlargement of the scope of the guidelines to new areas and all technologies that can deliver the European Green Deal and greater flexibility in compatibility rules; whereas alignment and consistency with all relevant EU environmental and energy legislation and the Union acquis in general is essential;
- L. whereas in order to set the EU on a responsible path to becoming climate-neutral by 2050, the EU has decided to cut its greenhouse gas emissions by at least 55 % by 2030 and the Commission has proposed to align all relevant climate and energy legislation accordingly, including by suggesting Union targets for 2030 to increase the share of renewable energy sources by at least 40 % and to increase energy efficiency by at least 36 % as part of the Fit for 55 package;
- M. whereas the Commission has stated that these climate and energy targets alone will require EUR 350 billion of additional annual investment;
- N. whereas State aid rules, in particular those for climate, energy and environmental protection, should facilitate the phasing out of fossil fuels in accordance with the European Climate Law, and should not cause or contribute to lock-in effects of greenhouse gas emissions or the creation of stranded assets;
- O. whereas State aid rules should serve the implementation of the ‘energy efficiency first’ principle, which Member States are bound to apply in their energy planning, policy and investment decisions in accordance with Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action;
- P. whereas the modernised State aid rules should be future-proof and should therefore be subject to regular monitoring and review;
- Q. whereas the revision of the CEEAG State aid rules should contribute to a just transition and thus take into consideration social aspects in its objectives, including in the guidelines on tendering mechanisms, so as to counter disproportionate and unintended social consequences and inequalities, bearing in mind that 30 million people or 6,9 % of the EU population live in energy poverty, with marked differences between the Member States;
- R. whereas a robust State aid framework is necessary to maintain competitive markets and can also play a role as an enabling framework to support EU industry in the transition towards a climate-neutral economy;
- 1. Welcomes the Commission’s draft communication on CEEAG and its efforts to strengthen the EEAG and aim at a higher level of environmental protection, which includes the decarbonisation of the energy sector; welcomes the increased focus on fighting climate change and reducing greenhouse gas emissions in the draft CEEAG, and underlines that it should go hand in hand with environmental and health protection;

2. Notes that in light of the technological change brought about by the transition towards a less carbon-intensive model, State aid rules need to come with a certain degree of flexibility;
3. Recalls the Union's climate objective of reducing emissions by at least 55 % by 2030, as laid down in the European Climate Law, and the target of reaching climate neutrality by 2050 at the latest; acknowledges that many climate and energy laws are currently under revision to bring them into line with these targets, the proposed 2030 targets for renewable energy now being 'at least 40 %' and for energy efficiency 'at least 36 %'; points out that the transition to a climate-neutral economic model requires significant investment from both the private and the public sector; underlines that the cost of inaction is clearly higher than the cost of fulfilling the EU's climate and energy goals;
4. Maintains that environmentally sustainable State aid is key to meeting the EU climate, energy and environmental protection objectives; believes that the Commission should send a clear signal that any support should be compatible with the Paris Agreement and the EU's green transition and social objectives;
5. Calls on the Commission to align the different aid categories with the European Climate Law, thereby supporting a cost-effective and just transition to climate neutrality and facilitating the phasing out of fossil fuels; stresses that this gradual phasing out should be accompanied by support possibilities for new less carbon-intensive technologies in accordance with the 'do no significant harm' principle within the meaning of Article 17 of the Taxonomy Regulation and a consistent path to climate neutrality by 2050;
6. Notes that the State aid guidelines are aimed at facilitating the phasing out of fossil fuels; stresses, however, that any outstanding support for fossil gas projects should contribute to significantly reducing overall emissions and avoid long-term fossil fuel lock-in by having a future-proof design, for example gas projects that have a binding timeframe to become dedicated hydrogen assets in line with energy infrastructure legislation; underlines the need for commensurate renewable investment schedules requiring the closest scrutiny and the strictest criteria;
7. Stresses that State aid in the field of climate, environmental protection and energy is a key medium-term tool for addressing spikes in energy prices, in particular by supporting energy efficiency measures and sustainable renewable energy sources; believes that energy efficiency policies and measures, especially for buildings, are important for vulnerable people; is concerned that in the draft CEEAG, the aid category for 'the improvement of the energy and environmental performance of buildings' falls short in ambition as it only provides for minor renovations; calls on the Commission to increase the basic requirement to reduce primary energy demand in buildings by at least 40 %, the minimum level needed to reach climate neutrality by 2050 in the building sector; calls on the Commission to broaden the possibility of loosening the State aid guidelines for environmental measures of social housing across the Union;
8. Calls on the Commission to perform the sector categorisation with sufficient granularity in order to avoid excluding otherwise eligible companies from State aid due to an unfavourable sector categorisation;
9. Stresses that in light of the ambition of the Fit for 55 package, more rather than fewer sectors might require public support through State aid; calls on the Commission to

include more sectors to be eligible for State aid within the ‘Guidelines on State aid for climate, environmental protection and energy 2022’; in particular for aid in the form of reductions from electricity levies for energy-intensive users;

10. Highlights the need to mainstream the EU’s climate, environmental, zero-pollution, biodiversity and energy legislation and policies in the new State aid framework while ensuring that it remains up-to-date and in line with the updated climate and energy framework currently under revision;
11. Highlights that a failure to establish robust State aid rules in line with the Fit for 55 package and the European Green Deal could have negative consequences for the competitiveness and sustainability of EU industry, put job creation and the EU’s economic recovery at risk, and ultimately undermine the effectiveness of the Union’s climate agenda;
12. Stresses that the ambition of the Fit for 55 package will require that certain energy-intensive sectors receive a certain degree of public support in order to cope with the transition; invites the Commission to consider reviewing the list of sectors eligible for energy price compensation;
13. Calls on the Commission to perform sector categorisation with sufficient granularity in order to avoid excluding otherwise eligible companies from State aid due to an unfavourable sector categorisation;
14. Welcomes the general objectives of extending the scope of the EEAG to cover new areas such as clean mobility, increasing flexibility and streamlining current rules; notes however, that more ambition is needed as regards State aid for climate, environmental protection, renewable energy and energy efficiency projects, and that clear definitions and assessment methodologies are needed for new concepts introduced by the CEEAG;
15. Stresses that the CEEAG should adequately support the ecological transformation of EU companies in the transition to a carbon-neutral economy, while safeguarding the recovery from the COVID-19 crisis, job creation in the EU and competitiveness;
16. Underlines that the CEEAG is intended to clarify how Member States can incentivise early closures of coal, peat and oil shale activities; believes, however, that this aid category should be substantially improved, for instance by:
  - (i) introducing clear safeguards in the phasing out of fossil fuels and related activities, taking into account the historical direct and indirect subsidies received, corporate responsibilities to convert the sites after closure, and in general all liabilities as per the ‘polluter pays’ principle, which must not be paid with State aid; achieving such safeguards by setting mandatory closure dates, for example; setting an end date for the aid closure regime and/or a phasing-out of aid;
  - (ii) requiring the presentation of a holistic impact assessment and comparisons with energy-efficiency alternatives and, where they fall short, with more sustainable renewable energy alternatives for the outstanding energy needs in order to show that State aid is given to the most cost-effective, energy-efficient and sustainable long-term solution based on renewable energy, in line with the latest science and

objectives of the European Green Deal, in particular those targets on energy efficiency and renewable energy;

- (iii) defining what ‘additional costs’ eligible for State aid to facilitate the closure of profitable activities means, as was done for State aid to facilitate the closure of uncompetitive activities;
  - (iv) requiring transparency in the closure plans for fossil fuel activities and aid granted in this context;
17. Stresses that in order to become climate-neutral by 2050, the immediate and mass deployment of energy efficiency measures and sustainable renewable energy technologies is needed; stresses that public investment in energy efficiency and renewable energy will in the long term not only reduce emissions but also drive down and stabilise energy prices, thereby freeing up more disposable income and ultimately strengthening the EU’s prosperity and energy security; notes with concern that the draft CEEAG delete the aid category dedicated to supporting renewable energies and put them in competition for State aid with other low-carbon, hence fossil-based solutions; calls therefore for the final CEEAG to include a dedicated chapter on supporting renewable energies, and for it to underline that technology-specific support schemes should be the rule and not the exception and provide for the possibility of having regionally differentiated support levels to enable diversification and cost-efficient system integration of renewable energies at regional level; calls, in line with the Renewable Energy Directive, for the introduction of a specific chapter with dedicated provisions to support renewable energy communities of all sizes and smaller actors, including an exemption from mandatory auctioning and/or substantially increasing the thresholds for their exemption from auctioning or, failing that, at least keeping them at the EEAG levels;
  18. Stresses that achieving the 15 % cross-border efficient electricity interconnection target, removing national bottlenecks, increasing renewable energy storage capacity and making transmission and distribution grids smarter are another key way of expanding cross-border energy interconnection, which is required to increase security in energy supply, reduce volatility and foster the EU’s energy autonomy;
  19. Insists that State aid rules should be accommodating enough to facilitate the integration of new zero-emission, circular and sustainable solutions in all sectors, especially in hard-to-abate sectors;
  20. Requests that the energy hierarchy principles be integrated into CEEAG, according to which energy savings and efficiency are prioritised, followed by renewable direct electrification and enhanced uses of renewable heat and, finally, by the use of other sustainable renewable-energy-based resources only for applications that do not have alternatives for their transition; asks the Commission also to revise the aid in the form of reductions from electricity levies for energy-intensive users in the light of these principles by ensuring that such support is linked to real investments in energy efficiency and renewable energies for their processes;
  21. Calls on the Commission to explicitly integrate the ‘energy efficiency first’ principle in the CEEAG, in particular by:

- (i) using the principle as a priority baseline for assessing whether a measure in the energy sector is necessary, in particular for aid measures for energy production (section 4.1), aid for security of supply, notably in the context of capacity remuneration mechanisms (section 4.8) and aid for energy infrastructure (section 4.9);
  - (ii) integrating the principle into the rationale of measures with regard to schemes for energy efficiency (e.g. technology-specific tender procedures under the first aid category – section 4.1) and the improvement of the energy and environmental performance of buildings (section 4.2) or for district heating and cooling (section 4.10);
- 22. Underlines that EU State aid rules should ensure a level playing field among Member States, as not all Member States will be able to provide the same level of support to businesses, creating the risk of market distortions, fragmentation and more divergences between countries, which in turn would create further social disparities in the single market;
- 23. Calls on the Commission to examine very carefully whether the proposed changes will have a pro-competitive and pro-innovative effect or whether they are more likely to create new barriers to competition, especially for SMEs; calls on the Commission to take into account long-term consequences for the possible narrowing of transformation paths;
- 24. Notes that investments in energy-efficient and renewable technologies require economic predictability in order to minimise investment risks; calls on the Commission to authorise aid schemes for a sufficiently long period that takes into account the planning and development time frames of the relevant projects in accordance with the provisions defined in the relevant legislation;
- 25. Calls on the Commission to ensure legal certainty for support schemes that have already been approved under the old State aid regime; calls on the Commission to include a review mechanism in the CEEAG so as to ensure consistency and coherence with the final legislative acts and implementing acts of the Fit For 55 package;
- 26. Calls on the Commission to avoid excessive levels of burden of proof and justification in the new guidelines in order to avoid bureaucracy and uncertainty that would hamper the policy objectives of the European Green Deal and the achievement of the 2030 reduction targets;
- 27. Stresses the key importance of preserving and creating sustainable and quality jobs in the context of the sustainable transition;
- 28. Calls on the Commission to provide for the possibility of exceptional State aid where other parts of the guidelines would not cover such support but where the innovation supported will have a positive impact on EU society or the EU economy in line with Union policy objectives;
- 29. Expresses concern at the lack of transparency around the exchanges between the Commission and the Member States regarding the notification and approval of national State aid measures, as well as with the criteria used for the assessment of the

compliance of national State aid measures with EU environmental, biodiversity and climate protection objectives and laws; calls on the Commission to address this issue by, inter alia, disclosing the timing of the procedural steps in the State aid register, publishing the pre-notification decision and the letters to Member States when their proposed measures do not qualify as State aid, improving the templates used by Member States for State aid notification, and improving the Commission's compliance assessments;

30. Recalls that in its findings in case ACCC/C/2015/128 adopted on 17 March 2021, the Aarhus Convention Compliance Committee (ACCC) found the EU to be non-compliant with Article 9(3) and (4) of the Aarhus Convention due to the fact that it is currently impossible for civil society to challenge State aid decisions taken by the Commission under Article 108(2) TFEU, which may contravene EU law relating to the environment; calls on the Commission and the Council to show full commitment to the EU's international obligations on environmental justice; encourages the Commission to fulfil the commitment made in the statement attached to the revised Aarhus Regulation to assess the options available to address the ACCC's findings by the end of 2022 and to come forward with measures, if appropriate, by the end of 2023;
31. Instructs its President to forward this resolution to the Commission and the Council.