



HELLENIC REPUBLIC

# State Aid Issues for Upskilling & Reskilling Actions in the context of Just Transition Fund (JTF)

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# Definitions

## ➤ Reskilling

The training enabling individuals to acquire new skills giving access either to a new occupation or to new professional activities

## ➤ Upskilling

Short-term targeted training typically provided after the initial education or training, and aimed at supplementing, improving or updating knowledge, skills and competences

# The Just Transition Development (JTD) Programme 2021-2027 in Greece

It focuses on supporting specific areas of Greece affected by the cessation of lignite activity

One of the Priority and indicative action is

## Just Labour Transition:

- Upskilling & Reskilling actions of workforce
- Investments in infrastructure for the purposes of education
- Training and
- Facilitating labour market integration

# Actions

In Greece in the JTF Areas, the Upskilling & Reskilling

Actions more specifically concern:

- ✓ Consulting Support
- ✓ Theoretical and Practical Training
- ✓ Certification Services

provided to **individuals**

# The Upskilling & Reskilling Actions within the framework of State Aid

These Actions constitute economic activities.

They also constitute State Aid when **four (4) criteria are met** [Applicability of **Article 107 paragraph 1** of the Treaty on the Functioning of the European Union (TFEU)]:

1. Aid from public budgets or through state resources to undertakings [not individuals or households]
2. Aid provides advantage [favour]
3. Aid is selective [to certain undertakings or production of certain goods]
4. Aid affects trade between Member States and distorts competition



**Criteria are cumulative, not alternative and exhaustive (for all kinds of Beneficiaries / Recipients)**

# Categories of “Beneficiaries”

Checks for the existence of State aid are carried out at 3 different levels with respect to the “Beneficiaries” of all actions and services provided

Level 1 Beneficiaries as Providers of the services

Level 2 Contractors: selected according to the national Public Procurement legal framework by the Beneficiaries-Providers (if needed)

Level 3 Beneficiaries as Recipients of mentioned actions or services

- Unemployed
- Employees
- Self employed
- Potential New Entrepreneurs
- Undertakings (Enterprises)

# Introduction of State Aid Issues

- article **106 paragraph 2** of TFEU → Services of General Economic Interest (**SGEIs**)  
(Treaty on the Functioning of the European Union)

- article **107** of TFEU  
(Treaty on the Functioning of the European Union)

→ **Regulation (EU) 1407/2013** “de Minimis” aid

→ **Regulation (EU) 651/2014** of 17 June 2014 as applicable (following amendments by Regulation (EU) 2023/1315 of 23 June 2023)

*hereinafter referred to as General Block Exemption Regulation “**GBER**”*  
*(Declaring certain categories of aid compatible with the internal market rules in application of Articles 107 and 108 of the Treaty FEU)*

# Recipients

The Upskilling & Reskilling Actions benefit individuals:

- already unemployed
- workers/employees in general
- employees affected by the transition and facing the risk of job loss, or
- unemployed as potential entrepreneur



# Unemployed (Recipient 1)

- ❖ **Unemployed** persons are not regarded as “undertakings” and therefore the State aid rules **do not apply** in this case
- ❖ **Upskilling & Reskilling** Actions for the Unemployed constitute an economic activity and State Aid to the Providers of the services. However, based on the specific characteristics of the intervention and since they relate to access and/or reintegration of the Unemployed into the labour market, they can be characterized as **Services of General Economic Interest (SGEIs)**

Public Service Obligation (PSO) : Article 106 paragraph 2 of the  
TFEU

# Providers of SGEIs / Undertakings (1 of 2)

Article 106 par. 2 of the TFEU “*Operation of Services of General Economic Interest (SGEIs)*”

**Altmark Judgment** (24 July 2003, Court of Justice): The cases, when Public Service Compensation **does not constitute State Aid**, as a result of absence of any advantage

The State measure is considered aid-free, if four cumulative criteria are satisfied:

1. Entrustment Act **clearly defining** the Public Service Obligation (PSO) must be submitted
2. Parameters of compensation must be established **in advance in an objective and transparent manner**
3. Compensation cannot exceed the relevant costs and a reasonable profit (that means, **no over-compensation is allowed**)
4. Compensated costs **do not exceed those incurred by a typical undertaking, well run and adequately equipped.**

(This last criterion is fulfilled only if the Provider is selected through “Competitive Procedures”)

# Providers of SGEIs/Undertakings (2 of 2)

Unless Altmark criteria are met the provisions of the followings must be observed

- Decision 2012/21/EU of 20 December 2011 (*on the application of Article 106(2) of the TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of SGEIs*)
- Regulation 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 SGEIs*)

# The Decision 2012/21/EU of 20 December 2011

According to Decision 2012/21/EU compensation does not exceed an annual amount of €15 million for the provision of SGEIs.

Operation of SGEIs shall be entrusted to the Undertaking/Beneficiary-Provider concerned by means of one or more Acts

The Entrustment Act or Acts should include, in particular:

- (a) the content and duration of the Public Service Obligations (PSOs)
- (b) the undertaking and, where applicable, the territory concerned
- (c) the nature of any exclusive or special rights assigned to the undertaking by the granting authority
- (d) a description of the compensation mechanism and the parameters for calculating, controlling and reviewing the compensation
- (e) the arrangements for avoiding and recovering any over-compensation
- (f) a reference to this Decision (2012/21/EU)

# De Minimis Regulation for SGEIs 360/2012

Regulation 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) shall apply to “de Minimis aid” granted for the provision of SGEIs

- ❖ De Minimis Regulation for SGEIs allows up to €500,000 to be granted over three fiscal years. The aid can only be given for the provision of a SGEI
- ❖ Any form of de Minimis aid granted must be cumulated and cannot exceed the €500,000 threshold

Exemption from the notification requirement of Article 108(3) of the Treaty, if it fulfils the conditions laid down in paragraphs 2 to 8 of Article 2 of Regulation 360/2012

# Employees (Recipient 2)

Employees (in general) of Undertakings are not themselves regarded as “Undertakings” and therefore the State aid rules are not applicable to them.

But for the Providers of the services there is still economic activity and State Aid. If the Provider is not selected through competitive procedures, then the exemption regulations should be implemented, so that the following state aid rules are observed:

- Regulation (EU) 1407/2013 on “de Minimis aid” (see following slides) or
- Regulation (EU) 651/2014 of 17 June 2014 as applicable (following amendments by Regulation (EU) 2023/1315 of 23 June 2023), hereinafter referred to as “GBER”



Both Regulations have been amended

- Regulation (EU) 1407/2013 “de Minimis aid” (entering in force on 01.01.2024) sets the maximum amount to €300.000 over a period of 3 fiscal years
- the new “GBER” was published on 30 June 2023

## Employees in difficulty (Recipient 3)

Employees affected by the transition and facing the risk of job loss, are not considered as “undertakings” and therefore the State aid rules are not applicable to them.

For the Providers of the services there is still economic activity and state aid. For their selection the same rules should be implemented, as described at the previous slides, in accordance with state aid rules.

- **Regulation (EU) 1407/2013** on “de Minimis aid” or
- **Regulation (EU) 651/2014** of 17 June 2014 as applicable (following amendments by Regulation (EU) 2023/1315 of 23 June 2023), hereinafter referred to as “**GBER**”

There is also the option of SGEI provisions for the selection of the Provider

- **Decision 2012/21/EU** of 20 December 2011
- **Regulation 360/2012** of 25 April 2012

This is allowed because the specific “target group” of employees in difficulty falls under the spirit of the article 106 paragraph 2 of the TFEU

# Potential New Entrepreneurs (Recipient 4)

- They will originate from, either the group of unemployed or of employees who are considered as threatened and potentially unemployed due to circumstances
- In general, Potential New Entrepreneurs will be benefitted through Upskilling interventions and will be ready to make the next step
- In all these cases of supporting the Potential New Entrepreneurs, Regulation (EU) 1407/2013 on “de Minimis aid” applies



# COMMISSION REGULATION (EU) 1407/2013 on “de Minimis” aid

- It disciplines small amounts of State aid (“de Minimis” aid) that are exempted from State aid control
- De Minimis aid refers to small amounts of State aid to undertakings (companies) that do not have to be notified to the European Commission by the EU Member States. The maximum amount is €200,000 (until 31.12.2023) for each undertaking over a 3-year period
- Exemption from the notification requirement in Article 108(3) of the Treaty, if they fulfil the conditions laid down in this Regulation

# Self-employed

- The Self-employed are considered “undertakings” within the meaning of Article 107 paragraph 1 of the Treaty
- The set of benefits is considered to directly benefit the Self-employed enjoying a selective advantage in the market in which they operate
- In this case, **Regulation (EU) 1407/2013 on de Minimis aid** will apply, to make the state aid provided to them compatible

# Beneficiaries/Providers

Regarding the Providers, a previous analysis has been done. Here is the summary:

In case of Reskilling/Upskilling Actions for:

- Unemployed and Employees in difficulty (slides 10 and 16) → article 106(2) of TFEU and SGEIs toolbox
  - a) If the Altmark Criteria are fulfilled (slide 11) → no state aid for the Provider
  - b) If the Altmark Criteria are not fulfilled → Decision 2012/21 provisions or/and “de Minimis” 360/2012 of SGEI (slides 12, 13, 14)
- Workers/Employees in general and Unemployed as potential entrepreneur → Provider should be selected through competitive procedures on the basis of financial offers.

Otherwise, State Aid arises and therefore **De Minimis Regulation 1407/2013** (as currently applies) must be implemented.

# Contractors

- They are selected by the “Beneficiaries-Providers of the services” in order to implement the relevant actions
- Their selection according to the national Public Procurement legal framework nullifies any advantage of the them
- Consequently, out of the four criteria of article 107 of the TFEU, the 2nd criterion, “*the advantage*”, is not met and therefore there is no issue of State Aid at the level of the Contractor(s)

# Upskilling & Reskilling Actions organized by the Undertakings (Employers)

Reskilling & Upskilling Actions organized by the Undertakings (Employers) for their Employees are implemented according to **article 31 of Regulation (EU) 651/2014** of 17 June 2014, “GBER”, as applicable (following amendments of Regulation (EU) 2023/1315 of 23 June 2023)



The Undertakings are strictly obliged to apply and align with **all general and special provisions of GBER**



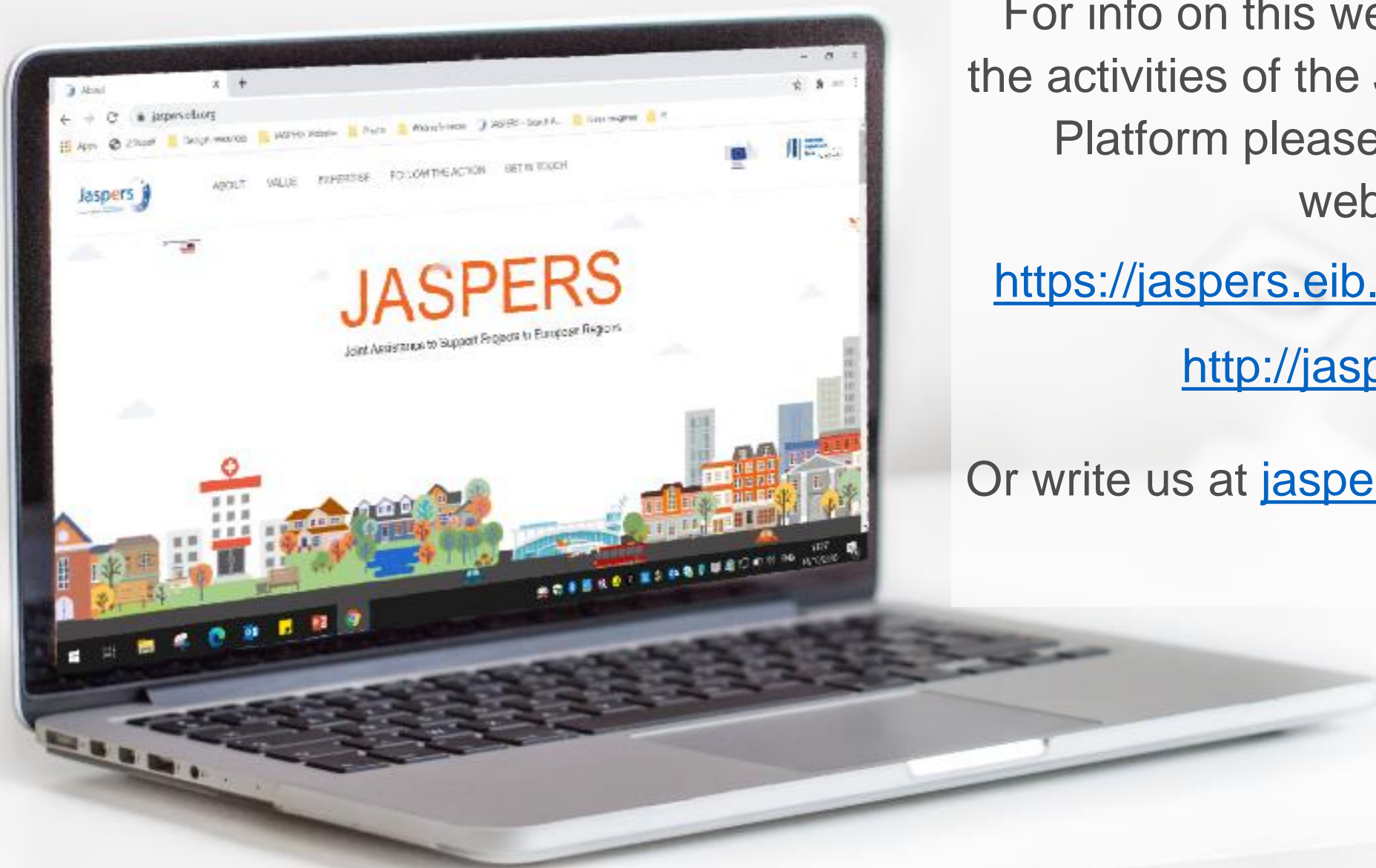


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