



C&S CLIENT BRIEFINGS



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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 – February 2025

Now that we can see the first rays of sunshine in Brussels, we are eagerly looking forward to what spring will bring on the state aid horizon. Work on the Clean Industrial Deal is progressing, and the case work of the European Commission (Commission) and the EFTA Surveillance Authority (ESA) has already been very active. We can also report more news from the European courts in Luxembourg, particularly regarding state aid in the aviation (Ryanair, TAP, Wizzair, Carpatair) and energy (Paks II) sectors. But let's start with the news from the scene.

NEWS FROM THE SCENE

The Commission work programme 2025: What's in store for state aid?

The [European Commission's 2025 work programme](#) outlines plans to strengthen competitiveness, security, and economic resilience, focusing on innovation, sustainability, and growth. Simplification plays a key role, with *Omnibus* proposals reducing regulatory burdens in sustainable finance, industrial decarbonisation, and agriculture.

At the heart of the programme is the *Clean Industrial Deal*, which aims to help European industry regain competitiveness while supporting the European Green Deal objectives. It focuses on improving access to affordable energy, boosting circular economy markets, and enhancing Europe's economic security. An action plan will be proposed to

reduce energy costs and power the *Clean Industrial Deal*. A new state aid framework ("Clean Industrial Deal State Aid Framework - CISAF") should accelerate renewable energy deployment, promote industrial decarbonisation, and expand clean tech manufacturing. Investment in clean energy should be supported by unlocking private capital and ensuring sufficient capacity to meet Europe's green transition goals.

It also includes the *Competitiveness Compass*.

For further information, see the [PR](#).

For more information on current work projects of the Commission relating to state aid and the Competitiveness Compass, see our C&S Client Briefing of January 2025 [here](#).



Commission launches public consultation on draft amendments to State aid rules regarding access to justice in environmental matters

On 7 February, the Commission launched a [consultation](#) on draft amendments to the State aid Implementing Regulation (EC) No 794/2004 and the State aid Best Practices Code (BPC). These changes introduce a new review mechanism allowing the public to request a Commission review of certain State aid decisions to assess their compliance with EU environmental law. The amended BPC outlines procedural aspects such as who can request a review, which decisions are eligible, and the applicable deadlines. Additionally, the revision updates other procedural rules in line with the Commission's practice and EU case law.

The consultation runs until 21 March 2025, and the proposals will also be discussed with Member States. The adoption of the revised regulation and BPC is expected in Q2 2025, alongside a Commission Staff Working Document assessing its impact. This initiative follows the 2021 findings of the Aarhus Convention Compliance Committee, which ruled that the EU violates the convention by not allowing the public to challenge State aid decisions that may breach EU environmental law.

Clayton & Segura will keep you updated and can help you to prepare and submit your contribution.

For further information, see the [PR](#).

Commission publishes State aid brief on the use of temporary frameworks

On 20 February, the Commission published a State aid brief on the use of two frameworks: the [Temporary Crisis and Transition Framework \(TCTF\)](#), adopted on 9 March 2023 to support key sectors in the transition to a net-zero economy, and the [Temporary Crisis Framework \(TCF\)](#) adopted in response to Russia's war

against Ukraine. The TCTF allows Member States to provide aid in three main areas: accelerating the rollout of renewable energy, facilitating industrial decarbonisation, and enhancing investments in key transition sectors. These measures are in place until 31 December 2025.

For more information, see the Commission's state aid brief [here](#).

Commission unveils 'Omnibus' package to simplify EU sustainability and investment rules

On 26 February, the Commission proposed the 'Omnibus' package', a series of measures to reduce administrative burdens and enhance investment capacity, aiming to strengthen EU competitiveness. The reforms focus on simplifying sustainability reporting, due diligence, the EU Taxonomy, carbon border rules, and investment programs, targeting a 25% reduction in red tape, with 35% for SMEs.

For more information, see the Commission's [PR](#)

NEWS FROM THE EUROPEAN COMMISSION

Commission approves EUR 500 million French State aid to support chemical recycling of plastic waste

On 3 February 2025, the Commission approved a EUR 500 million French State aid scheme to support companies recycling certain types of plastic waste such as films, non beverage bottles and trays. The scheme supports the EU's goal of circularity of production and consumption, aiding the industry's transition to climate neutrality.

The aid consists of direct grants, with a maximum aid intensity of 40%. The Commission, for the first time ever, assessed the measure under Section 4.4 of



the [Guidelines on State aid for climate, environmental protection and energy 2022 \('CEEAG'\)](#), which allows granting aid for resource efficiency and for supporting the transition towards a circular economy.

For more information, see the Commission's [PR](#).

Commission approves EUR 2.3 billion Finnish State aid to accelerate transition to a net-zero economy

On 18 February, the Commission approved a EUR 2.3 billion state aid scheme aimed at promoting investments in strategic sectors and assisting industrial companies in decarbonising their production processes.

The scheme, open to all sectors except credit institutions and other financial institutions, takes the form of a tax credit and consists of three measures: Accelerated renewable energy and storage rollout measure (1.), decarbonisation and energy efficiency (2.) and a measure for investments in strategic sectors such as strategic equipment, key components, and critical raw materials for green technologies (3.).

The Commission approved the scheme under the State aid [Temporary Crisis and Transition Framework](#) ('TCTF').

For more information, see the Commission's [PR](#).

Commission Approves EUR 920 Million German Aid for Infineon's New Semiconductor Plant

On 20 February, the Commission approved EUR 920 million in German aid to Infineon for the construction of a semiconductor manufacturing facility in Dresden, which is planned to reach its full capacity by 2031. This measure is intended to boost EU chip production ensuring security of supply and technological autonomy.

The measure takes the form of a direct grant which will support Infineon's EUR 3.5 billion investment. Infineon has made commitments to strengthen the EU semiconductor value chain, advance chip R&D, enhance crisis preparedness, and offer SMEs and research organizations access to its new facility for testing and prototyping.

The Commission approved the measure under Article 107(3)(c) of the Treaty on the Functioning of the EU ('TFEU'), which enables Member States to grant aid to facilitate the development of certain economic activities subject to certain conditions, and based on the [European Chips Act Communication's](#) principles.

The Commission approved the aid as it supports the establishment of a first-of-its-kind semiconductor facility in Europe, incentivises investment that would not occur without public funding, has minimal impact on competition, and strengthens Europe's semiconductor supply chain and ecosystem, with Infineon committing to obligations under the EU Chips Act.

For more information, see the Commission's [PR](#).

Commission Approves Belgian State Aid to Extend Operation of Two Nuclear Reactors

On 21 February, the Commission approved a revised Belgian support measure for the lifetime extension of the nuclear reactors Doel 4 and Tihange 3. The measure was introduced in response to concerns about security of supply in the context of the energy crisis and the Russian war of aggression against Ukraine.

The aid supports Electrabel, Luminus, and 'BE-NUC', the newly created 50-50 joint-venture between the Belgian State and Electrabel. The aid measure includes the creation of BE-NUC for capital investment, a 10-year contract-for-



difference ensuring revenue stability, and financial safeguards like a loan and cashflow guarantee. It also involves a EUR 15 billion transfer of nuclear waste liabilities from Electrabel to the Belgian State and risk-sharing measures to protect operators from future legislative changes.

The Commission assessed the aid measure under Article 107(3)(c) of the Treaty on the Functioning of the EU ('TFEU') and Regulation 2019/943 (as amended by [Regulation 2024/1747](#)) on the Union's electricity market design.

Belgium adjusted the public support package, to address the Commission's concerns. It introduced safeguards to ensure that the contract for difference (CfD) design is appropriate and there is no undue distortion of the functioning of the electricity market, such as an independent energy manager to oversee electricity sales and a competitive tendering process.

To ensure proportionality, the CfD strike price was set based on a funding gap model, risk-sharing mechanisms were strengthened, and nuclear waste transfer conditions were tightened. The Commission concluded that the aid is necessary, appropriate, and proportionate, minimising market distortions.

For more information, see the Commission's [PR](#).

Commission approves EUR 227 million Austrian aid for new wafer facility

On 24 February, the Commission approved a EUR 227 million Austrian measure under EU State aid rules to support ams Osrām in constructing an advanced wafer manufacturing facility in Premstätten. This state-of-the-art plant, expected to be fully operational by 2030, will be the first in Europe to integrate Complementary Metal Oxide

Semiconductors ("CMOS") technology with innovative Through Silicon Via ('TSV') techniques and optical filters to produce Grade 0 automotive qualified products. The project is set out in line with the objectives of the European Chips Act and is deemed to enhance Europe's security of supply, resilience, and technological autonomy. This approval builds on similar initiatives in [Italy](#), [France](#), and [Germany](#), reinforcing a comprehensive strategy to foster an integrated and resilient semiconductor manufacturing network in Europe.

For more information, see the Commission's [PR](#).

Other SA approvals of the Commission:

- Commission approves EUR 103 million Czech aid scheme to support biomass-powered district heating (→ [C&S PR](#))
- Fishery and aquaculture sector: Commission approves EUR 122 million Danish State aid to reduce CO2 emissions (→ [C&S PR](#))
- Commission Approves EUR 41 Million German Aid to support Uniper Hydrogen's Renewable Hydrogen Production (→ [C&S PR](#))
- Commission approves EUR 111.7 million Greek State aid to support production of renewable hydrogen (→ [C&S PR](#))

Openings of the formal investigation procedure

- Commission opens formal investigation State aid procedure into Croatian support for wood industry (→ [C&S PR](#))



NEWS FROM THE COURTS

General Court Dismisses Ryanair's Action Against Commission Decision Approving Rescue Aid to TAP Air Portugal

On 5 February, the General Court delivered its judgment in a case brought by Ryanair against the European Commission's 16 July 2021 decision on State aid [SA.57369](#). The decision approved a EUR 1.2 billion rescue aid granted to TAP Air Portugal during the COVID-19 pandemic to support the airline's operations for six months.

The General Court upheld the Commission's decision, affirming that TAP SGPS, the parent company of TAP Air Portugal, qualified for rescue aid. It ruled that the Commission had correctly assessed the measure's compatibility with the internal market, as well as its appropriateness and proportionality. The Court also determined that the Commission's review was thorough and found no violations of legal principles such as non-discrimination or freedom to provide services.

For more information, see the GC's [judgment](#).

Additional Guidance on the Concept of 'Inextricable Link'

On 6 February, Advocate General Rantos delivered his Opinion in *Tiberis Holding* (C-514/23) concerning a request for a preliminary ruling from the Consiglio di Stato (Council of State, Italy) regarding the interpretation of Article 3 of Directive 2009/28/EC and Article 4 of Directive (EU) 2018/2001 on renewable energy promotion.

The case concerns a negative incentive mechanism within the renewable energy support scheme. Tiberis, a hydroelectric producer, contested a EUR 1.2 million reimbursement demand from Gestore dei servizi energetici (GSE), arguing that the

mechanism violates EU law by restricting market price responsiveness.

The Advocate General considered that the referring court lacks jurisdiction to assess the negative incentive mechanism's compatibility as it is an integral part of Italy's state aid scheme, previously approved by the Commission. Since the mechanism is indissolubly linked to the aid's intensity and proportionality, and necessary for its objective or functioning, any ruling on its incompatibility with EU directives could alter the approved scheme and encroach on the Commission's exclusive competence under Articles 107 and 108 TFEU.

This opinion provides additional guidance on the notion of inextricable link, a complex legal issue which was also discussed by the Court of Justice in the judgment [T-743/21](#) rendered earlier in February 2025 (for further details please see our [PR](#)).

For more information, see the AG's [opinion](#).

Court of Justice Finds Carpatair's Action for Annulment of Commission Decision Granting State Aid to Wizzair inadmissible

On 13 February, the Court of Justice (CJEU) delivered its judgment in three joined cases seeking to set aside the judgment of the General Court (GC) of 8 February 2023 in *Carpatair v Commission* ([T-522/20](#)) (Joined Cases C-244/23 P, C-245/23 P, C-246/23 P).

In the contested judgment, the GC annulled Article 2 of Commission Decision (EU) 2021/1428 of 24 February 2020 on the State aid implemented by Romania for Timișoara International Airport, in so far as it concluded that the airport charges in the Aeronautical Information Publication (AIP) of 2010 and the agreements concluded between AITTV and Wizz Air during 2008 did not constitute state aid.



The GC considered that Carpatair was directly and individually concerned by the contested decision and agreements, thus establishing its legal standing to challenge the decision. The CJEU has ruled that the GC failed to substantiate its finding that Carpatair was individually concerned by the 2008 and 2010 agreements, as it did not adequately address key arguments and evidence. Consequently, the CJEU concluded that Carpatair lacked standing to annul the decision and set aside the GC's judgment.

For more information, see the CJEU's [judgment](#).

AG Medina recommends overturning the General Court's ruling on Hungary's Paks II nuclear aid

On 27 February, Advocate General Medina delivered her opinion in Case C-59/23 P *Austria v Commission (Paks II nuclear power station)*.

In 2017, the European Commission (Commission) approved Hungarian state aid for two new nuclear reactors at Paks in 2017 (cf. [SA.38454](#)). Their construction was directly awarded to Russia's Nizhny Novgorod Engineering under a bilateral agreement, with Russia providing financial support. Austria challenged the Commission's decision, but the General Court dismissed the case in 2022 ([Case T-101/18](#)). Austria appealed, and AG Medina now proposes that the Court of Justice should set aside the General Court's ruling.

According to AG Medina AG Medina, the direct award to Nizhny Novgorod Engineering of the contract for the construction of the new reactors was an aspect of the aid inextricably linked to it. An inextricable link exists with regards to factors or conditions that are necessary for the attainment of the object of the aid or for its functioning without which the state intervention cannot achieve its objective. In such cases, the Commission must consider

potential infringements of EU law beyond State aid rules when assessing compatibility with the internal market. The Commission may fulfil this obligation by making reference to closed infringement proceedings, but should explain its reasoning.

NEWS FROM THE EFTA SURVEILLANCE AUTHORITY

ESA approves renewal of media support scheme in Liechtenstein

On 19 February, ESA approved a revised version of the Liechtenstein Media Support Act originally established in 2006, to uphold opinion pluralism, media diversity, enhance journalistic-editorial quality, and facilitate the dissemination of opinion-shaping media in Liechtenstein.

For further information, see [ESA's decision](#).

STATE AID CALENDAR

Upcoming:

12 March 2025	GC Judgment T-596/22 <i>PGI Spain and Others v Commission</i>
13 March 2025	Opinion AG Rantos C-653/23 <i>TOODE</i>
13 March 2025	CJEU Judgment Joined cases C-746/23 C-747/23 <i>Cividale and Flag Duferco Italia Holding and Duferco Sertubi</i>
25 March 2025	Hearing Joined cases T-639/14 RENV II T-352/15 RENV T-740/17 RENV <i>DEI v Commission</i>
27 March 2025	Opinion AG Rantos C-632/23 <i>Commission v Bulgarie (Échanges de terrains forestiers II)</i>



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Until next time in April, enjoy the first spring weather in march, and don't forget to follow us [on LinkedIn](#) or contact us at info@claytonsegura.com for your favourite EU state aid newsletter!



Marianne
Clayton
Partner



Maria
Segura Catalán
Partner



Christopher M.
Vollert
Associate