C&S CLIENT BRIEFINGS

Brussels, October 2025

Maria Segura Catalán, Marianne Clayton and Christopher M. Vollert from Clayton & Segura State Aid Lawyers report regularly on the most relevant developments from the capital of Europe on State aid matters.

State Aid Report – September 2025

The engines of the European Commission have started again after a summer break in August. While some public consultations are ongoing, the European Commission approved several measures, opened a formal investigation and dealt with no aid, compatible and incompatible aid for the Carcassonne Airport in France.

As promised in our last Client Briefing (State Aid Report – August 2025), EU Courts delivered interesting judgments. In one of the landmark cases of 2025, *Paks II*, the Court of Justice has issued its judgment, and the cases do not stop: we provide an overview of upcoming cases in our State aid calendar.

As always, we have selected the most relevant highlights for you. For more information and a full overview of the State aid news, visit the press releases section on our website. But for now, let's dive straight into the news from the scene.

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NEWS FROM THE SCENE

Public Consultation on revised State aid rules for affordable housing

The Commission has launched a public consultation regarding State aid for affordable housing. It consists of a revision of the SGEI Decision 2012/21/EU. The reform creates a new exemption category in the SGEI Decision for affordable housing, allowing Member States to support housing projects beyond social housing without prior notification.

The revision also introduces changes for critical medicines, aviation, and maritime sectors, and simplifies and updates the overall rules.

The draft SGEI Decision builds on a consultation and Call for evidence of June and July 2025, which gathered over 250 responses, and a stakeholder "reality check" meeting on housing challenges. The ongoing consultation will guide how the rules are revised to support affordable housing investments. Feedback will inform the review, with the revised SGEI Decision due by the end of the year.

Contributions are open to all stakeholders until 4 November 2025 via the Commission's competition website.

For more information, see the Commission's PR.

Overview and Reminders on ongoing Public Consultations

Deadlines (midnight Brussels time):

6 October 2025	Planned GBER revision *Call for Evidence*
14 November2025	R&R Aid Guidelines revision *Call for Evidence*
18 November 2025	FSR Review *Call for Evidence*

As always, Clayton & Segura can assist you to prepare and submit your feedback.

NEWS FROM THE COURTS

Inextricable link: Court of Justice Annuls Paks II Decision

The Court of Justice (CJEU) has delivered its judgment in case *Austria v Commission (Centrale nucléaire Paks II)* (C-59/23 P), thereby annulling Commission Decision SA.38454 – 2015/C (ex 2015/N) concerning Hungarian support for the development of two new nuclear reactors at Paks II nuclear power station.

In 2017, the Commission approved Hungary's State aid to state-owned MVM Paks II for the construction of two new nuclear reactors at the Paks power station. Austria contested the Commission's decision, but the General Court dismissed its action.

The CJEU has set aside the judgment of the General Court and annulled the decision of the Commission. The Court has considered that in its assessment of the aid measure the Commission should not have limited the analysis to the compatibility with State aid rules only. The Commission should have ascertained whether the direct award of the contract for the construction of the two new nuclear reactors complies with EU public procurement rules. The construction of the two reactors forms an integral part of the aid measure. Accordingly, the Court concluded that public procurement rules had to be assessed to assert the compatibility of the aid measure. The direct award of the construction contract was indispensable for the attainment of the objective of that aid and is thus an aspect that is inextricably linked to it.

For more information, see the CJEU's judgment.

General Court Confirms Compatibility of State Aid for Česká pošta s.p

The General Court (GC) rendered its judgment in case Zásilkovna v Commission (T-784/22), dismissing the action brought by the Czech parcel delivery company Zásilkovna s.r.o. against the Commission's decision to approve State aid given to the Czech national postal service Česká pošta s.p.

Zásilkovna claimed that Česká pošta used excessive compensation received for its universal service obligation (USO) to subsidise commercial services below market cost and that this amounted to incompatible State aid. The GC rejected all three arguments brought by the applicant; existence of a breach of the obligation to state reasons, a manifest error of assessment of the compatibility of the compensation with the internal market and manifest error of assessment and failure to examine whether there was cross-subsidisation prior to the compensation.

Zásilkovna alleged that the Commission erred by allowing Česká pošta to over-allocate costs to its USO, enabling below-cost pricing of commercial services and by wrongly assessing the need for state intervention. The General Court rejected these claims, finding no manifest errors and upholding the Commission's view regarding the existence of a market failure in the Czech postal market justifying the provision of a service of general economic interest (SGEI).

It also dismissed challenges to the cost-calculation scenario as justified under Czech law and found the pleas in law concerning alleged past cross-subsidisation inadmissible.

The Court dismissed the action entirely, confirming the compatibility of the aid.

For more information, see the GC's judgment.

NEWS FROM THE EUROPEAN COMMISSION

Commission approves EUR 7.9 billion budget increase to German State aid scheme for renewable electricity production

The Commission has approved an amendment to an existing German renewable energy scheme from 2022 increasing the budget of the biomass and biogas support scheme by EUR 7.9 billion.

The amendment increases tender volumes, creates a quota for biomass plants linked to heating networks, limits eligible biogas production hours, shortens the transition period for old biomass installations, and increases payments for flexible electricity generation.

The Commission approved the amendments under the Guidelines on State aid for climate, environmental protection and energy ('CEEAG'), finding them necessary, proportionate and appropriate to increase the electricity production from biomass and biogas.

For more information, see the Commission's PR.

Aid to Carcassonne airport: no aid, compatible and incompatible aid

Following the opening of a formal investigation procedure launched in April 2012, the European Commission has approved EUR 11.7 million of subsidies granted between 2001 and 2011 to the Chamber of Commerce and Industry of Carcassonne-Limoux-Castelnaudary (CCI), then manager of Carcassonne airport. The subsidies, financed mainly by regional and local authorities, supported infrastructure investment and operating costs. The Commission found them compatible with the Aviation Guidelines, as they were necessary, proportionate and did not unduly distort competition with neighbouring airports.

An additional EUR 1.1 million of funding was used for non-economic tasks such as firefighting and customs and therefore fell outside State aid rules.

In the same period, CCI concluded a series of marketing and airport services agreements with Ryanair and its subsidiary AMS. Assessing 16 such agreements under the market economy operator test, the Commission found that 11 contracts were loss-making for the airport and conferred an undue advantage on Ryanair. These agreements amount to incompatible State aid of approximately EUR 1.8 million. France must recover this amount, plus interest, from the beneficiary in order to remove the distortion of competition.

The non-confidential version of the decision will be published under case number SA.33962.

For more information, see the Commission's PR.

Official publication of Commission Approval of Aid to ThyssenKrupp for project tkH2Steel

The Commission Decision approving up to EUR 2 billion aid to ThyssenKrupp for the project tkH2Steel adopted in 2023 has been published in the official journal. The tkH2Steel project consists in the implementation of hydrogen-based DRI technology, coupled with the deployment of two melting units, at the Duisburg site.

It intends to contribute to decarbonisation by implementing at industrial scale the DR technology, which enables the substantial reduction of emissions associated with steel production.

The measure consists of up to EUR 550 million in direct grants to cover the funding gap and up to EUR 1.45 billion in grants to promote the use of renewable hydrogen, amounting to a total potential aid of EUR 2 billion.

The Commission approved the measure under the Guidelines on State aid for climate, environmental protection and energy 2022 (CEEAG), finding it necessary, proportionate and appropriate to contribute to decarbonisation and promotion of renewable energy.

For more information on the assessment of compatibility of the aid, see the Commission's decision.

Commission Opens Formal Investigation into Alleged Slovenian State Aid Granted to Javni Zavod Lekarna Ljubljana

The Commission has launched an in-depth investigation into whether the transfer of certain assets from the Municipality of Ljubljana to Javni Zavod Lekarna Ljubljana complies with EU State aid rules.

In March 2020, the Commission had concluded that the measures either involved no aid or qualified as existing aid. However, the General Court partially annulled that decision on 27 April 2022, and the Court of Justice confirmed this ruling on 5 September 2024. The Court determined that the Commission should have opened the formal investigation procedure in relation to the asset transfers to Lekarna Ljubljana.

The Commission will now investigate whether the asset transfers qualify as existing aid or aid compatible with the internal market. Launching an in-depth investigation allows Slovenia and other interested parties to submit comments, without prejudicing the final outcome.

For more information, see the Commission's PR.

Commission Approves Amendment to Portuguese State Aid Scheme for Compensation of Indirect Emission Costs

The Commission has approved a EUR 100 million budget increase for a Portuguese State aid scheme compensating energy-intensive companies for higher electricity costs due to carbon pricing under the EU Emission Trading Scheme (ETS). The scheme was originally approved in November 2022 and provides partial refunds to eligible companies for indirect emission costs from 2021 to 2030. To prevent significant reductions in compensation, the budget has been raised to EUR 275 million.

The Commission approved the scheme under the Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2021 ('ETS State aid Guidelines'), concluding that it still meets the necessary criteria, supporting energy-intensive companies facing high electricity prices and preventing relocation to non-EU countries with weaker climate policies.

For more information, see the Commission's PR.

STATE AID CALENDAR

Upcoming:

16 October 2025	ECJ Judgment; Case C-391/23 *Braila Winds*
16 October 2025	Opinion of AG Biondi; Case C-457/23 P *Deutsche Lufthansa v Ryanair and Others*
16 October 2025	ECJ Judgment; Case C-59/24 P *Netherlands v European Gaming and Betting Association and Commission*

23 October 2025	Opinion of AG Spielmann; Case C-242/24 P *Commission v Allemagne (Aides à la cogénération)*
23 October 2025	ECJ Hearing, Joined Cases C-266/24 P C-269/24 P C-289/24 P *Commission v Ryanair (Aide d'État Covid-19 - KLM) Koninklijke Luchtvaart Maatschappij v Ryanair (Aide d'État Covid-19 - KLM) Société Air France and Air France-KLM v Ryanair (Aide d'État Covid-19 - KLM)*

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This briefing is provided by Clayton & Segura State Aid Lawyers for informational purposes only and is not intended and should not be construed as legal advice.

Clayton & Segura are state aid lawyers with more than 20 years of experience. At Clayton & Segura, we work exclusively in the field of State aid and provide comprehensive support to our clients.

Until next time in November, catch some of the falling leaves and autumn vibes, but don't forget to follow us on LinkedIn or contact us at info@claytonsegura.com for your favourite EU State aid newsletter!


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