

EFIEES' POSITION ON THE REVISION OF THE GENERAL BLOCK EXEMPTION REGULATION (GBER)

EFIEES is the voice of private energy service companies (ESCOs) and their national associations across Europe. Our members represent over 100.000 professionals committed to the design and implementation of energy efficiency measures in public and private buildings, industrial facilities, as well as to the efficient operation of district heating & cooling networks.

EFIEES welcomes the Commission's work on a possible revision of the General Block Exemption Regulation (GBER), particularly with the aim of addressing conditions that may be overly complex or difficult to interpret and apply. A clearer and more effective State Aid Framework is essential to ensure that the decarbonisation of the European Union not only becomes but also remains a driver of growth, notably through better support to energy efficiency measures.

Achieving climate neutrality, energy security, and a competitive economy in Europe indeed requires to deploy and support all ready-to-use and scalable clean solutions. In that sense, public support to projects led by ESCOs is and will remain essential, as they are key energy transition project aggregators, designing tasks, coordinating actions, partners, and resources, and, finally, operating the projects. Their involvement in a given project streamlines the preparation and execution of energy efficiency and renovation actions while ensuring effective task management and facilitating the smooth allocation of grants and other financing sources. And as regards ESCOs' activities, the provisions of **Article 36** of the GBER risk jeopardising certain energy efficiency projects, and in any case fail to derisking them by preventing State Aid to benefit these projects.

According to this article, the beneficiary of public investment aid for environmental protection and decarbonisation may only be the entity whose own activities are directly subject to a reduction in greenhouse gas (GHG) emissions. Consequently, a third party, such as an ESCO, engaged under a third-party financing or third-party investment arrangement, for example through an Energy Performance Contract (EnPC) to deliver equipment enabling the reduction of GHG emissions from the client's activities, cannot be regarded as a "beneficiary" and therefore cannot receive the aid. Yet, an EnPC is a contract between a client and an ESCO whereby the ESCO guarantees a reduction in the client's energy consumption, and thus in its GHG emissions, measured and verified against a contractual baseline over a defined period of time, thanks in particular to investments made by the ESCO in works combined with the provision of related services. Under this definition, investment projects for environmental protection/decarbonisation carried out under an EnPC—or, more generally, under a

project structure involving a third-party investor, as is often the case in industry—are excluded from the scope of aid, since **in such cases ESCOs cannot qualify as direct beneficiaries**.

Therefore, in order to enable the best support and facilitation of ESCOs activities including energy performance contracting, which are particularly effective tools for advancing the green transition, and to ensure compatibility with the practical financing arrangements used by industrial actors for energy efficiency projects, the provisions of the GBER should be amended. Specifically:

- In each of paragraphs (a), (b), and (c) of Article 36 (2), add: “where the project is implemented under a third-party financing mechanism, the improvement in environmental protection may also result from the activities of another entity involved in the infrastructure chain.”
- At the end of Article 38a (8), add: “or, where this is done under an energy performance contract or a third-party financing mechanism.”

Furthermore, this possibility should apply regardless of the size of the ESCO. More generally, for a given project, the aid should not depend on the size of the ESCO but on the size of the beneficiary of the project.

- Article 38 should thus simply refer to SMEs as eligible beneficiaries of aid to facilitate the conclusion of EnPCs, without imposing conditions on the size of their energy service providers.

Moreover, if the GBER were to be revised, the Guidelines on State aid for climate, environmental protection and energy (CEEAG) should also be reopened accordingly, in order to pursue the same objectives. In a context of limited public financial resources, it is crucial to ensure that projects supported by State aid achieve and deliver the expected energy performance and CO₂ emissions reductions. For this reason, a bonus in the intensity of public support should be granted to projects based on guaranteed performance. Such a measure would, in turn, facilitate the mobilisation of private co-financing for these projects.