C&S MONTHLY REPORT

Brussels, August 2026

Clayton & Segura State Aid Lawyers report regularly on the most relevant developments from the capital of Europe on State aid matters.

State Aid Report – August 2026

Even though the European quarter was deserted in August, as is traditionally the case, there is no shortage of State aid news. We have compiled them for you in this State Aid Report.

Among them, there are measures taken under the Middle East Temporary State Aid Framework (METSAF), the Clean Industrial Deal State Aid Framework (CISAF), an opening of a formal investigation in the Spanish arbitration on renewables saga, and a guidance paper on fiscal flexibility for energy security measures.

For more information, and a full overview of the State aid news, visit the press releases section on our website.

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NEWS FROM THE EUROPEAN COMMISSION

I. Scaleup Europe Fund is established

The Commission has completed the final legal steps to establish the Scaleup Europe Fund as part of the European Innovation Council Fund. The purpose of the Scaleup Fund is to boost Europe's scaleup companies to grow faster and compete globally with a target of EUR 5 billion in investments.

The Swedish private equity firm EQT, selected through an open and competitive process, has taken up its role as investment manager, and is now empowered to take investment decisions independently and on market terms.

The first investments are expected in the coming weeks. The Fund will support scaleup companies across critical technology areas, including artificial intelligence, quantum technologies, biotechnology and clean technologies. The founding investor group brings together a coalition of public and private partners alongside the Commission.

For more information, see the Commission's PR.

II. Guidance on fiscal flexibility for energy security measures

The Commission has adopted a notice providing Member States with further guidance on the possibility to extend the coverage of the National Escape Clause (NEC) for defence to also include energy security measures. The notice sets out the procedure for requesting fiscal flexibility, its treatment under the EU fiscal surveillance framework and how its use will be monitored. The flexibility is intended to support measures that strengthen the structural resilience of the European energy system and accelerate the transition away from fossil fuels.

Only budgetary measures decided after 28 February 2026 will qualify for the flexibility. Eligible measures should be nationally financed with a direct budgetary impact. The Commission will assess the eligibility of measures on a case-by-case basis, although a non-exhaustive list of potentially eligible measures will be included in the notice.

The flexibility will also have to preserve fiscal sustainability. The existing overall cap of 1.5% of Gross Domestic Product (GDP) for the allowed deviation from the recommended net expenditure path under the NEC will remain in place, with dedicated caps for energy security measures set at 0.3% of GDP per year and 0.6% of GDP cumulatively inside the overall cap of 1.5% of GDP. This new possibility will be available for the period 2026 to 2028.

We will inform you as soon as the notice is published in the Official Journal of the EU.

For more information, see the Commission's PR.

DECISIONS ADOPTED BY THE EUROPEAN COMMISSION

I. Openings of formal investigation

Spain: Commission opens in-depth investigation into arbitral compensation award

The Commission is assessing whether an arbitration award ordering Spain to pay compensation to JGC Holdings Corporation ('JGC') for changes to a renewable electricity support measure is in line with EU State aid rules.

JGC is a Japanese engineering holding company that invested in Spain and benefitted from a scheme established in 2007 to support the production of electricity from renewable sources. The scheme was modified in 2013 and approved by the Commission in 2017. JGC initiated arbitration proceedings to claim compensation for the benefits that it would have obtained on the basis of the 2007 scheme.

In 2021, an arbitral tribunal found that Spain had infringed the Energy Charter Treaty (ECT) and ordered Spain to pay EUR 23 5 million, plus interest and additional costs to JGC. Spain notified this award to the Commission and informed it that it had made the payment under State aid rules. Spain also informed the Commission it had made a payment under this award to Blasket Renewables Investment ('Blasket'), a US fund that was assigned the rights to the award and had prepared and envisaged enforcement in the Netherlands and attempted enforcement in the United States and Belgium.

The Commission's preliminary view is that the arbitration award and its implementation constitute State aid within the meaning of Article 107(1) TFEU. It will further investigate its compatibility with the internal market and with the criteria of the applicable State aid guidelines. Furthermore, the Commission will analyse whether a decision by an investor-State arbitration is in accordance with the principle of autonomy of the EU legal order.

For more information, see the Commission's PR.

Denmark: In-depth investigation of alleged State aid in favour of Post Danmark

On 12th August, the Commission published in the Official Journal the decision adopted on 30 June 2026 opening the in-depth investigation procedure regarding alleged State aid to Post Danmark.

The Commission had found in 2018 that a EUR 134 million (DKK 1 billion) capital injection from PostNord Group AB into Post Danmark did not constitute State aid. Following an action for annulment the General Court partially annulled that decision(case T-561/18, ITD and Danske Fragtmænd v Commission).

With the decision adopted on 30 June 2026, the Commission has opened the formal investigation procedure to assess whether the capital injection is imputable to the Danish and Swedish States because of i) the organic links between the States and PostNord AB, ii) the nature of PostNord AB's activities, iii) the supervision and control exercised by the States over the capital injection approved by PostNord AB, through the existence of a dialogue between PostNord AB's Board of Directors and the States, and iv) other indicators which could point to a potential involvement of the States in the capital injection, such as the amount of the capital injection.

In addition, the Commission will assess whether the capital injection is market-conform, meaning that it complies with the market economy operator principle (MEOP). Thirdly, the Commission will assess whether the measure can be considered compatible with the internal market.

Interested parties are invited to submit their comments within one month of the publication of the measure in the Official Journal. Clayton & Segura can help you with the preparation and submission.

For more information, see the publication in the OJ and our previous PR.

II. Energy and Decarbonisation - CISAF

Denmark: Commission approves EUR 84 million State aid scheme to support cleantech manufacturing capacity

The scheme will be open to all companies that carry out investments that add manufacturing capacity to produce some net-zero technologies, as well as the production of the main specific components of these technologies. In addition, the scheme includes aid for the production of new or recovered critical raw materials necessary for the final products or main specific components.

The aid will take the form of direct grants and may be granted until 31 December 2026.

The Commission found that the scheme is in line with the conditions set out in the Clean Industrial Deal State Aid Framework (CISAF). In particular, the aid will incentivise the production of clean technologies, as well as their main specific components and related critical raw materials. Furthermore, it found that it is necessary and appropriate to accelerate the transition towards a net-zero economy, and that it is proportionate.

The decision will be made available under the case number SA.124032 in the State aid register.

For more information, see the Commission's PR.

The Netherlands: Commission approves EUR 780 million State aid scheme to support renewable hydrogen production

This scheme was approved under the Clean Industrial Deal State Aid Framework (CISAF). The aid will be awarded through a competitive bidding process planned to be concluded by the first quarter of 2027. It will take the form of a direct grant combining an upfront investment grant of up to 80% of the investment costs with a variable premium paid over five to ten years. Beneficiaries will have to prove compliance with EU criteria for the production of renewable fuels of non-biological origin (RFNBOs), as set out in the delegated acts on renewable hydrogen.

The Netherlands estimate that around 400 megawatts of electrolysis capacity will be constructed, and that the scheme will incentivise the production of up to 40 kilotonnes of renewable hydrogen a year, resulting in around 324 kilotonnes of CO_2 avoided annually.

The Commission assessed the scheme under Article 107(3)(c) TFEU and CISAF, and found that it is necessary and appropriate, having an incentive effect and a limited impact on competition and trade within the EU.

The decision will be made available under the case number SA.122432 in the State aid register.

For more information, see the Commission's PR.

III. Aid approved under the Middle East Crisis Temporary State Aid Framework (METSAF).

Germany: Commission approves EUR 4.5 million State aid for fishing and aquaculture companies facing increased fuel prices

The scheme aims at mitigating the impact of the increase in fuel prices for companies active in the primary production of fishery and aquaculture products due to the Middle East crisis. It will run until 31 December 2026.

The aid will take the form of direct grants, and its intensity will not exceed 70% of the estimated increase in fuel costs during the period from 1 March until 23 July 2026. It will not exceed EUR 50 000 per company.

The Commission assessed the scheme under Article 107(3)(c) TFEU and Sections 1 and 2.1 of the Middle East Crisis Temporary State Aid Framework (METSAF), and found that it is necessary, appropriate and proportionate.

For more information, see the Commission's PR.

Malta: Commission approves EUR 700 000 State aid for fishing companies facing increased fuel prices in Malta

The scheme aims to support companies active in primary production of fishery products and mitigate the impact of the increase in fuel prices resulting from the Middle East crisis. The support will take the form of direct grants, based on the volume of fuel purchased between 1 March and 31 December 2026 and the monthly price difference with the pre-crisis benchmark of February 2026. It will cover 70% of additional costs and will run until 31 December 2026.

The Commission assessed the scheme under Article 107(3)(c) TFEU and Sections 1 and 2.1 of the Middle East Crisis Temporary State Aid Framework (METSAF). It found that it is necessary, appropriate and proportionate.

The decision will be made available under the case number SA.124035 in the State aid register.

For more information, see the Commission's PR.

Italy: Commission approves EUR 20 million State aid for agricultural, fishing and aquaculture companies facing increased fuel and fertiliser prices in Friuli Venezia Giulia region

The scheme was approved under the Middle East Crisis Temporary State Aid Framework (METSAF), will take the form of direct grants and subsidised loans and will run until 31 December 2026.

The amount of the aid will be determined based on the size of land used for the primary production of agricultural products, and on the basis of estimates of fuel consumption in the primary production of fishery and aquaculture products. The maximum amount per beneficiary is EUR 50 000. The aid is paid by the autonomous region of Friuli Venezia Giulia.

The Commission assessed the scheme under Article 107(3)(c) TFEU and Sections 1 and 2.1 of the METSAF, and found that it is necessary, appropriate and proportionate.

The decision will be made available under the case number SA.123315 in the State aid register.

For more information, see the Commission's PR.

IV. Infrastructure

Germany: Commission approves EUR 75 million State aid for new stadium in Oldenburg

The beneficiary is Stadion Oldenburg GmbH & Co. KG, a company 100% owned by the City of Oldenburg. The stadium, with a predicted capacity of 15 000 spectators, will be built by a general contractor selected through an EU-wide tender procedure.

The Commission assessed the measure directly under Article 107(3)(c) TFEU. It found that the measure is appropriate to achieve the objectives pursued; namely, to develop and operate an attractive venue for sports and cultural events in Oldenburg. Furthermore, it found that the measure is necessary and proportionate.

The decision will be made available under the case number SA.122175 in the State aid register.

For more information, see the Commission's PR.

STATE AID CALENDAR

Upcoming:

3 September 2026	Judgment Case C-145/24 P *BdM Banca v Commission*
9 September 2026	Hearing Case C-309/25 *Enefit Green and Utilitas Wind*
10 September 2026	Hearing Case T-148/25 *Ryanair v Commission*

17 September 2026	Hearing	Case	T-59/25 *Tartu Agro v Commission*

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