


Art. 2 (18) (a)(b)- Undertaking in difficulty - accumulated losses and capital

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Article	Article 2 - Definitions
Key words	Undertaking in difficulty, accumulated losses, capital
Member State	CZ
Question	<p>1) Under the definition in Art. 2(18) GBER, letters a) and b), the undertaking is in difficulty if more than half of its subscribed share capital (letter a) or capital (letter b) has disappeared as a result of accumulated losses. In company's balance sheet, the total profit or loss is usually separately shown as "<i>profit or loss brought forward</i>", i. e. profit or loss accumulated from previous years and "<i>profit or loss for the financial year</i>", i.e. profit or loss achieved in the current accounting period. If a company shows no loss brought forward (there is either profit brought forward or the value is zero), but loss for the financial year exceeds half of its share capital / capital, does it mean a company is not (yet) in difficulty since the current loss is not accumulated with losses from previous years and could be only one-off situation?</p> <p>2) Under letter b), the undertaking is in difficulty if more than half of its capital has disappeared as a result of accumulated losses. This means that the sum of accumulated losses exceeds half of company's capital. In the balance sheet (structured according to Czech accounting legislation) losses are calculated as part of company's capital (equity) – it is understood as a negative component of capital. Therefore we ask for confirmation that "capital" in Art. 2(18)(b) GBER means company's capital (equity) excluding all losses (i.e. accumulated losses from previous accounting period and losses for the current accounting period) or only accumulated losses (losses from previous accounting period) depending on answer to question above and that assessment of difficulty under letter b) according to balance sheet should be one of the following:</p> <p>All losses > (Capital – All losses)/2</p> <p>Accumulated losses > (Capital – Accumulated losses)/2</p>
Creation Date	2017.06.28

COMP Reply	<p>1) The assessment of whether an undertaking is in difficulty under Article 2(18)(a) and (b) has to be carried out on the basis of the balance sheet of the last closed financial year. The term "accumulated losses" in this regard refers to losses from previous years as well as losses of the current year, as it is supposed to reflect the overall losses the company has to stem. As such, in the situation described, the undertaking is considered to be an undertaking in difficulty.</p> <p>2) We confirm that "capital" is to be understood as the company's capital (all funds considered part of the companies own funds) excluding all losses (accumulated losses from previous years and losses from the current year).</p> <p><i>Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.</i></p>
COMP Reply date	2017.08.10
COMP Responsible	<input checked="" type="checkbox"/> COMPsupport ESTATE-AID-WIKI

¹ Article numbers & names

- Article 1 - Scope
- Article 2 - Definitions
- Article 3 - Conditions for exemption
- Article 4 - Notification thresholds
- Article 5 - Transparency of aid
- Article 6 - Incentive effect
- Article 7 - Aid intensity and eligible costs
- Article 8 - Cumulation
- Article 9 - Publication and information

² AT, BE, BG, HR, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SE, SI, UK.