# Guidance on State aid measures for social support and social investments

*Disclaimer:* This guidance document has been prepared by the services of the European Commission to contribute to better understanding of the current State aid rules for supporting social measures and social investments. It is intended purely to serve as an information tool. It focuses on the key concepts and does not describe all the applicable legal requirements. It does not create any enforceable rights or obligations for third parties. This guidance is without prejudice to the position that the Commission might take in a specific State aid case or to the interpretation that the Court of Justice of the European Union may give. This guidance reflects the situation at the time of its drafting and should be regarded as a 'living tool'. It will be updated to reflect new legal and policy developments. The Directorate-General for Competition (DG COMP) remains available to provide further guidance requested by Member States.

***Summary:*** *This guidance follows from the 2025 Commission Communication on Delivering on the Clean Industrial Deal. It presents social support measures and measures supporting social objectives, such as services of general economic interest (Section III), employment, knowledge measures and training (Section IV), support to households and communities to accelerate the green transition (energy efficiency) (Section V), and access to SMEs finance and other selected measures with social benefit (Section VI). It provides general information on the concept of State aid and possible measures, which under certain circumstances may not constitute State aid. The guidance identifies the most relevant measures under the General Block Exemption Regulation and selected State aid guidelines, frameworks and Communications that can provide possibilities for national authorities to give aid for social measures and social investments. It includes interpretations of certain State aid provisions and examples from guidance documents of the Commission services and from State aid decisions.*

## Table of Contents

## I. Objective of the information tool

1. The Clean Industrial Deal includes a commitment to a just transition that delivers quality jobs and empowers people, building on their skills while promoting social cohesion and equity across all regions. It also refers to securing skills and quality jobs for social fairness [1].

2. The Commission Communication on Delivering on the Clean Industrial Deal [2] stated that dedicated guidance would be developed to assist Member States when designing State aid measures for social support and social investment: *(…) as part of the on-going revision of the General Block Exemption Regulation [3], [the Commission will] assess if and how State aid rules should be updated to provide better incentives for industry to invest in upskilling, reskilling, quality jobs and recruitment of workers for a just transition. The Commission will in particular look into the rules covering aid for social enterprises and recruitment of disadvantaged workers. In that context, the Commission will develop dedicated guidance to assist Member States when designing State aid measures for social support and social investment. Such support is in many cases either not considered as aid or block-exempted under the General Block Exemption Regulation.*

3. The purpose of this guidance is to provide information on how measures and investments with social objectives can receive financial support from Member States and at the same time comply with State aid rules. This guidance should be updated regularly and particularly when new State aid rules are adopted. This should be done following the completion of the ongoing review of the General Block Exemption Regulation (GBER). The GBER review should also consider evidence collected as a follow-up to the Social Economy Action Plan that shows the need for more flexible rules on access to finance for social enterprises and on aid for the recruitment of disadvantaged and severely disadvantaged workers in the GBER [4].

4. This guidance consolidates available publications on State aid for social support and social investments as well as available guidance documents from the Commission services [5]. It updates them by providing reference to State aid rules that are currently in force. It takes into account workshops and studies on "State aid and the social economy" under the Commission's 2021 Action Plan on the Social Economy [6] which are published on the EU Social Economy Gateway. The Commission services published in 2023 a thematic discussion paper on State aid support for the social economy – State aid fundamentals, which describes the basic concepts

[1] The Clean Industrial Deal: a joint roadmap for competitiveness and decarbonisation (COM(2025)85 final).
[2] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Delivering on the Clean Industrial Deal I (COM (2025) 378 final)).
[3] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty Text with EEA relevance (OJ L 187, 26.6.2014, p. 1).
[4] See the call for evidence: State subsidies – revision of approval requirement rules (the General Block Exemption Regulation) and the public consultation between 25 February 2026 and 23 April 2026 on the draft for a new GBER: 2026 gber – Competition Policy – European Commission.
[5] For example, the State aid guiding templates published by DG Competition for the Recovery and resilience facility (RRF): RRF guiding templates – Competition Policy – European Commission.
[6] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Building an economy that works for people: an action plan for the social economy (COM(2021) 778 final).

and principles relevant for social economy measures, and another thematic discussion paper on the General Block Exemption Regulation, its content and application.

5. This guidance presents measures supporting similar social objectives. In particular, Section III addresses 'Services of general economic interest', Section IV addresses 'Employment, knowledge measures and training', Section V addresses 'Support to households and communities to accelerate the green transition (energy efficiency)' and Section VI addresses 'Access to SMEs finance and other selected measures with social benefit'. Section II provides general information on the concept of State aid and possible measures, which under certain circumstances may not constitute State aid (points 9 to 15). The guidance within each section describes additional 'no aid' scenarios that could be relevant in the context of the section, the most relevant GBER measures and selected State aid guidelines and frameworks that can be relevant for social measures and social investments.

6. Measures constituting State aid must be notified for the Commission's approval under Article 108(3) of the Treaty on the Functioning of the EU ('TFEU') before they are put into effect. The State aid procedural rules are laid down in Regulation 2015/1589 of 13 July 2015 [7]. Another important source of information on the State aid procedures followed by the Commission is the Code of best practices for the conduct of State aid control procedures [8]. When a Member State intends to grant State aid, the notification procedure consists of two main stages: pre-notification and notification. Pre-notification is an informal process in which the Commission and the Member State discuss the proposed aid measure before the official notification is made. The purpose of pre-notification is to assess whether the aid measure might qualify for an exemption or require a full assessment under the applicable State aid rules. This stage allows the Member State to seek guidance from the Commission before formally submitting a notification. The formal notification occurs when the Member State submits a complete notification to the Commission. This must include all relevant details regarding the aid measure (e.g. the objective of the measure, the aid amount, eligibility conditions, eligible costs, the recipient(s) and any possible distortions of competition that may arise). The Commission will then assess whether the aid is compatible with the internal market according to the rules set out in Articles 107(3) or 106(2) or 93 TFEU. In principle, it adopts its decision within two months of the date of the notification.[9] In principle, any changes to an existing aid scheme that have already been approved by the Commission need to be notified for the Commission's approval. Purely formal or administrative changes that cannot affect the evaluation of a measure's compatibility with the internal market do not need to be notified for the Commission's approval. Moreover, increases of up to 20% in the original budget of an existing aid scheme that the Commission has already authorised are not considered as alterations to existing aid [10] and therefore do not need to be notified [11].

---

[7] Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification) (OJ L 248, 24.9.2015, p. 9).

[8] Communication from the Commission – Code of Best Practices for the conduct of State aid control procedures (OJ C, C/2025/2810, 13.6.2025, ELI: http://data.europa.eu/eli/C/2025/2810/oj).

[9] If the notification is not complete, the Commission requests further information from the Member State and the two months deadline starts from the submission of the requested information.

[10] Article 4(1) of Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1). The consolidated text is available here: EUR-Lex – 02004R0794-20250813 – EN – EUR-Lex.

[11] Any alterations other than those listed in point 6 above must be notified for the approval of the Commission. However, the compatibility assessment of an alteration to an existing aid can sometimes be rather straightforward (for example, if it merely increases the budget beyond 20% of an approved scheme or the duration (up to six

7. In areas where the Commission has gained sufficient experience, it is possible (as a simplification to alleviate administrative burden) to block-exempt certain measures under the relevant block exemption regulation without notifying the aid for the Commission's approval. This means that it is the responsibility of the Member States to ensure full compliance with the conditions of the applicable block exemption regulation. However, Member States must submit summary information on such exempted State aid to the Commission, together with the weblink to the full text of the aid measure, which is published by the Commission. Information submitted by the Member States to the Commission about their block-exempted measures is published here: Competition case search.

8. The essential task of national authorities is to determine: (i) whether or not a measure constitutes State aid within the meaning of Article 107(1) TFEU; and (ii) (in cases where it does indeed constitute State aid) whether the measure can be block-exempted or the national authorities can ensure its compliance with the applicable de minimis regulation. If a measure constitutes State aid and it cannot be block-exempted, the Member States must notify the measure for approval by the Commission before putting it in effect. State aid decisions adopted by the Commission or aid schemes block-exempted by Member States under the relevant regulations can be found here: Competition case search. Furthermore, State aid instruments have been summarised on the EU legislative portal: General Block Exemption Regulation; General De Minimis Regulation ; De Minimis Regulation for Services of General Economic Interest; Agricultural Block Exemption Regulation and Agricultural De Minimis Regulation; Fisheries Block Exemption Regulation and Fisheries De Minimis Regulation.

years) or tightens the award criteria). Member States can in such cases notify the measure via a simplified form and the Commission will do its best endeavours to take a decision within one month.

## II. State aid or no aid?

9. The Commission Notice on the notion of State aid[12] provides comprehensive information on whether public financing (including national, regional and EU funding) constitutes State aid. It includes examples from the decisions of the Commission and the jurisprudence of the Court of Justice of the European Union.

**Article 107(1) TFEU**: "*Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*"

**A measure therefore qualifies as State aid if all the following criteria are met**:
(i) it is imputable to the Member State and granted out of State resources;
(ii) it confers an economic advantage on an undertaking;
(iii) the advantage is selective; and
(iv) the measure distorts or threatens to distort competition and affects trade between Member States.

**A measure does not qualify as State aid if any one of the Article 107(1) TFEU criteria is not met**. There is then no need to notify it to the Commission for approval prior to its implementation. The national authorities must assess this on a case-by-case basis.

10. In relation to criterion (ii) in Article 107(1) TFEU, the beneficiary of the measure must be an 'undertaking'. The Court of Justice has consistently defined undertakings as entities engaged in an economic activity – regardless of their legal status and the way in which they are financed [13]. The Court of Justice has ruled that all entities that are controlled (either *de jure* or *de facto*) by the same entity are to be considered as a single undertaking [14]. The Court of Justice has also clarified that an entity 'owning controlling shareholdings in a company' and which 'actually exercises that control by involving itself directly or indirectly in the management thereof' must be considered as taking part in that company's economic activity. The entity itself must therefore be regarded as an undertaking within the meaning of Article 107(1) TFEU [15]. The classification of a particular entity as an undertaking therefore depends entirely on the nature of its activities. The Commission Notice on the notion of State aid states that this principle has three consequences [16].

[12] Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union, OJ C 262, 19.7.2016, pp.1

[13] Judgment of the Court of Justice of 12 September 2000, *Pavlov and Others*, Joined Cases C-180/98 to C-184/98, ECLI:EU:C:2000:428, paragraph 74. Judgment of the Court of Justice of 10 January 2006, *Ministero dell'Economia e delle Finanze* v *Cassa di Risparmio di Firenze SpA and Others*, C-222/04, ECLI:EU:C:2006:8, paragraph 107.

[14] Judgment of the Court of Justice of 13 June 2002, *Netherlands* v *Commission*, C-382/99, ECLI:EU:C:2002:363,,paragraphs 38 and 60.

[15] Judgment of the Court of Justice of 10 January 2006, *Ministero dell'Economia e delle Finanze* v *Cassa di Risparmio di Firenze and Others*, C-222/04, ECLI:EU:C:2006:8, paragraphs 107, 112 and 113.

[16] Section 2 of the Commission Notice on the notion of State aid ('Notion of undertaking and economic activity')

(i) The entity's status under national law (association or public administrative) is not decisive. The only relevant criterion is whether it carries out an economic activity. To clarify the distinction between economic and non-economic activities, the Court of Justice has consistently held that any activity consisting in offering goods and services on a market is an economic activity [17].
(ii) The application of State aid rules does not depend on whether the entity is set up to generate profits. Non-profit entities can also offer goods and services on a market [18]. Non-profit entities only fall outside the scope of State aid rules if they do not offer goods and services on the market.
(iii) The classification of an entity as an undertaking is always relative to a specific activity. An entity that carries out both economic and non-economic activities is to be regarded as an undertaking only with regard to the former [19].

**Examples: Economic or non-economic activities**

The Commission Notice on the notion of State aid lays down the key principles where:

- solidarity-based **social security systems** do not constitute State aid and distinguishes them from schemes that involve an economic activity.(Section 2.3 on social security);
- **public hospitals forming an integral part of a national health service** on the basis of the solidarity principle do not qualify as an undertaking and therefore do not fall under State aid rules (Section 2.4 on healthcare); and
- **education may be considered** a non-economic activity (Section 2.5 on education and research activities).

11. An advantage under criterion (ii) is any economic benefit which an undertaking could not have obtained under normal market conditions (i.e. in the absence of State intervention). Section 4 of the Commission Notice on the notion of State aid provides detailed guidance on whether a benefit can be considered as having been obtained under normal market conditions. The EU's legal order is neutral with regard to the system of property ownership and does not in any way prejudice the right of Member States to act as economic operators. However, public authorities are subject to the EU's State aid rules when they directly or indirectly carry out economic transactions in any form. Economic transactions carried out by public bodies (including public undertakings) do not confer an advantage on their counterparts and therefore do not constitute aid, if they are carried out in line with normal market conditions. The 'market economy investor principle' has been developed by the EU's courts to identify the presence of State aid in cases of public investment (particularly capital injections). To determine whether a public body's investment constitutes State aid, it is necessary to assess whether, in similar circumstances, a private investor of a comparable size operating in the usual conditions of a

[17] Judgment of the Court of Justice of 16 June 1987, *Commission* v *Italy*, C-118/85, ECLI:EU:C:1987:283, paragraph 7. Judgment of the Court of Justice of 18 June 1998, *Commission* v *Italy*, C-35/96, ECLI:EU:C:1998:303, paragraph 36. Judgment of the Court of Justice of 12 September 2000, *Pavlov and Others*, Joined Cases C-180/98 to C-184/98, ECLI:EU:C:2000:428, paragraph 75.

[18] Judgment of the Court of Justice of 29 October 1980, *Van Landewyck*, Joined Cases C-209/78 to C-215/78 and 218/78, ECLI:EU:C:1980:248, paragraph 88. Judgment of the Court of Justice of 16 November 1995, *FFSA and Other*s v *Ministère de l'Agriculture et de la Pêche*, C-244/94, ECLI:EU:C:1995:392, paragraph 21. Judgment of the Court of Justice of 1 July 2008, *Motosykletistiki Omospondia Ellados NPID (MOTOE)* v *Elliniko Dimosio*, C-49/07, ECLI:EU:C:2008:376, paragraphs 27 and 28.

[19] A separation of accounts must ensure that public funding for the non-economic activities does not cross-subsidise the economic activities.

market economy could have made the investment in question (see Section 4.2.3 of the Commission Notice on the notion of State aid on establishing compliance with market conditions).

12. Regarding criterion (iii) on selectivity: measures that are of general application and do not favour certain undertakings or the production of certain goods are not selective and do not constitute State aid. Examples of this include a general reform of a tax or of social security contributions. Selectivity is normally assessed by means of a three-step analysis [20]. Reductions or exemptions from taxes or social security contributions can fall outside State aid rules when they apply in the same way to all companies that are in a comparable factual and legal situation in the light of the inherent objective of the tax or social security system. However, selectivity can stem from the discretion of the administration in the implementation of a scheme (particularly when fulfilling objective criteria does not automatically result in the measure becoming eligible). In the case of individual measures, the finding of an economic advantage makes it possible to assume selectivity.

13. Regarding criterion (iv) on 'no effect on trade': for small amounts of aid, the distortion of competition is considered to be limited, so Member States do not need to notify those measures (if they ensure compliance with the requirements of the applicable de minimis regulation [21]). These measures can be granted by a Member State to a single undertaking, provided that the aid amount:

- does not exceed EUR 300 000 over any period of three years on a rolling basis and that the measure complies with the conditions of the General De Minimis Regulation [22];
- for the provision of services of general economic interest (SGEIs) does not exceed EUR 750 000 over any period of three years on a rolling basis and that the measure complies with the conditions of the SGEI De Minimis Regulation [23];
- in the agricultural sector does not exceed EUR 50 000 over any period of three years on a rolling basis and that the measure complies with the Agricultural De Minimis Regulation [24]; and

[20] See Section 5.2.3 of the Commission Notice on the notion of State aid.

[21] One such requirement is that, as from 1 January 2026, information on general *de minimis* aid and, as from 1 January 2028, information on SGEI *de minimis* aid granted should be registered in a central register at national or EU level. The same applies for agricultural *de minimis* aid as of from 1 January 2027. The system of self-declarations may be applied until 1 January 2029 for general and SGEI *de minimis* aid; and until 1 January 2030 for agricultural *de minimis* aid. The obligation to have a central register has not yet been extended to the fisheries sector, for which Member States can use either a system of self-declarations or a national central register.

[22] Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L, 2023/2831, 15.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2831/oj).

[23] Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L, 2023/2832, 15.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2832/oj).

[24] Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector, as amended, ELI: http://data.europa.eu/eli/reg/2013/1408/2024-12-16. The cumulative amount of *de minimis* aid granted per Member State to undertakings active in the primary production of agricultural products over any period of three years must not exceed the national cap set out in the Annex to Commission Regulation (EU) No 1408/2013, as amended.

• in the fisheries and aquaculture sectors does not exceed EUR 30 000 over any period of three fiscal years[25] and that the measure complies with the conditions of the Fisheries De Minimis Regulation [26].

14. Some support measures may have a purely local impact and consequently have no effect on trade between Member States. This is the case, for example, if (i) an energy efficiency support measure is granted directly to the final beneficiary (the building owner or tenant); (ii) that final beneficiary uses the building to supply services exclusively within a limited area of a Member State with no realistic prospect of attracting customers from other Member States; and (iii) it cannot be foreseen that the measure will have more than a marginal effect on the conditions of cross-border investments or establishments (i.e. if it is unlikely to have a material bearing on the decision of investors to establish an outlet in the relevant region/Member State). Evidence that there is no effect on trade could include data showing that there is only limited use of the building from outside the Member State and that cross-border investments in the relevant market are minimal or unlikely to be adversely affected [27]. This will not be the case for schemes applying to the entire territory of a Member State.

15. Regarding criterion (i) on State resources [28]: resources stemming from the EU budget are considered as State resources only if national authorities have discretion as to the use of these resources (in particular as regards the selection of beneficiaries). By contrast, resources attributed directly by the EU, with no discretion on the part of the national authorities, do not constitute State resources [29].

## III. Services of General Economic Interest (SGEI)

16. SGEI are subject to public service obligations (PSOs) entrusted to one or more providers . The market would not supply these services without public intervention or would supply them under different conditions in terms of objective quality, safety, affordability, equal treatment or universal access. Public service compensation can support services that address social needs. Examples include healthcare services; hospitals providing medical care (including emergency services and ancillary services directly related to their main activities, particularly in the field

[25] A Member State may decide that the total amount of de minimis aid granted to a single undertaking will not exceed EUR 40 000 over any period of three fiscal years, provided that the Member State has in place a national central register in accordance with Article 6(2) of the Fisheries De Minimis Regulation.

[26] Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector, as amended, ELI: http://data.europa.eu/eli/reg/2014/717/2023-10-25. The cumulative amount of *de minimis* aid granted per Member State to undertakings active in the primary production of fishery and aquaculture products over any period of three fiscal years must not exceed the national cap set out in the Annex to Commission Regulation (EU) No 717/2014, as amended.

[27] See paragraph 197 of the Commission Notice on the notion of State aid. One example might be a subsidy from a local municipality to local sport facilities to insulate buildings where the sport activities are taking place and which predominantly serve the local public (see, in particular, paragraph 197(a) of the Commission Notice).

[28] The concept of 'transfer of public resources' can take many forms (including direct grants, loans, guarantees, direct investment in the capital of undertakings and benefits in kind). A positive transfer of funds does not have to occur – forgoing State revenue is sufficient. In addition, the measure must be imputable to the State. See Section 3 of the Commission Notice on the Notion of State aid ('State origin').

[29] See Section 3.2 of the Commission Notice on the Notion of State aid, in particular point 60

of medical research); childcare; support for access to and reintegration into the labour market; and care and social inclusion of vulnerable groups (i.e. services supporting the independent living and community inclusion of persons with disabilities – such as personal assistance, accessibility and assistive technology services, rehabilitation and habilitation services).The provision of social and affordable housing services for disadvantaged households or socially less advantaged groups (including people who are experiencing homelessness and cannot access housing under market conditions due to solvency constraints) can also constitute an SGEI. A well-functioning transport sector is key to ensuring connectivity across the EU; fostering economic, social and territorial cohesion; and supporting the resilience of the EU industry and its value chains [30]. Public service obligations in land, air and maritime transport can be compensated as SGEIs.

17. In 2012, a set of specific State aid rules for SGEIs (the 2012 SGEI Package) entered into force. The 2012 SGEI Package consists of the SGEI Communication [31]; the SGEI Decision (the First SGEI Decision) [32]; the SGEI Framework [33]; and the SGEI De Minimis Regulation [34]. Some of these instruments have been revised since 2012, as explained below.

- the **SGEI Communication** clarifies the key concepts underlying the application of State aid rules relevant to public service compensation (e.g. the concepts of aid, SGEI, market failure, economic activity and reasonable profit);
- the **First SGEI Decision** set out the conditions under which the Member States were exempted from the obligation to notify public service compensation to the Commission. The First SGEI Decision was repealed and replaced on 16 December 2025, in particular to take into account changes related to social and affordable housing. The **2025 SGEI Decision** [35] allows Member States to provide– without prior notification to the Commission – compensation up to  EUR 20 million and compensation for health and social services (including housing without any ceiling);
- the **SGEI Framework** sets out the rules for assessing SGEI compensations that constitute State aid and are not exempted from notification by the SGEI Decision – and therefore have to be notified to the Commission for approval;
- the SGEI De Minimis Regulation initially provided that SGEI compensation not exceeding EUR 500 000 over any period of three fiscal years does not fall with the scope of State aid scrutiny. Following its review, this ceiling was raised to EUR 750 000 over any period of three years on a rolling basis in the **SGEI De Minimis Regulation.**

[30] Mario Draghi, *The future of European competitiveness*, Part B ('In-depth analysis and recommendations'), 9 September 2024, page 208. (The Draghi report on EU competitiveness)[31] Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4).

[31] Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4).

[32] Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, C(2011) 9380 final (OJ L 7, 11.1.2012, p. 3).

[33] Communication from the Commission, European Union framework for State aid in the form of public service compensation (2011) (OJ C 8, 11.1.2012, p. 15).

[34] Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

[35] Commission Decision (EU) 2025/2630 of 16 December 2025 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest and repealing Decision 2012/21/EU; C/2025/8820 OJ L, 2025/2630, 19.12.2025.

- in 2013, the Commission adopted the **Guide to the application of the European Union rules on State aid and public procurement** in the form of a staff working document. This contains 237 frequently asked questions (FAQs) related to the application of the SGEI package and EU rules on public procurement for social services of general interest (SSGIs) [36]. The Guide predates the review of the SGEI De Minimis Regulation in 2023, the review of the SGEI Decision in 2025 and the review of public procurement rules in 2014. It is therefore partially outdated but is still useful for interpreting some of the relevant concepts.

18. The operation of the SGEI can be entrusted to the undertaking concerned by way of one or more acts, the form of which may be determined by each relevant Member State. The act(s) must include the following information in particular: (i) the content and duration of the public service obligations; (ii) the undertaking and, where applicable, the territory concerned; (iii) the nature of any exclusive or special rights assigned to the undertaking by the granting authority; (iv) a description of the compensation mechanism and the parameters for calculating, controlling and reviewing the compensation; (v) the arrangements for avoiding and recovering any overcompensation. The thematic discussion paper provides information on State aid support for the social economy: services of general economic interest.

| **The concept of single undertaking for the purposes of the SGEI De Minimis Regulation and SGEI Decision** |
|---|
| For the sake of legal certainty and in order to reduce administrative burden, the SGEI De Minimis Regulation and the SGEI Decision provide a clear and exhaustive list of criteria for determining whether or not two or more enterprises in the same Member State should be considered as a single undertaking. The Commission has selected criteria that are appropriate for the purposes of the SGEI De Minimis Regulation and the SGEI Decision from the well-established criteria for defining **'linked enterprises'** as part of the definition of small or medium-sized enterprises (SMEs) in Commission Recommendation 2003/361/EC [37] and in Annex I to the GBER. The criteria should be applicable both to SMEs and to large undertakings and should ensure that a group of linked enterprises is considered as one single undertaking for the application of the SGEI De Minimis Regulation and the SGEI Decision. |
| A '**single undertaking'** [38] means all enterprises that have at least one of the following relationships with each other:<br>(i) one enterprise has a majority of the shareholders' or members' voting rights in another enterprise;<br>(ii) one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;<br>(iii) one enterprise has the right to exercise a dominant influence over another enterprise (pursuant to a contract with that enterprise or a provision in its memorandum or articles of association); |

[36] These FAQs relate to the conditions under which public procurement rules apply to SSGIs, the scope of the rules and how the rules allow the specific features of SSGIs to be taken into account.
[37] Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).
[38] Article 2(2) of the SGEI De Minimis Regulation and Article 1 of the SGEI Decision.

(iv) one enterprise is a shareholder in, or member of, another enterprise and controls alone (pursuant to an agreement with other shareholders in or members of that enterprise) a majority of the shareholders' or members' voting rights in that enterprise.

Enterprises that have any of the relationships referred to in points (i) to (iv) through one or more other enterprises must also be considered to be a single undertaking.

However, **enterprises that have no relationship with each other (except that each of them has a direct link to the same public body or bodies) should not be treated as being linked to each other**. The specific situation of enterprises controlled by the same public body or bodies, in which the enterprises may have independent power of decision, should therefore be taken into account.

19. Article 14 TFEU requires the EU, without prejudice to Articles 93, 106 and 107 TFEU, to use its powers in such a way as to make sure that SGEI operate on the basis of principles and conditions that enable them to fulfil their missions. An SGEI must be genuine (i.e. it must aim to remedy a real market failure). Member States enjoy a wide margin of discretion in defining an SGEI, subject only to a 'manifest error' test by the Commission [39]. The Commission may identify a manifest error in the following examples: (i) a sector is harmonised at EU level and Member States' discretion contradicts the rules governing such harmonization [40]; (ii) if there is no market failure [41]; or (iii) the service is not addressed to citizens or in the interest of society as a whole. Article 106(2) TFEU states that undertakings entrusted with the operation of an SGEI or having the character of a revenue-producing monopoly are subject to the rules contained in the TFEU (particularly as regards the rules on competition), insofar as the application of those rules does not obstruct, in law or in fact, the performance of the tasks entrusted. This should not, however, affect the development of trade to such an extent that it would be contrary to the EU's interests.

### *III.1. No aid measures for granting compensation for the provision of services of general economic interest*

20. Complementing points 9 to 15, the following subsections present instances in which the existence of State aid may be excluded for the public funding of services of general economic interest. The Commission has provided further detail on the criteria whereby compensation granted for the provision of services of general economic interest may constitute State aid: In the Communication on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (Section 2), the Commission Notice on the notion of State aid and in the Guide to the application of the European Union rules on state aid, and public procurement (Questions 29 to 41).

[39] On the 'manifest error' test, see Judgment of the Court of First Instance, Case T-289/03, *BUPA and Others* v *Commission*, 2008, ECR II-81, paragraphs 166-169 and 172; and Judgment of the Court of First Instance, Case T-17/02, *Fred Olsen, SA* v *Commission*, 2005, ECR II-2031, paragraph 216.

[40] That limitation applies in sectors which have been harmonised at EU level (such as the postal, telecommunications and energy sectors).

[41] For SGEI, there is no market failure if the public service obligation is already provided or can be provided satisfactorily and under conditions (such as price, objective quality characteristics, continuity and access to the service) that are consistent with the public interest (as defined by the Member State) by undertakings operating under normal market conditions.

### III.1.A. No advantage: the Altmark judgment

21. For SGEIs, the Altmark judgment is the starting point when determining whether the measure at stake confers an advantage [42]. This judgment sets out four cumulative criteria. If they are all met, then compensation does not constitute an advantage to the SGEI provider and the measure therefore does not amount to State aid. It is up to the Member State concerned to self-assess whether the planned measure would comply with the Altmark criteria and, therefore, not constitute aid. No formal State aid notification to the Commission is required in such cases. The four criteria are as follows:

(i) the recipient undertaking must actually have PSOs to discharge and the obligations must be clearly defined;

(ii) the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner in order to avoid it conferring an economic advantage that might favour the beneficiary;

(iii) the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of PSOs, taking into account the relevant receipts and a reasonable profit;

(iv) Least costs to the community: if the undertaking which is to discharge PSOs in a specific case is not chosen pursuant to a public procurement procedure that would allow the selection of a tenderer capable of providing those services at the least cost to the community [43], the level of compensation must be determined on the basis of an analysis of the costs which a typical undertaking that is well run and adequately provided with the necessary means to be able to meet the necessary public service requirements would have incurred in discharging those obligations (taking into account the relevant receipts and a reasonable profit for discharging the obligations).

**Example- Training aid**

The existence of an economic advantage may be excluded for a training provider even if the aid is not totally passed on to the final beneficiary of the training (Section IV.2.B). This is possible if the training provider is entrusted with an SGEI and if the training may be considered as part of the SGEI mission. An economic advantage may be excluded if (in accordance with the Altmark cumulative criteria): (i) the recipient undertaking has clearly defined PSOs to discharge; (ii) the parameters of compensation have been objectively and transparently established in advance; (iii) no compensation is paid other than for the net cost of providing the public service and a reasonable profit; and (iv) either the SGEI [44] has been assigned through a public procurement procedure that ensures the provision of the service at the least cost to the community or the compensation does not exceed what an efficient company would require.

[42] Judgment of 24 July 2003, *Altmark Trans GmbH and Regierungspräsidium Magdeburg* v *Nahverkehrsgesellschaft Altmark GmbH, and Oberbundesanwalt beim Bundesverwaltungsgericht*, Case C-280/00, EU:C:2003:415, paragraphs 87 to 95.

[43] The mere presence of a tender procedure is not sufficient to fulfil this requirement, particularly if there is only one bidder or if the tender procedure is concluded through a direct negotiated procedure following the withdrawal of other bidders.

[44] Professional training will generally be recognised as an SGEI if it allows access to or reintegration into the labour market or if it fosters the social inclusion of a vulnerable group.

### III.1.B. No effect on trade: *de minimis* aid and local impact

22. Public funding granted for the provision of an SGEI not exceeding EUR 750 000 over three years on a rolling basis is not regarded as State aid, provided the conditions of the SGEI De Minimis Regulation [45] are also fulfilled.

23. The Commission has concluded in several cases that certain activities had a purely local character and did not affect trade between Member States. This was the case for (i) swimming pools to be used predominantly by the local population; (ii) local hospitals aimed exclusively at the local population; (iii) local museums unlikely to attract cross-border visitors; and (iv) local cultural events, whose potential audience is restricted locally [46].

### *III.2. State aid exempted from notification*

24. Some funding measures constitute State aid but can be granted by Member States without notification to the Commission if certain conditions are fulfilled.

### III.2.A. SGEI compensation exempted from notification – the SGEI Decision

25. Public service compensation that qualifies as State aid (typically in cases where the fourth Altmark criterion is not met) can be directly implemented by Member States and exempted from notification to the Commission – provided that it complies with the conditions set out in the SGEI Decision [47]. Similarly to the Altmark assessment, the SGEI in question must be genuine and must aim to remedy a market failure.

26. The Commission's recent review of the SGEI Decision (the Q&A SGEI Decision) resulted in some changes that make it easier for Member States to block-exempt more services of general economic interest with less administrative burden.

**The recent (2025) review of the SGEI Decision:**

- In addition to compensation for the provision of social housing SGEIs, it introduces the possibility of exempting compensation for affordable housing without prior notification regardless of the aid amount;
- acknowledges that non-profit entities[48] play a frequent and essential role in the delivery of social SGEI (including social housing) and are therefore likely to benefit from SGEI-financing. The 2025 SGEI Decision takes into account the characteristics of these non-profit entities, which systematically reinvest any profit back into the SGEI they are

[45] Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest C/2023/9701 (OJ L, 2023/2832, 15.12.2023).

[46] Point 40 of the Communication on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest.

[47] Commission Decision (EU) 2025/2630 of 16 December 2025 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest and repealing Decision 2012/21/EU C/2025/8820 (OJ L, 2025/2630, 19.12.2025; ELI: http://data.europa.eu/eli/dec/2025/2630/oj).

[48] The definition of 'non-profit entity' spelled out in the SGEI De Minimis Regulation is also applicable in the context of the SGEI Decision (recital 12 of the SGEI Decision).

delivering. They benefit from an exemption from the minimum 20-year duration requirement which applies to social and affordable housing SGEI and from the *ex post* overcompensation checks[49];

- confirms, following the Guidance on the application of State aid rules in the context of the Critical Medicines Act, that Member States can compensate an operator entrusted with an SGEI in order to facilitate investments strengthening the security of supply of critical medicines;
- covers not only maritime and air links to islands but also mainland air links;
- raises the threshold for port SGEIs from 300 000 to 400 000 passengers and covers all outermost region ports;
- increases the general compensation cap for SGEIs from EUR 15 million to EUR 20 million;
- increases the general threshold in the case of joint entrustment by several Member States (the general compensation threshold is multiplied by the number of Member States involved);
- makes it clear that the notions of 'non-profit entities' and 'single undertaking' of the SGEI De Minimis Regulation apply in the SGEI Decision; and
- alleviates certain overcompensation checks and reporting obligations and adapts the transparency requirements.

27. In addition, the SGEI Decision allows diverse categories of aid to be exempted from the notification obligation, for example aid for the provision of SGEI that meet social needs as regards healthcare and long-term care, childcare, access to and reintegration into the labour market, and the care and social inclusion of vulnerable groups (including accessibility and assistive technology services for persons with disabilities) and other social services. The SGEI Decision also allows for compensation for the provision of SGEI by hospitals that provide medical care (including, where applicable, emergency services) and for the pursuit of ancillary activities directly related to the main activities (notably in the field of medical research).

**Affordable housing** [50]

The Commission's first-ever European Affordable Housing Plan addresses one of the most pressing needs of EU citizens: access to affordable, sustainable and good-quality housing. House prices have been increasing by more than 60% on average and rents have been increasing by more than 20% on average in the past 10 years. Millions of EU citizens are therefore struggling to find a home they can afford. The housing crisis is hindering labour mobility and hindering access to education and family formation. It is thus hampering both the **competitiveness** of the EU economy and our **social cohesion**. Tackling this crisis requires a truly **pan-EU effort that is anchored in local realities**.

The Commission will therefore support Member States, regions and cities by taking action when it can bring added EU value. The European Affordable Housing Plan focuses on **increasing housing supply**, **triggering investment and reforms**, addressing **short-term rentals** in areas under housing stress and **supporting those people who are most affected**.

[49] Recitals 26 and 42 and Article 7(3) of the SGEI Decision.
[50] Commission takes action for more affordable housing across Europe.

The **2025 revised SGEI Decision** makes it easier for Member States to financially support affordable, as well as social, housing.

**Supply of critical medicine(s)**

In March 2025, the Commission submitted a proposal for a critical medicines act (CMA) to **improve the availability, supply and production of critical medicines** within the EU. The proposed CMA would also increase access to other medicines of common interest (such as those for rare diseases) and address the non-availability of some medicines in some markets. The CMA was proposed in the context of the European Health Union, which seeks to ensure that all EU citizens have access to necessary medicines.

The Commission's Guidance on the application of State aid rules in the context of the Critical Medicines Act provides explanations and illustrations of how strategic projects (as defined in the CMA proposal) can receive financial support from Member States while also complying with State aid rules [51]. The Guidance may also apply to other projects that pursue similar objectives of security of supply (including before the CMA is adopted).

28. In order to avoid unjustified distortions of competition, the compensation should not exceed the amount needed to cover the net cost incurred by the undertaking in operating the service (including a reasonable profit). The net cost may be calculated as the difference between costs and revenues. Alternatively, it may be calculated as the difference between (i) the net cost for the undertaking of operating with the public service obligation; and (ii) the net cost or profit of the same undertaking operating without the public service obligation. The costs to be taken into consideration are all the direct costs incurred in operating the SGEI and an appropriate contribution to the common costs if the undertaking also provides other (commercial) activities. Costs linked with investments may be taken into account when they are necessary for the operation of the SGEI. The revenues to be taken into consideration should include at least all the revenues earned from the SGEI – regardless of whether the revenue is classified as State aid. If the undertaking in question holds special or exclusive rights linked to activities (other than the SGEI for which the aid is granted) that generate profits in excess of the reasonable profit or benefits from other advantages granted by the State, those profits or benefits should be included in its revenue (irrespective of their classification for the purposes of Article 107 TFEU). No compensation must be granted for costs linked to any activities outside the scope of the SGEI. Member States must require the undertaking concerned to repay any overcompensation received.

29. In order to control possible cross-subsidisation between services (where an undertaking carries out activities that fall both inside and outside the scope of a particular SGEI or several SGEI), internal accounts should show separately the costs and receipts associated with each SGEI and those of other services, as well as the parameters for allocating costs and revenues. Compensation in excess of the net costs incurred by the undertaking operating the SGEI should constitute incompatible State aid that should be repaid with interest to the State. Compensation

[51] The Guidance does not relate to the 2025 SGEI Decision that is now in force but to the First SGEI Decision.

that is granted for the operation of an SGEI but is actually used by the undertaking concerned to operate on another market for purposes other than those specified in the act of entrustment is not necessary for the operation of the SGEI and can therefore also constitute incompatible State aid that should be repaid with interest to the State. The SGEI Decision lays down detailed rules on calculating the compensation (Article 5), on reasonable profit (Article 6), on Member States' obligation to control the overcompensation (Article 7) and on the transparency requirement (Article 8).

30. The SGEI Decision applies if the undertaking is entrusted with the operation of an SGEI for a period that does not exceed 10 years. If the period of entrustment exceeds 10 years, its provisions only apply to the extent that a significant investment is required from the service provider that needs to be amortised over a longer period in accordance with generally accepted accounting principles. Affordable housing units and social housing units must in principle remain used for that purpose for a minimum of 20 years. However, a shorter duration can be allowed in specific, well-justified circumstances (for example if the State intervention is only temporary – such as temporary accommodation during extreme weather and climate events or other natural disasters). Any such justification must be recorded and provided to the Commission if it so requests. In addition, providers whose activities are almost entirely limited to that SGEI (with commercial annual revenues not exceeding 5% during the entrustment period) and who are legally required to reinvest all profits in that SGEI may be exempted from the duration requirement. This is to allow them to sell affordable or social housing units so that they can reinvest in more suitable social or affordable housing if this appears necessary.

***Examples***

**Training as part of the SGEI compensation**

Training that is essential for the provision of an entrusted SGEI service may be exempted from notification on the basis of the SGEI Decision – provided that the criteria of the SGEI Decision are met. These criteria particularly include:

(i) the definition and entrustment of an SGEI;
(ii) the parameters of compensation established *ex ante* and transparently;
(iii) the amount of compensation not exceeding the costs for the provision of the SGEI and a reasonable profit; and
(iv) a mechanism to ensure that there is no overcompensation.

Professional training falls under Article 2(1)(c) of the SGEI Decision if it allows access to or reintegration into the labour market or if it fosters the social inclusion of a vulnerable group. The term 'access to and reintegration into the labor market' refers to different types of services that aim at facilitating the employability. Professional training for the long-term unemployed may therefore fall under Article 2(1)(c). Professional training for people already in employment only falls under Article 2(1)(c) if it is provided for the inclusion of a vulnerable group or if the aim of the training is to facilitate the re-employability of employees who are at risk of imminent job displacement. Otherwise, in principle, professional training for people already in employment do not fall under Article 2(1)(c) of the SGEI Decision.

**Energy efficiency in buildings for an entrusted SGEI**

Support for improving the energy efficiency of buildings that are used exclusively for the provision of an entrusted SGEI (e.g. public healthcare or education) may fall under the costs eligible for an SGEI compensation. Such compensation can be exempted from the notification requirement if all conditions of the SGEI Decision are fulfilled (in particular the clear definition and entrustment of the SGEI; transparent and objective parameters for calculating compensation; limitations to the net costs plus a reasonable profit; and mechanisms to prevent overcompensation). This exemption applies only to the operator entrusted with the SGEI.[52] In addition, the building must be used exclusively for the provision of the SGEI. If renewable electricity or heat generation is installed, the energy produced must be used solely for self-consumption.[53]

### III.2.B. Public passenger transport services – Regulation (EC) No 1370/2007

31. Many inland passenger transport services which are required in the general economic interest cannot be operated on a commercial basis. The competent authorities of the Member States must be able to act to ensure that such services are provided. The mechanisms that they can use for this purpose include the following: (i) the award of exclusive rights to public service operators; (ii) the grant of financial compensation to public service operators; and (iii) the definition of general rules for the operation of public transport which are applicable to all operators. Any compensation granted in relation to the provision of public passenger transport services other than those covered by Regulation (EC) No 1370/2007 [54] which risks involving State aid within the meaning of Article 107(1) of the TFEU should comply with the provisions of Articles 93, 106, 107 and 108 of the TFEU (including any relevant interpretation by the Court of Justice and especially its Altmark judgment). Public service compensation for the operation of public passenger transport services or for complying with tariff obligations established through general rules paid in accordance with Regulation (EC) No 1370/2007 are compatible with the internal market. Such compensation is exempt from the prior notification requirement laid down in Article 108(3) of TFEU (Article 9(1) of Regulation (EC) No 1370/2007).

32. More information is available in the Communication from the Commission on interpretative guidelines concerning Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road [55].

### *III.3. Notifiable aid – SGEI Framework*

33. Compensation that exceeds the threshold applicable in the SGEI Decision can be compatible under the European Union framework for State aid in the form of public service compensation [56] (the **SGEI Framework**) if several requirements being met. The SGEI Framework requires prior notification and authorisation from the Commission before any aid is granted. Similar to the assessment under the Altmark criteria and the SGEI Decision, the

[52] It does not extend to support granted to financial intermediaries which might in their turn grant a loan to an SGEI provider.
[53] If the building is also used for purposes other than the SGEI mission or if the energy generated is also sold to third parties, specific rules apply (separate accounts and specific limitations – see, for instance, Articles 5(3) and 5(5) of the SGEI Decision).
[54] Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).
[55] OJ C 92 of 29.3.2014, p. 1.
[56] Communication from the Commission – European Union framework for State aid in the form of public service compensation (OJ C 8, 11.1.2012, p. 15).

SGEI in question must be a genuine one and aim to remedy a market failure. The notifiable aid can be very similar in content to what can be exempted from the notification requirement under the SGEI Decision.

## IV. Employment, knowledge measures and training[57]

### *IV.1. Introduction*

34. This section explores how State aid rules apply to measures in the field of employment, knowledge and training. It clarifies the circumstances under which public interventions in these areas may fall outside the scope of State aid rules.

35.Through a detailed analysis of different types of support for training programmes, educational initiatives and employment services, this section seeks to guide stakeholders in navigating the complex interface between State aid law and the promotion of social and economic well-being.

### *IV.2. No aid measures*

36. Complementing points 9 to 15, the following sections present instances in which the existence of State aid (and thus the application of State aid rules) may be excluded, subject to a case-by-case assessment by the national authorities.

#### IV.2.A. No economic activity

37. Subsidies for education and training purposes granted to non-economically active individuals, unemployed individuals or individuals employed (who are not self-employed, subcontractors or similar) do not constitute State aid. This is because these individuals do not perform an economic activity and are not considered undertakings under Article 107(1) TFEU[58].

[57] This section largely follows the State aid guiding template ('Upgrading education and training, including digital skills and relevant connectivity') developed for the Recovery and Resilience Facility: 5467ef25-3978-45c6-9956-1b0d29df5ad6_en and updates it with the State aid rules currently in force.

[58] It is important to ensure that – even if the direct beneficiaries are not undertakings in the sense of Article 107(1) TFEU – the subsidies do not confer an indirect advantage on other economic operators. See Judgment of the Court of Justice of 28 July 2011, *Mediaset SpA* v *Commission*, C-403/10 P, ECLI:EU:C:2011:533, paragraphs 75 to 77.

38. Public education [59] may – when organised within the national educational system, funded and supervised by the State – be considered non-economic and therefore fall outside the scope of State aid rules. Educational systems that are financed primarily or mainly by public funds and not by the pupils or their parents fall outside State aid rules. This is the case even if a small contribution is required from students (such as a tuition or enrolment fee) – provided that it does not reflect the full cost of the service. A small fee does not alter the non-economic nature of the educational activity, because it is not a genuine remuneration for the service. Points 31 and 32 of the Commission Notice on the notion of State aid lay down that the Commission considers that certain activities of universities and research organisations may fall outside the scope of State aid rules. This concerns their primary activities: (i) education for more and better skilled human resources; (ii) the conduct of independent research and development for more knowledge and better understanding, including collaborative research and development; and (iii) the dissemination of research results. The Commission considers that knowledge-transfer activities (licensing, creation of spin-off and other forms of management of knowledge created by the research organisation or infrastructure) are non-economic if (i) they are conducted either by the research organisation or research infrastructure (including their departments or subsidiaries) or jointly with, or on behalf of other such entities; and (ii) all income from those activities is reinvested in the primary activities of the research organisations or infrastructures concerned.

39. However, if the educational institution is involved in both economic and non-economic activities, public funding may be considered as State aid if it covers the costs linked to the economic activities. In such cases, it is important for Member States to ensure proper separation of accounts in order to prevent any cross-subsidisation of economic activities with public funds intended for non-economic activities. References to the relevant case law are available in points 28 to 30 of the Commission Notice on the notion of State aid.

**Individual Learning Accounts**

The functioning of Individual Learning Accounts does not, in principle, constitute State aid if all the following conditions are met:

- public authorities allocate training rights or training funding directly to individuals/workers rather than to employers, and workers do not lose or gain entitlements if they change employer;
- workers have a genuine margin of discretion regarding the type and duration of the training they choose to undertake;
- the training followed is not training that the employer is legally obliged to provide at its own expense.

Workers undertaking training under the conditions described above will, in principle, acquire or improve skills that are transferable and non-job-specific. While this may positively influence the competitive position of their employer, such an effect is inherent to the system and does not constitute State aid.

There is no State aid at the level of training providers where the system is open to all relevant providers. This does not preclude, for specific training activities, preselection based on

[59] The concept of 'public education' may also, for the purposes of the application of State aid rules, apply to private institutes or schools that (i) belong to the national educational system; (ii) are supervised by the State; and (iii) are predominantly funded by public resources. See, for example, Commission Decision C(2023) 4584 final of 10 July 2023 in case SA.53750 (2019/FC) – Alleged aid to the Merz Akademie in Baden-Württemberg).

objective criteria (in particular competence and capacity) or selection through public procurement procedures.

*NOTE:* Economy-wide training programmes open to any employer on the basis of objective criteria do not constitute State aid. Such measures fall outside the scope of State aid rules due to their general nature; however, they should be distinguished from Individual Learning Account schemes.

### IV.2.B. No advantage

40. To qualify as State aid, a measure must confer an economic advantage to the beneficiary.

41. By subsidising training, Member States may directly support the final beneficiaries of the training (i.e. undertakings in need of training) [60] or support the training providers. The economic advantage must be examined at the level of the final beneficiaries and the training provider. Depending on the subsidies, the presence of an advantage at the level of the final beneficiaries can be excluded (point 37).

42. In certain circumstances, the existence of an economic advantage may be excluded at the level of the training provider. If an undertaking that carries out subsidised training is selected on the basis of a competitive, transparent, non-discriminatory and unconditional tender in line with the principles of the TFEU in public procurement [61], it may be possible to exclude an advantage at the level of the training provider because it can be presumed that the price paid would be in line with market conditions.[62]

43. If the advantage is entirely passed on to the final beneficiary (for example, in the form of a price reduction), then the training provider is likely to receive no advantage from the State and would therefore not be subject to State aid rules. In such a case, only the final beneficiary of the training would be subject to State aid rules.

---

[60] As mentioned in point 37, subsidies for education and training purposes granted to non-economically active individuals, unemployed individuals or individuals employed (who are not self-employed, subcontractors or similar) do not constitute State aid, because they do not perform an economic activity and do not constitute undertakings in the sense of Article 107(1) TFEU. This could include the individuals benefiting from individual learning accounts (as laid out in Council Decision (EU) 2020/1512 of 13 October 2020 on guidelines for the employment policies of the Member States).

[61] Points 89 to 96 of the Commission Notice on the notion of State aid.

[62] If training providers are not selected in compliance with the TFEU principles on public procurement, it is not possible to exclude that there is State aid, so it is necessary to make an assessment to establish a) whether the measure constitutes State aid and b) whether the aid complies with GBER or with other State aid rules allowing it to be considered compatible with the internal market.

### IV.2.C. No effect on trade between Member States and no distortion of competition

44. Support granted under the General De Minimis Regulation is not regarded as State aid if no more than EUR 300 000 is granted to a single undertaking over a period of three rolling years and the other conditions laid down in the General De Minimis Regulation are also respected.

45. Some support measures have a purely local impact and consequently have no effect on trade between Member States. This is the case if (i) a beneficiary supplies products or services to a limited area within a Member State and is unlikely to attract customers from other Member States; and (ii) it cannot be foreseen that the measure will have more than a marginal effect on the conditions of cross-border investments or establishments [63].

## *IV.3. Block-exempted aid*

46. A Member State that ensures that an aid measure complies with the conditions of a block exemption regulation does not need to notify it to the Commission.

### IV.3.A. Aid block-exempted under the General Block Exemption Regulation [64]

47. A measure can be exempted from prior notification to the Commission if it is granted in compliance with the applicable conditions of the GBER – i.e. it complies with the specific requirements of a concrete GBER article (such as training aid or aid for disadvantaged workers) and with the general conditions laid down in Chapter I of the GBER (including the applicable definitions, the rules on the notification thresholds, transparency, incentive effect, aid intensity and eligible costs, cumulation and publication and information). If all the applicable conditions are complied with, the aid is deemed compatible with the internal market within the meaning of Article 107(3) TFEU and is exempted from the notification requirement of Article 108(3) TFEU.

48. The promotion of training and the recruitment/employment of disadvantaged workers and of workers with disabilities is a central objective of the economic and social policies of the EU and its Member States. Training usually generates positive externalities for society as a whole, because it increases the pool of skilled workers from which other undertakings may draw, improves the competitiveness of EU industry and plays an important role in the EU's employment strategy. Some categories of disadvantaged workers and workers with disabilities still experience difficulties in entering and remaining in the labour market. Public authorities may therefore incentivise undertakings to employ more of such workers. Particular attention should be paid to employment of persons with disabilities for whom equal opportunities and remuneration for work of equal value should be ensured[65]. Employment costs form part of the normal operating costs of any undertaking. Aid for the employment of disadvantaged workers

[63] See, for instance, the Commission decision in case NN54/2006 – Czechia – Přerov logistics College, points 19 and 20.
[64] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1). The practical examples and explanations provided under IV.3.A are taken from questions 141 to 153 of the General Block Exemption Regulation (GBER) Frequently Asked Questions Q&A to Articles 1 to 35: July 2015, available : regulations_gber_practical_guide_gber_en.pdf ("GBER Q&A").
[65] Article 27 – Work and employment | United Nations Enable

and of workers with disabilities should therefore have a positive effect on their employment levels and should not merely enable undertakings to reduce costs which they would otherwise have to bear.

#### *IV.3.A.1. Training aid (Article 31 GBER)*

49. Training aid can be exempted from the notification requirement if it complies with both Article 31 and the common conditions of Chapter I of the GBER.

**Which types of training would be covered by Article 31?**

Training measures undertaken by enterprises with the purpose of developing and updating the knowledge of their workforce (e.g. management trainings, language trainings) can be supported under GBER.

50. The GBER defines the eligible costs, which include: (i) trainers' personnel costs for the hours during which they participate in the training; (ii) operating costs for trainers and trainees directly linked to the training project (e.g. travel, materials and depreciation of equipment used exclusively for the training); (iii) costs of advisory services related to a training project; (iv) trainees' personnel costs and general indirect costs for the hours during which trainees participate in the training.

**What is meant under "trainers' personnel costs" and "wage costs" – only salaries or all related non-wage costs (social insurance contributions, additional remuneration, allowances, etc.)? How should eligible personnel costs be calculated – gross (before social security contributions and other non-wage costs that shall be paid by the employer) or net?**

"Trainers' personnel costs" are identified in Article 31 point 3 (a) of GBER as "the hours during which the trainers participate in the training". This can be either the fees paid to the trainers or, if they are in-house trainers, an allocation pro-rata of their salaries to the hours spent on training. According to the recital (23) of the GBER: "(…) The identification of eligible costs should be supported by clear, specific and up-to date documentary evidence. All figures used should be taken before any deduction of tax or other charges (…)." Therefore, all sums should be calculated on the basis of gross amounts.

The notion of "wage costs" is not defined in the GBER in relation to training aid but is applicable to regional aid measures or aid measures for certain categories of employees. The notion of "wage costs" may however be relevant for training aid under "trainees' personnel costs for the hours during which the trainees participate in the training" (see above). Article 2, point 31 of GBER defines 'wage cost' as "the total amount actually payable by the beneficiary of the aid in respect of the employment concerned, comprising over a defined period of time the gross wage before tax and compulsory contributions such as social security, child care and parent care costs".

As regards "allowances" or "additional remuneration", pursuant to Article 31(3)(b) of the GBER additional costs not related to the trainers' or trainees' personnel costs may only be covered, if they qualify as "operating costs directly relating to the training project".

Therefore, if "allowances" or "additional remuneration" are considered for example as necessary travel expenses, then they can be covered by this category.

**Do the costs of advisory services linked to the training project include consultancy fees for the preparation of the project proposal?**

Consultancy fees for the preparation of the project proposal can be considered as "costs of advisory services linked to the training project" and therefore falling within the list of eligible costs as defined in Article 31 point 3 (c) if this project proposal has been eventually chosen.

51. The maximum aid intensity is generally 50% of the eligible costs. It may be increased, up to a maximum aid intensity of 70 % of the eligible costs in specific cases. In the light of the particular difficulties which SMEs face and the higher relative costs that they must bear when they invest in training, the intensity of aid exempted by GBER could be increased for SMEs. Furthermore, the intensity of aid exempted could also be increased if training is given to disadvantaged workers or to workers with disabilities:

- by 10 percentage points for training for disabled or disadvantaged workers;
- by 10 percentage points for medium-sized enterprises;
- by 20 percentage points for small enterprises.

**Which is the maximum aid intensity for mid-sized businesses and small enterprise, for the training to workers with disabilities or disadvantaged workers?**

The maximum aid intensity for training to workers with disabilities or disadvantaged workers is 50%+10% = 60%.
The maximum aid intensity for training to workers with disabilities or disadvantaged workers in medium sized enterprises is 50%+10%+10% = 70%.
The maximum aid intensity for training to workers with disabilities or disadvantaged workers in small enterprises could in theory be 50%+10%+20% = 80%, but it is limited to 70% because of the maximum aid intensity.

52. If training occurs on board of ships entered in the EU register and the trainees are not active members of the crew, the aid intensity can be increased to 100% of the eligible costs.

53. Aid may not be granted for training that undertakings are required to provide to comply with mandatory national training standards.

**Mandatory trainings**

Aid for training which is mandatory under national law lacks incentive effect as it would be pursued even in the absence of public funding, and, therefore, cannot be block exempted. This concern for example health and safety training that would have to be pursued anyway, even in the absence of the aid. In this regard, it is irrelevant whether the training is carried out to comply with national standards which are mandatory for the undertaking in question or for its employees and also whether the training is carried out by the undertaking itself or an external trainer.

54. The GBER also specifies the general conditions to comply with (including transparency, the incentive effect, cumulation and publication as laid down in Chapter I). The amount of aid may not exceed the threshold of EUR 3 million per training project.

#### *IV.3.A.2. Aid for the recruitment of disadvantaged workers in the form of wage subsidies[66] (Article 32 GBER)*

55. Aid for the recruitment of disadvantaged workers can be exempted from the notification requirement if it complies with both Article 32 and the common conditions of Chapter I of the GBER. The eligible costs consist of the wage costs incurred for a maximum period of 12 months following the recruitment of the disadvantaged workers (24 months in the case of severely disadvantaged workers). As a rule, the recruitment must result in a net increase in employment compared with the average workforce over the previous 12 months – unless the post has become vacant due to objective reasons unrelated to redundancy [67]. The aid intensity must not exceed 50% of the eligible costs. If the period of employment is shorter than 12 months (24 months in the case of severely disadvantaged workers), the aid must be reduced pro rata.

**Article 32(3)GBER) states that "***where the recruitment does not represent a net increase, compared with the average over the previous 12 months, in the number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy."* ***How should this paragraph be understood?***

The condition is meant to ensure that no employees are made redundant with the objective of re-hire of disadvantaged workers to benefit from the State aid.

If the company is in existence for less than 12 months, the average number of workers should be calculated over the period for which the company was in existence. The firm may thus acquire grants for the recruitment of disadvantaged workers if there is a net increase in the number of employees.

The GBER clarifies under which circumstances the recruitment or wage costs of newly employed personnel should be eligible for support, even in case of no net increase in the number of total employees of the undertaking (and without prejudice to the net increase in another establishment of that undertaking). Therefore, as the beneficiary of the aid will be the undertaking, the conditions concerning the net increase should apply at the level of the undertaking.

56. Under Article 2(4) GBER, 'disadvantaged worker' means any person who:
(a) has not been in regular paid employment for the previous six months; or

---

[66] The article concerns aid for hiring disadvantaged workers. This aid is granted in the form of wage subsidies, meaning that the public authorities would give subsidies to the employer for hiring a disadvantaged worker.
[67] If the recruitment does not represent a net increase (compared with the average over the previous 12 months) in the number of employees in the undertaking concerned, the post or posts must have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct – and not as a result of redundancy.

(b) is between 15 and 24 years of age; or
(c) has not attained an upper secondary educational or vocational qualification (International Standard Classification of Education 3) or has within the past two years completed full-time education and has not previously obtained their first regular paid employment position; or
(d) is over the age of 50 years; or
(e) lives as a single adult with one or more dependents; or
(f) works in a sector or profession in a Member State where the gender imbalance is at least 25% higher than the average gender imbalance across all economic sectors in that Member State, and belongs to that underrepresented gender group; or
(g) is a member of an ethnic minority within a Member State and requires development of their linguistic, vocational training or work experience profile to enhance their prospects of gaining stable employment.

**What is the meaning of "regular paid employment"? Is State subsidised employment considered to be regular paid employment?**

State subsidised employment may also be considered as regular paid employment. The reason for requiring the worker not to be in regular paid employment is linked to the definition of 'disadvantaged worker'. In this context, the type of work or financing should not change the nature of 'regular paid employment', which implies employment with certain degree of stability and remuneration.

57. Under Article 2(99) GBER, ‘severely disadvantaged worker’ means any person who:
(a) has not been in regular paid employment for at least 24 months; or
(b) has not been in regular paid employment for at least 12 months and belongs to one of the categories (b) to (g) mentioned under the definition of ‘disadvantaged worker’.

58. Except in the case of lawful dismissal for misconduct, disadvantaged workers are entitled to continuous employment for a minimum period consistent with the national legislation concerned or any collective agreements governing employment contracts.

59. The GBER also specifies the general conditions to comply with (including transparency, cumulation and publication as laid down in Chapter I). The amount of aid may not exceed the threshold of EUR 5.5 million per undertaking per year. If the conditions of Article 32 GBER are fulfilled, the aid is deemed to have an incentive effect in accordance with Article 6(5)(c) GBER.

#### *IV.3.A.3. Aid for the employment of workers with disabilities in the form of wage subsidies (Article 33 GBER)*

60. Aid for the employment of workers with disabilities can be exempted from the notification requirement if it complies with both Article 33 and the common conditions of Chapter I of the GBER.

**Could it be considered to give aid to keep workers with disabilities in their posts when the recruitment has taken place one or two years before the date of granting the aid?**

If at the time of employment the worker did not have any disability but a disability occurred during the validity of the contract, the undertaking employing the person may receive support. If however the worker with disability is already employed for two years before the company requests support, the condition of Article 33(4) is not fulfilled.

61. The eligible costs are the wage costs incurred over any given period during which the worker with disabilities is employed. The aid intensity may reach up to 75% of the eligible costs over any given period during which a worker with disabilities is employed. As with Article 32 GBER, the recruitment should normally represent a net increase in employment (subject to the exceptions provided for in the GBER) [68].

**Could the term "any given period" mean that a limited period is required or could the term "any given period" also be interpreted in the sense of a period of time as long as the validity of the employment contract?**

Any given period in the context of Article 33(2) is being interpreted as a period of time as long as the validity of the employment contract.

62. The GBER also specifies the general conditions to comply with, including transparency, cumulation and publication as laid down in Chapter I. The amount of aid may not exceed the threshold of EUR 11 million per undertaking per year. If the conditions of Article 33 GBER are fulfilled, the aid is deemed to have an incentive effect in accordance with Article 6(5)(c) GBER. Article 8(6) GBER lays down a specific cumulation provision (by way of derogation from the standard rules) in favour of workers with disabilities. This specific provision states that aid (as provided for in Articles 33 and 34) may be cumulated with other aid exempted under the GBER in relation to the same eligible costs above the highest applicable threshold under the GBER – provided that such cumulation does not result in an aid intensity exceeding 100% of the relevant costs over any period in which the workers concerned are employed.

**For how long may State aid for the employment of workers with disabilities be granted?**

Article 33 GBER may be used to incentivise the recruitment of workers with disabilities. Such support may be granted for as long as the worker with disabilities remains employed. In any event, the duration of such support cannot exceed the legal validity of the GBER and the aid will have to be capped ex ante (to the notification threshold) to ensure that the aid amount remains transparent.

#### *IV.3.A.4 Aid for compensating the additional costs of employing workers with disabilities (Article 34 GBER)*

[68] If the recruitment does not represent a net increase (on the average over the previous 12 months) in the number of employees in the undertaking concerned, the post or posts must have fallen vacant following voluntary departure, disabilities, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct – and not as a result of redundancy.

63. Aid for compensating the additional costs of employing workers with disabilities can be exempted from the notification requirement if it complies with both Article 34 and the common conditions of Chapter I of the GBER.

64. The eligible costs are the additional costs directly linked to the employment of workers with disabilities. These costs may include: (i) costs of adapting the premises; (ii) costs of employing staff solely for time spent on the assistance of the workers with disabilities and of training such staff to assist workers with disabilities; (iii) costs of adapting or acquiring equipment, or of acquiring and validating software for use by workers with disabilities (including adapted or assistive technology facilities, which are additional to those which the beneficiary would have incurred had it employed workers who are not workers with disabilities); (iv) costs directly linked to transporting workers with disabilities to the working place and for work-related activities; (v) wage costs for the hours spent by a worker with disabilities in rehabilitation; (vi) if the beneficiary provides sheltered employment, the costs of constructing, installing or modernising the production units of the undertaking concerned as well as any administration and transport costs (provided that such costs result directly from the employment of workers with disabilities). Given its compensatory nature, the aid intensity may cover up to 100% of the eligible additional costs.

**If the beneficiary provides sheltered employment, eligible costs may be, among others, the costs of constructing, installing or modernising the production units of the undertaking concerned. Does this category of eligible costs cover the rooms in which the employer offering sheltered employment carries out production, or should it be understood broadly - as all units that the employer uses to conduct economic activity, e.g. to provide services, as well as other rooms, e.g. rest and social base as required under national law?**

This eligible cost should be understood broadly as covering all units that the employer uses to conduct economic activity.

65. The GBER also specifies the general conditions to comply with, including transparency, cumulation and publication as laid down in Chapter I. The amount of aid may not exceed the threshold of EUR 11 million per undertaking per year. If the conditions of Article 34 GBER are fulfilled, the aid is deemed to have an incentive effect in accordance with Article 6(5)(d) GBER. Article 8(6) GBER lays down a specific cumulation provision (by way of derogation from the standard rules) in favour of workers with disabilities. This specific provision states that aid (as provided for in Articles 33 and 34) may be cumulated with other aid exempted under the GBER in relation to the same eligible costs above the highest applicable threshold under the GBER – provided that such cumulation does not result in an aid intensity exceeding 100% of the relevant costs over any period for which the workers concerned are employed.

##### *IV.3.A.5. Aid for compensating the costs of assistance provided to disadvantaged workers (Article 35 GBER)*

66. Aid for compensating the costs of assistance provided to disadvantaged workers can be exempted from the notification requirement if it complies with both Article 35 and the common conditions of Chapter I of GBER.

67. The eligible costs can cover the costs of: (i) employing staff solely for time spent on the assistance of the disadvantaged workers over a maximum period of 12 months following recruitment of a disadvantaged worker (over a maximum period of 24 months following recruitment of a severely disadvantaged worker); (ii) training such staff to assist disadvantaged workers. The assistance provided should consist of measures to support the disadvantaged worker's autonomy and adaptation to the work environment, accompanying the worker in social and administrative procedures, facilitation of communication with the entrepreneur and managing conflicts. The aid intensity must not exceed 50% of the eligible cost.

68. The GBER also specifies the general conditions to be complied with, including transparency, cumulation and publication as laid down in Chapter I. The amount of aid may not exceed the threshold of EUR 5.5 million per undertaking per year. If the conditions of Article 35 GBER are fulfilled, the aid is deemed to have an incentive effect in accordance with Article 6(5)(d) GBER.

### IV.3.B. Training aid and knowledge measures in sector-specific block exemption regulations (agriculture and fisheries)

69. Sector-specific State aid instruments (e.g. the Agricultural Block Exemption Regulation (ABER) [69] and the Fisheries Block Exemption Regulation (FIBER) [70]) allow the exemption of skills and knowledge measures from the prior notification to the Commission if they are granted in compliance with the applicable conditions of the ABER or FIBER (i.e. they comply with the specific requirements of the concrete ABER or FIBER article and those of the general conditions laid down in Chapter I of each of those regulations). If all the applicable conditions are complied with, the aid is deemed compatible with the internal market within the meaning of Article 107(3) TFEU and is exempted from the notification requirement of Article 108(3) TFEU.

70. The ABER lays down the conditions to provide aid for knowledge-exchange and information actions in the agricultural sector (Article 21) and the forestry sector (Article 47). It allows aid for farm replacement services (Article 23) that covers the real costs incurred in replacing a farmer, a natural person who is a member of the farm household or a farm worker, during their absence from work due to an illness, including an illness of their child and a serious illness of a cohabitating person, that requires constant care, holidays; maternity and parental leave, mandatory military service, death or participation in an information or knowledge - exchange measure.

71. The FIBER lays down the conditions for providing aid for knowledge-exchange and information actions in the fisheries and aquaculture sector. In particular, it covers aid to promote human capital and social dialogue (Article 18); aid to improve health, safety and working conditions for fishers (Article 21); aid for inland fishing and inland aquatic fauna and

[69] Commission Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327 21.12.2022, p. 1).

[70] Commission Regulation (EU) 2022/2473 of 14 December 2022 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 82).

flora to improve health, safety, working conditions, human capital and training (Article 30); and aid to promote human capital and networking in aquaculture (Article 35).

72. Similarly to the GBER, Member States must also ensure compliance with the common provisions of the ABER and FIBER. These include transparency, cumulation, incentive effect and notification thresholds and publication as laid down in Chapter I.

### *IV.4. Notifiable aid*

73. If a measure constitutes State aid and does not meet the conditions for exemption from notification, a notification to the Commission for its approval is required before the aid is granted. This can be the case, for example, if the maximum aid amount laid down in the GBER for the given measure is exceeded.

74. The following sections outline some of the State aid instruments (the Training Aid Communication, the Employment Aid Communication, the Agricultural Guidelines and the Fisheries Guidelines) that can be relevant for notifying aid for employment, knowledge, skills and training.

#### IV.4.1. The Training Aid Communication [71]

75. The Training Aid Communication sets out guidance on the criteria the Commission applies for the assessment of training aid measures whenever such measures need to be notified. Any individual training aid (whether granted ad hoc or on the basis of a scheme) is subject to the Training Aid Communication when its grant equivalent exceeds EUR 3 million per training project (the GBER notification threshold). The level of the Commission's assessment and the kind of information it may require is proportional to the risk of distortion of competition. The scope of the analysis depends on the nature of the individual case.

76. The Training Aid Communication requires the compatibility analysis to consider the following elements (among others):

- The nature of the training (specific or general).
    - 'Specific training' means training that involves tuition that is directly and principally applicable to the employee's present or future position in the undertaking and provides qualifications that are not (or only to a limited extent) transferable to other undertakings or fields of work.
    - 'General training' means training that involves tuition which is not applicable only or principally to the employee's present or future position in the undertaking, but which provides qualifications that are largely transferable to other undertakings or fields of work.
- The transferability of the skills acquired during the training.
- The participants in the training: the inclusion of disabled or disadvantaged workers may increase the positive externalities of the training.

77. State aid is not the only policy instrument available to the Member States to encourage training. The Commission takes particular account of any impact assessment of the proposed measure the Member States may have made.

[71] Communication from the Commission – Criteria for the analysis of the compatibility of State aid for training subject to individual notification (OJ C 188, 11.8.2009, p. 1).

78. The Commission pays particular attention to the following criteria: (i) the positive effects of the aid (contribution to the development of an economic activity; incentive effect; compliance with other provisions of EU law); and (ii) the negative effects of the aid (necessity, appropriateness and proportionality of the aid; avoidance of distortion of competition). It weighs up the positive effects of the aid against its negative effect on competition. This is done on a case-by-case basis.

#### IV.4.2. The Employment Aid Communication – aid for the employment of disadvantaged and disabled workers [72]

79. The Employment Aid Communication sets out guidance on the criteria the Commission applies for the assessment of State aid that needs to be notified individually. It applies to State aid in the form of wage subsidies for disadvantaged workers, severely disadvantaged workers and disabled workers within the meaning of the GBER. Any individual measure (whether granted ad hoc or on the basis of a scheme) is subject to the Employment Aid Communication when its grant equivalent reaches the notification threshold established in the GBER (EUR 5.5 million per undertaking per year in the case of disadvantaged workers; EUR 11 million per undertaking per year in the case of disabled workers). The criteria set out in the Communication are not applied mechanically. The level of the Commission's assessment and the kind of information it may require is proportionate to the risk of distortion of competition. The scope of the analysis depends on the nature of the individual case.

80. In a few recent State aid decisions the Commission approved the notified aid measures directly under Article 107(3)(c) TFEU and applied the Employment Aid Communication by analogy because some of its definitions had become outdated (for example, the definition of disadvantaged workers no longer reflects the socio-economic reality)[73]. These decisions[74] state that the Commission may initiate the process of replacing or withdrawing the Employment Aid Communication to reflect this approach.

**Aid scheme supporting the employment of specific workers in Italy and in Southern Italy ('Mezzogiorno')**[75]

This €1.1 billion scheme aims to support the employment of young people and of female workers. It forms part of a wider employment measure, which contributes to the EU's social and employment policy objectives and is partly funded through the European Social Fund Plus (ESF+).

The scheme targets the following two categories of workers: i) **young people under the age of 35, who have never had an indefinite employment contract**; and ii) **women** who reside in Mezzogiorno, Southern Italy, and **have not been in regular employment in the previous 6 months**.

---

[72] Communication from the Commission – Criteria for the analysis of the compatibility of State aid for the employment of disadvantaged and disabled workers subject to individual notification (OJ C 188, 11.8.2009, p. 6).

[73] State Aid SA.114799 (2024/N) – Italy Aid scheme supporting employment of specific workers in Italy and in Southern Italy (the Mezzogiorno); State Aid SA.118844 (2025/N) – Italy Wage support for the recruitment of specific workers in the Region of Calabria.

[74] Ibid.

[75] Decision on case SA.114799 – Italy – Aid scheme supporting employment of specific workers in Italy and in Southern Italy (Mezzogiorno), C(2025) 649 final, adopted on 31.1.2025, available at: https://ec.europa.eu/competition/state_aid/cases1/20258/SA_114799_88.pdf .

The scheme supports more vulnerable groups of workers who face higher levels of unemployment than other categories of workers (e.g. older than 35 or male workers). In addition, the scheme addresses female unemployment in the regions of Mezzogiorno, where the unemployment rate is considerably higher compared to the rest of Italy and to the EU average.

Under the scheme, employers, who hire young people or female workers with a contract of indefinite duration, will be **exempted from the payment of mandatory social security contributions**. The maximum amount of aid is €650 per worker per month, and €500 in case of young people in areas other than Mezzogiorno. To be eligible under the scheme, the employment contract must be concluded before 31 December 2025. Eligible employers receive the aid for a period of 24 months following the recruitment.

Italy estimated that the scheme will lead to **the creation of more than 180,000 employment contracts of indefinite duration.**

81. The Commission pays particular attention to the following criteria: (i) the positive effects of the aid (contribution to the development of an economic activity; incentive effect; compliance with other provisions of EU law); and (ii) the negative effects of the aid (necessity, appropriateness and proportionality of the aid; avoidance of distortion of competition). It weighs up the positive effects of the aid against its negative effect on competition. This is done on a case-by-case basis.

**Entry jobs - Sweden**[76]

This €404 million (SEK 4.2 billion) scheme aims **to help disadvantaged workers access the labour market.** The measure aims to create so-called ‘Entry Jobs' for disadvantaged and severely disadvantaged workers who are currently unemployed.

The Entry Jobs scheme aims to **enable newly arrived immigrants and long-term unemployed to access the Swedish labour market**, and to introduce a scheme to compensate workers receiving a lower salary for work carried out in these Entry Jobs. Entry Job collective agreements between trade unions and employers' organisations will set out wages that are lower than the minimum wage under regular collective agreements. While a monthly salary for a full-time Entry Job will be around €605 (SEK 6,392), under regular collective agreements it reaches around €1,320 - €1,885 (SEK 14,000 - 20,000).

Under the scheme, **the aid will be paid directly to the worker, complementing the wage so that the worker's final income will match the minimum wage under the applicable regular collective agreement.** In addition, Entry Job workers will receive **a retirement pension** in the form of a State contribution equal to 10.21% of the compensation paid to the worker. The scheme will run until May 2027. Sweden estimated that the measure **will lead to the creation of 25,750 Entry Jobs** by mostly small and medium-sized enterprises, mainly in the hotel accommodation, restaurants, real estate services and manufacturing

[76] Decision on case SA.100209 (2022/N) – Sweden Entry Jobs, C(2022) 3102 final, adopted on 16.05.2022, available at: https://ec.europa.eu/competition/state_aid/cases1/202236/SA_100209_4060F882-0100-C787-9574-B6775321705B_62_1.pdf .

sectors. Under the scheme, Entry Job contracts will have a maximum duration of 24 months and should lead to an employment contract of indefinite duration. In addition, the measure foresees safeguards to ensure that Entry Jobs will not be used for the sole purpose of reducing labour costs by employers and as a replacement for regular work contracts.

### IV.4.3. Notifiable sector-specific training and information aid

82. If the conditions of ABER or FIBER are not met (see Section IV.3.B..above), Member States can notify their aid measure for the Commission's assessment under the relevant provisions of the TFEU which will be assessed under the State Aid Guidelines in the Agriculture and Forestry Sectors and in Rural Areas or under the State Aid Guidelines in the Fishery and Aquaculture Sector.

83. The State Aid Guidelines in the Agricultural and Forestry Sectors and in Rural Areas [77] lay down the compatibility criteria that are assessed by the Commission when Member States notify aid for knowledge-exchange and information action (Section 1.1.10.1), aid for farm replacement services (Section 1.1.10.3) and aid for knowledge-exchange and information actions in the forestry sector (Section 2.4). The State Aid Guidelines in the Fishery and Aquaculture sector [78] allow the notification of aid for categories of measures covered by the regulations on block exemptions (Section 2.3).

84. Other sector specific State aid rules can lay down compatibility conditions for training aid measures, such as Council Decision 2010/787/EU on State aid to facilitate the closure of uncompetitive coal mines [79] and Section 4.12.2 of the Climate, Environment and Energy aid Guidelines [80] containing specific provisions regarding aid for coverage of exceptional costs due to the closure of uncompetitive coal, peat, and oil shale activities.

**Training support for employability in the Horná Nitra region- Slovakia**[81]

This Slovak measure aimed at mitigating the effects on employees of the closure of coal mines in the **Horná** Nitra region. The aim of the initial measure was to cover **exceptional costs related to the retraining of workers made redundant by the closure of coal mines** operated by the company Hornonitrianske bane Prievidza (HBP) in the period 2020-2023. The measure was due to expire on 31 December 2023. Slovakia notified the Commission of its intention to: (i) prolong the measure until 31 December 2024; (ii) increase the budget by €10.7 million (bringing the total budget to €20.3 million); and (iii) include one additional company, Elektrárne Nováky (ENO) that produces coal-fired electricity. The amended measure aimed **at supporting the employees** of the companies HBP and ENO **in finding new employment in other sectors** in the **Horná** Nitra region, after losing their jobs due to the closure of coal mines in 2023 and 2024. Under the amended measure, the aid took the

---

[77] Communication from the Commission, Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2022/C 485/01(OJ C 485, 21.12.2022, p. 1).

[78] Communication from the Commission, Guidelines for State aid in the fishery and aquaculture sector 2023/C **107/01** (OJ C 107, 23.3.2023, p. 1).

[79] OJ L 336, 21.12.2010, p. 24.

[80] Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).

[81] SA.107243 - Training support for employability in the Horná Nitra region; the initial measure approved in 2020 is SA.56844 - Aid to cover exceptional costs of Hornonitrianske bane Prievidza (HBP) - Slovakia

form of **direct grants to HBP and ENO to cover the cost of retraining their employees** until December 2024.

## V. Support for households and communities to accelerate the green transition (energy efficiency in buildings) [82]

### *V.1. Introduction*

85. The transition towards a climate-neutral economy is a central priority of the EU and a key driver of its economic, social and territorial cohesion objectives. Public intervention is therefore essential to ensure that households, local communities and public service providers are able to participate in, and benefit from, this transition. This section focuses on public support measures aimed at improving the energy efficiency of buildings. It explains how EU State aid rules apply to such measures. It also provides guidance on identifying situations where public support falls outside the scope of Article 107(1) TFEU and cases in which State aid may be granted without prior notification. The section focuses on support granted to building owners or tenants (including households, communities and public or social service providers) in the form of grants, loans, guarantees, tax measures or financial instruments.

### *V.2. No aid measures*

86. The following sections complement points 9 to 15 by presenting instances in the context of public support for improving the energy efficiency of buildings in which the existence of State aid (and therefore the application of State aid rules) may be excluded – subject to a case-by-case assessment by the national authorities. The recently published information document of the European Investment Bank and the Commission on Energy efficiency financial instruments combined with grants – State aid aspects provides information on when State aid can be excluded i) at the level of the bodies implementing the financial instruments (i.e. financial intermediaries and/or fund managers); ii) at the level of the independent private co-investors (if any); and iii) at the level of the final recipient.

#### V.2.A. No economic activity

87**.** State aid rules apply only to measures to support economic activities (defined as the offering of goods or services on a market). Support for activities that are non-economic in nature therefore falls outside the scope of State aid rules.

88. This may be the case for direct support to:

[82] This section builds on the State aid guiding template on energy efficiency in buildings prepared for the Recovery and Resilience Facility, available here: Microsoft Word – Energy efficiency in buildings – updated 4.4.2023.docx. It updates the template where relevant.

- households for the renovation of their own residence – provided that the dwelling is not rented out and is not otherwise used for economic activities;
- authorities for the renovation of buildings that they own and in which no economic activities are conducted (e.g. buildings where activities pertaining to the exercise of public powers are housed – police, army and justice; and buildings housing the offices of municipal, local, regional or central/federal administrations); [83]
- entities that carry out non-economic activities, for the renovation of buildings that they own and in which they carry out the non-economic activities [84]. Healthcare, social security and public education are often considered as non-economic activities when they are based on the solidarity principle [85].

89. If a building is used for both economic and non-economic activities, only the share of the costs attributable to the non-economic activities falls outside the scope of State aid rules [86]. In such cases, Member States must ensure that public funding granted for non-economic activities is not used to cross-subsidise economic activities. This can be ensured, in particular, by limiting public funding to the net costs (including the cost of capital) of the non-economic activities and by ensuring a clear separation of accounts [87].

90. If a building is used for non-economic activities, the integration of renewable electricity or heat generation and related storage on-site will also remain a non-economic activity (and therefore out of the scope of State aid rules) – provided that:
- the installation is used for self-consumption only (with the possibility of selling up to a maximum 20% of the production to the grid or a third party [88]); and
- the capacity of the installation has been dimensioned for self-consumption.

#### V.2.B. No selectivity

91. Measures of purely general application which do not favour certain undertakings only or the production of certain goods only are not selective and do not constitute State aid [89]. As regards support schemes for the improvement of the energy efficiency of buildings, the scheme could be of a general nature as regards the direct recipients of such support if it fulfils all of the following four cumulative conditions.
(i) Any building owner and/or tenant is eligible for support under the scheme.
(ii) The eligibility conditions for the support are open, transparent, objective and non-discriminatory; and are linked to the improvement of the energy efficiency of the buildings. The eligibility for support is based on the same conditions for all potential beneficiaries: no bonuses or less stringent conditions are foreseen for certain types of undertakings or certain sectors or beneficiaries located in certain regions. The eligibility criteria and

[83] See Section 2 of the Commission Notice on the notion of State aid.
[84] However, when the support is granted to an owner of a building who rents it out, the support will relate to an economic activity (the renting out of buildings) even if the building is rented out to entities carrying out non-economic activities.
[85] See Sections 2.3, 2.4 and 2.5 of the Commission Notice on the notion of State aid.
[86] See, by analogy, paragraph 205 of the Commission Notice on the notion of State aid.
[87] See, by analogy, paragraph 206 of the Commission Notice on the notion of State aid.
[88] See, by analogy, paragraph 207 of the Commission Notice on the notion of State aid.
[89] Selectivity can stem from the discretion of the administration in the implementation of a scheme (particularly when fulfilling objective criteria does not automatically make an undertaking eligible for aid under the measure). In the case of *ad hoc* measures, i.e. measures not implemented under a scheme, an advantage benefiting one or more identified undertakings, allows the presumption of selectivity.

definition of eligible costs should not lead to any *de facto* favouring of specific sectors or types of undertakings.

(iii) The support is not subject to the use of a specific technology, of the products or services of specific undertakings or of domestic products/services.

(iv) The budget allocated to the scheme is such that the scheme is open and support is accessible to all.

### *V.3. Aid that is block-exempted under the General Block Exemption Regulation*[90]

92. A measure can be exempted from prior notification to the Commission if it is granted in compliance with the applicable conditions of the GBER – i.e. it complies with the specific requirements of a concrete GBER article (such as energy efficiency in buildings) and with the general conditions laid down in Chapter I of the GBER (including the applicable definitions, the rules on the notification thresholds, transparency, incentive effect, aid intensity and eligible costs, cumulation and publication and information). If all the applicable conditions are complied with, the aid is deemed compatible with the internal market within the meaning of Article 107(3) TFEU and is exempted from the notification requirement of Article 108(3) TFEU.

93. In the field of energy efficiency in buildings, the most relevant provisions are Articles 38a, 38b and 39 GBER. The sections below describe only some of the main requirements and do not cover all the GBER's requirements.

#### V.3.A. Article 38a GBER – investment aid for energy efficiency measures in buildings

94. Article 38a GBER allows Member States to grant investment aid for energy efficiency improvements in buildings, with a maximum aid amount of EUR 30 million per undertaking per investment project (subject to higher ceilings in specific cases provided for in the GBER).

95. Eligible costs are the total investment costs directly linked to achieving a higher level of energy efficiency in a building. In the case of combined works (e.g. the installation of integrated on-site renewable electricity and/or heat generation installations or the construction of recharging infrastructure for use by a building's users), the entire investment cost of the installations and equipment constitutes the eligible costs if it is directly linked to the achievement of a higher level of energy or environmental performance.

96. The aid must induce an improvement in the energy performance of the building measured in primary energy of at least:

- in the case of renovation of existing buildings: 20% compared with the situation prior to the investment;
- in the case of installation or replacement of just one type of building element: 10% compared with the situation prior to the investment; and
- in the case of new buildings: 10% compared with the threshold set for the nearly zero-energy building requirements in national measures implementing Directive 2010/31/EU. The initial primary energy demand and the estimated improvement are to be established by

[90] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty ((OJ L 187, 26.6.2014, p. 1).

reference to an energy performance certificate as defined in Article 2(12) of Directive 2010/31/EU.

97. The aid amount, expressed as a percentage of the eligible costs (aid intensity), must not exceed the following ceilings. [91]

- For the renovation of existing buildings and construction of new buildings, the basic aid intensity is 30% – to which the following bonuses could apply:
    - +15 percentage points for at least 40% energy savings;
    - +20 percentage points for small undertakings;
    - +10 percentage points for medium-sized enterprises;
    - +15 percentage points for investments in assisted areas under Article 107(3)(a) TFEU;
    - +5 percentage points for investments in assisted areas under Article 107(3)(c) TFEU.
- For the installation or replacement of one type of building element, the basic aid intensity is 25% – to which the following bonuses could apply:
    - +15 percentage points for at least 40% energy savings;
    - +20 percentage points for small undertakings;
    - +10 percentage points for medium-sized enterprises;
    - +15 percentage points for investments in assisted areas under Article 107(3)(a) TFEU;
    - +5 percentage points for investments in assisted areas under Article 107(3)(c) TFEU.

98. In principle, aid may not be granted for investments aimed at complying with EU standards that are already in force [92]. Article 38a GBER does not allow support for equipment that uses fossil fuels (including natural gas).

99. The aid may be granted either to the building owner(s) or to the tenant(s) – depending on who is commissioning the energy efficiency measure. Aid may also be granted for improving the energy efficiency of the heating or cooling equipment inside the building.

### V.3.B. Article 38b GBER – aid for the facilitation of energy performance contracting

100. Article 38b GBER allows aid for energy performance contracting if the beneficiary is an SME or a small mid-cap [93] that provides energy efficiency improvement measures. Under this provision, the aid must take the form of loans, guarantees or financial products aimed at refinancing the provider of the energy efficiency improvement measure (e.g. factoring or forfeiting). The nominal amount of outstanding financing per beneficiary must not exceed EUR 30 million.

[91] See points 11 to 16 of Article 38a GBER.
[92] On the derogations from the principle, see Article 38a(13) GBER.
[93] Article 2(103e) GBER defines a small mid-cap as 'an undertaking that is not an SME and whose number of employees does not exceed 499, calculated in accordance with Articles 3 to 6 of Annex I (to the GBER), the annual turnover of which does not exceed EUR 100 million or the annual balance sheet of which does not exceed EUR 86 million; several entities shall be considered as one undertaking if any of the conditions listed in Article 3(3) of Annex I to the GBER is fulfilled.'

### V.3.C. Article 39 GBER – investment aid in the form of financial instruments

101. Article 39 GBER applies where aid for energy efficiency investments in buildings is granted through financial intermediaries. In such cases, the aid is granted in the form of (i) an endowment; (ii) equity; (iii) a guarantee; or (iv) a loan to an energy efficiency fund or other financial intermediary, which passes the aid to the final beneficiary (the building owner or tenant) in the form of cheaper loans or guarantees.

102. Eligible costs are the total costs of the energy efficiency project. If energy efficiency investments are combined with other measures, the costs of the combined investment may also be included.

103. The nominal value of the loan or the amount guaranteed must not exceed EUR 25 million per final beneficiary and project (EUR 30 million in the case of combined investments). The guarantee must not exceed 80% of the underlying loan.

104. Article 39(8) and (9) GBER also lays down specific requirements that are applicable to financial intermediaries (including provisions aimed at preventing undue advantages and ensuring market-oriented implementation).

105. Aid must not be granted for investments undertaken to comply with EU standards that have been adopted and are in force [94].

## *V.4. Notifiable aid*

106. If the measure constitutes State aid and does not meet the conditions allowing an exemption from notification, a notification to the Commission for its approval is required before the aid is granted. This can be the case, for example, if the maximum aid amount laid down in the GBER is exceeded. The following section recalls some of the key conditions of the Climate, Environment and Energy aid Guidelines [95] (CEEAG) that the Commission takes into account for notified aid.

### V.4.1. Climate, Environment and Energy Aid Guidelines (CEEAG)

107. The Commission assesses whether notified aid to improve the energy and environmental performance of buildings [96] can be considered compatible with the internal market under Section 4.2 of the CEEAG.

108. Measures aimed at improving the energy and environmental performance of buildings target negative externalities by creating individual incentives to achieve targets for energy savings and for the reduction of greenhouse gas and air pollutant emissions. In addition to the

[94] On possible derogations, see Article 39(11) GBER.
[95] Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).
[96] If the aid is for (i) heating or cooling equipment directly connected to district heating and cooling systems; and (ii) the improvement of the energy efficiency of production processes and for energy-generating equipment used to power machinery, then it falls outside the scope of Section 4.2 of the CEEAG and is instead assessed under the conditions set out in Sections 4.10 (aid for district heating and cooling) and 4.1 (aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy and energy efficiency) of the CEEAG, respectively.

general market failures identified in Chapter 3 of the CEEAG, specific market failures may arise in the field of buildings' energy and environmental performance. For instance, when renovation works in buildings are considered, the benefits of energy and environmental performance measures typically accrue not only to the owner of the building, who generally bears the renovation costs, but also to the tenant. The Commission therefore considers that State aid may be needed to promote investments aimed at improving the energy and environmental performance of buildings.

109. Such aid may be combined with aid for any or all of the following measures: i) the installation of integrated on-site renewable energy installations generating electricity, heating or cooling (e.g. solar panels); ii) the installation of equipment for the storage of the energy generated by on-site renewable energy installations; iii) the construction and installation of recharging infrastructure for use by the building's users and of related infrastructure (e.g. ducting) if the parking facilities are either located inside the building or are physically adjacent to the building; iv) the installation of equipment for the digitalisation of the building's environmental and energy management and control, in particular to increase its smart-readiness (e.g. smart meters); v) other investments that improve the energy or environmental performance of the building (e.g. green roofs, equipment for the recovery of rain water, etc.).

110. The aid granted in accordance with Section 4.2 of the CEEAG must induce energy performance improvements leading to a minimum level of energy savings compared with the situation before the investment. Section 4.2 of the CEEAG allows Member States to grant investment aid to a building's owner or tenant, as well as liquidity support to energy service providers (ESCOs) that provide energy performance improvement measures under energy performance contracts.

111. When carrying out its compatibility assessment, the Commission checks whether the conditions of Article 107(3)(c) TFEU are met. In particular, the aid measure must facilitate the development of an economic activity ('positive condition'), and it must not unduly affect trading conditions to an extent contrary to the common interest ('negative condition'). Under the positive condition, the Commission checks whether the aid facilitates the development of an economic activity, has an incentive effect and does not violate the relevant EU law. Among the negative conditions, the Commission assesses whether the aid minimises distortions of competition and trade. The Commission assesses whether the aid measure is appropriate and proportionate and whether it avoids undue effect on competition and trade and balances the aid's positive effect against its negative effect on competition and trade.

## VI. Access to finance for SMEs and other selected measures with social benefit

112. SMEs are the backbone of Member States' economies, both in terms of employment and of economic dynamism and growth, and are therefore also central to the EU's economic development and resilience as a whole. They bring innovative solutions to address challenges like climate change, inefficient use of resources and loss of social cohesion. They also help spread this innovation supporting the green and digital transition and strengthening the EU's resilience or technological sovereignty. However, SMEs need access to finance to be able to

grow and realise their full potential. The Commission therefore considers it appropriate to stimulate the creation of an efficient risk finance market, so that SMEs are able to access the funding they need at each stage of their development. As long as such a market is not yet fully established, aid for access to finance for SMEs and start-ups addresses market failures or other relevant obstacles that prevent them from attracting the financing they require to develop to their full potential. SMEs, especially young SMEs and SMEs in new or high-technology sectors, are often unable to demonstrate their creditworthiness to investors. Despite their potential, social economy actors – like many SMEs and start-ups – often face structural barriers to accessing finance (especially in early stages of development or when scaling up). Market failures are common when projects involve higher risk, intangible assets or mixed social and economic returns. Insufficient access to finance may therefore hinder not only individual undertakings but also the achievement of broader economic and social objectives.

113. The following sections refer to State aid rules to SMEs' access to financing and to selected measures with social benefits.

### *VI.1. No aid measures – no advantage*

114. Member States may choose to design risk finance measures in such a way that they do not entail State aid under Article 107(1) TFEU (for instance by providing them on market terms). The Commission has drafted the Practical Guidance for Member States on the Market Economy Operator Test for Risk Finance Measure[97] to assist national authorities in ensuring compliance with the market economy operator test for risk finance measures.

### *VI.2. Aid that is block-exempted under the General Block Exemption Regulation*

115. A measure can be exempted from prior notification to the Commission if it is granted in compliance with the applicable conditions of the GBER – i.e. it complies with the specific requirements of the concrete GBER article (such as investment aid for SMEs) and with the general conditions laid down in Chapter I of the GBER (including the applicable definitions, the rules on the notification thresholds, transparency, incentive effect, aid intensity and eligible costs, cumulation and publication and information). If all the applicable conditions are complied with, the aid is deemed compatible with the internal market within the meaning of Article 107(3) TFEU and is exempted from the notification requirement of Article 108(3) TFEU. Several GBER provisions are particularly relevant for business development for the benefit of the social economy.

#### VI.2.A. Regional investment aid (Article 14)

116. Article 14 GBER allows Member States to grant regional investment aid in assisted areas – i.e. areas identified in the 2022-2027 regional aid map of each Member State.

117. The eligible costs are the costs of investment in tangible and intangible assets and/or the wage costs of jobs that have been created as a result of an initial investment (for two years).

118. The permitted aid intensity is up to the maximum aid intensity established in the regional aid map in force at the time the aid is granted.

[97] Document version: 26 January 2024.

119. This type of aid can be exempted from the notification requirement if it complies with Articles 13 and 14 and the common conditions of Chapter I of the GBER. Regional investment aid that exceeds the amounts laid down in Article 4(1)(a) GBER must be notified to the Commission [98].

### VI.2.B. Investment aid for SMEs (Article 17)

120. Article 17 GBER allows Member States to grant investment aid for SMEs up to EUR 8.25 million per undertaking per investment project. 'SMEs' are undertakings that fulfil the criteria laid down in Annex I of the GBER.

121. The eligible costs are investments in tangible and intangible assets, or wage costs of jobs created by an investment (for two years). The aid intensity is up to 20% of eligible costs for small enterprises; and up to 10% for medium-sized enterprises. Aid can be block-exempted from the notification requirement if it complies with both Article 17 and the common conditions of Chapter I of the GBER.

### VI.2.C. Risk finance aid for SMEs (Article 21)

122. Article 21 GBER allows Member States to grant risk finance aid to unlisted SMEs up to EUR 16.5 million per undertaking [99]. '

123. The eligible undertakings are undertakings that are unlisted SMEs and fulfil at least one of the following conditions at the time of the initial risk finance investment: (a) they have not been operating in any market; (b) they have been operating in any market for any of the following: (i) less than 10 years following their registration; or (ii) less than 7 years after their first commercial sale; or (c) they require an initial investment which, based on a business plan prepared in view of a new economic activity, is more than 50% of their average annual turnover in the preceding 5 years. The risk finance investment may also cover follow-on investments made in eligible undertakings in certain cases described in GBER.

124. Risk finance investments in eligible undertakings may take the form of equity, quasi-equity investments, loans and/or guarantees. The GBER contains detailed rules on (i) how to calculate the maximum risk finance investment amount of EUR 16.5 million; (ii) risk-reward sharing arrangements between the Member State (or its entrusted entity) and private investors,

---

[98] For regional investment aid with eligible costs of EUR 110 million or more, taking into account the aid amounts per undertaking per investment projects, the thresholds to notify the aid to the Commission are as follows:

- in cases of maximum regional aid intensity of 10%: EUR 8.25 million;
- in cases of maximum regional aid intensity of 15%: EUR 12.38 million;
- in cases of maximum regional aid intensity of 20%: EUR 16.5 million;
- in cases of maximum regional aid intensity of 25%: EUR 20.63 million;
- in cases of maximum regional aid intensity of 30%: EUR 24.75 million;
- in cases of maximum regional aid intensity of 35%: EUR 28.88 million;
- in cases of maximum regional aid intensity of 40%: EUR 33 million;
- in cases of maximum regional aid intensity of 50%: EUR 41.25 million;
- in cases of maximum regional aid intensity of 60%: EUR 49.5 million;
- in cases of maximum regional aid intensity of 70%: EUR 57.75 million.

[100] Communication from the Commission, Guidelines on State aid to promote risk finance investments (OJ C 508, 16.12.2021, p. 1).

financial intermediaries or fund managers; (iii) public contribution and private participation; and (iv) the selection of financial intermediaries and fund managers, etc.

125. This type of aid can be block-exempted from the notification requirement if it complies both with Article 21 or Article 21a and with the common conditions of Chapter I of GBER.

### VI.2.D. Aid for start-ups (Article 22)

126. Article 22 GBER allows Member States to grant aid to an eligible undertaking that is an unlisted small enterprise (annual turnover below EUR 10 million) up to 5 years following its registration and that fulfils the cumulative conditions:
(i) it has not taken over the activity of another undertaking, unless the turnover of the overtaken activity accounts for less than 10% of the turnover of the eligible undertaking in the financial year preceding the takeover;
(ii) it has not yet distributed profits;
(iii) it has not acquired another undertaking or has not been formed through a merger – unless:
- the turnover of the acquired undertaking accounts for less than 10% of the turnover of the eligible undertaking in the financial year preceding the acquisition; or
- the turnover of the undertaking formed through the merger is less than 10% higher than the combined turnover that the merging undertakings had in the financial year preceding the merger.

127. The aid can take the form of loans, guarantees, grants or tax incentives, a transfer of intellectual property (IP) or a grant of the related access rights (either free of charge or below market value). The GBER lays down the detailed conditions attached to these forms of aid, including the maximum amount of aid and support rates (between EUR 0.5 million and EUR 2.48 million per undertaking, depending on the form of aid and assisted areas (fulfilling the conditions under Article 107(3), point (a) TFEU or Article 107(3), point (c) TFEU). The maximum amounts may be doubled for small and innovative enterprises.

128. This type of aid can be block-exempted from the notification requirement if it complies both with Article 22 and with the common conditions of Chapter I of GBER.

### VI.2.E. Aid for process and organisational innovation (Article 29)

129. Article 29 GBER allows aid for process and organisational innovation up to EUR 12.5 million per undertaking per project.

- ‘Organisational innovation’ means the implementation of a new organisational method at the level of the undertaking (at group level in the given industry sector in the EEA), workplace organisation or external relations, including by making use of new or innovative digital technologies. Excluded from this definition are changes that are based on organisational methods that are already in use in the undertaking, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes, and trading in new or significantly improved products (Article 2(96) GBER).
- ‘Process innovation’ means the implementation of a new or significantly improved production or delivery method, , including significant changes in techniques, equipment or software, at the level of the undertaking (at group level in the given industry sector in the

EEA). This includes the use of novel or innovative digital technologies or solutions. Excluded from this definition are minor changes or improvements, increases in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes, and trading in new or significantly improved products (Article 2(97) GBER).

130. The eligible costs concern: (i) personnel costs; (ii) costs of instruments, equipment, buildings and land to the extent and for the period used for the project; (iii) costs of contractual research, knowledge and patents bought or licensed from outside sources under arm's length conditions; and (iv) additional overheads and other operating costs (including costs of materials, supplies and similar products) that are incurred directly as a result of the project.

131. The aid intensity must not exceed 15% of the eligible costs for large undertakings and 50% of the eligible costs for SMEs.

132. Aid to large undertakings is only compatible if they effectively collaborate with SMEs in the aided activity and the collaborating SMEs incur at least 30% of the total eligible costs.

133. This type of aid can be block-exempted from the notification requirement up to EUR 12.5 million if it complies both with Article 29 and with the common conditions of Chapter I of GBER.

### VI.2.F. Social aid for transport for residents of remote regions (Article 51)

134. Article 51 GBER allows social aid for air and maritime passenger transport for residents of remote regions. 'Remote regions' are the outermost regions, Malta, Cyprus, Ceuta and Melilla, islands which are part of the territory of a Member State and sparsely populated areas (Article 2(7) GBER).

135. The entire aid shall be used for the benefit of final consumers who have their normal residence in remote regions. The aid must be granted for passenger transport on a route linking an airport or port in a remote region with another airport or port within the EEA. The aid must be granted without discrimination as to the identity of the carrier or type of service and without limitation as to the precise route to or from the remote region.

136. The eligible costs must be the price of a return ticket from or to the remote region, including all taxes and charges invoiced by the carrier to the consumer. The aid intensity must not exceed 100% of the eligible costs.

137. This type of aid can be block-exempted from the notification requirement if it complies both with Article 51 and with the common conditions of Chapter I of GBER.

### VI.2.G. Aid involved in financial products supported by the InvestEU Fund (Section 16 of GBER (Article 56d, 56e and 56f))

138. Article 56d of GBER lays down the common conditions that apply to State aid involved in financial products supported by the InvestEU Fund that provide aid to implementing partners, financial intermediaries and final beneficiaries.

139. Article 56e allows aid to the final beneficiary under a financial product supported by the InvestEU Fund for a variety of objectives, including aid for social, educational and cultural infrastructure and activities. Where the financing is provided in the form of loans to the final beneficiary, the interest rate must correspond at least to the base rate of the reference rate applicable at the time of the granting of the loan. Article 56f lays down the conditions for aid involved in intermediated commercially- driven financial products supported by the InvestEU Fund.

140. In particular, under Article 56e(5), aid for social, educational and cultural infrastructure and activities must comply with the following conditions:

(a) the nominal amount of total financing provided to any final beneficiary under the support of the InvestEU Fund must not exceed:

(i) EUR 110 million per project for investments in infrastructure used for the provision of social services and for education; EUR 165 million per project for cultural and heritage conservation purposes and activities set out in Article 53(2) of GBER, including natural heritage;

(ii) EUR 33 million for activities related to social services;

(iii) EUR 82.5 million for activities related to culture and heritage conservation; and

(iv) EUR 5.5 million for education and training; and

(b) the aid must not be granted for training aimed at complying with mandatory national training requirements.

141. This type of aid can be block exempted from the notification requirement provided that it complies with Article 56d and the applicable provisions of Article 56e or Article 56f (respectively) and the common conditions of Chapter I of GBER.

### *VI.3. Notifiable aid*

142. If the measure constitutes State aid and does not meet the conditions for an exemption from notification, a notification to the Commission for its approval is required before the aid is granted.

143. The following sections recall some of the selected State aid instruments under which certain social investment measures can be notified for the approval by the Commission. Only the text of the State aid instrument in question includes all the legal requirements.

144. The Risk Finance Guidelines[100] apply to risk finance measures that do not satisfy all the conditions of the GBER and therefore require notification.

145. The Research, Development and Innovation Framework [101] provides the compatibility conditions for assessing notifiable aid promoting research, development and innovation under Article 107(3), point (c) TFEU. It also explains the presence of State aid in situations typically arising in the field of R&D&I activities.

---

[100] Communication from the Commission, Guidelines on State aid to promote risk finance investments (OJ C 508, 16.12.2021, p. 1).

[101] Communication from the Commission Framework for State aid for research and development and innovation (OJ C 414, 28.10.2022, p. 1).

146. Under the Regional State Aid Guidelines[102], notifiable regional aid supports economic development and employment. The Guidelines also contain rules for Member States on drawing up regional aid maps to identify the geographical areas where companies can receive regional State aid (known as assisted areas) and at which intensities.

147. The Commission may, under Article 107(3), points (a) and (c) of TFEU, allow State aid either (i) to promote the economic development of areas where the standard of living is abnormally low or there is serious underemployment, and to promote the development of the EU's outermost regions (Article 349 TFEU) ('a' areas); or (ii) to facilitate the development of certain economic areas in the EU ('c' areas). Such aid is referred to as regional aid. Regional aid must contribute to regional development and cohesion without unduly distorting competition.

148. More information on regional aid and on Member States' regional aid maps is available here: Regional Aid – Competition Policy – European Commission.

[102] Communication from the Commission Guidelines on regional State aid (OJ C 153, 29.4.2021, p. 1)