

Guidance Note 2-rev2

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Countries:	Greece
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1. Background

1.1 Introduction

EU Regulation 2021/1058 on the European Regional Development Fund and the Cohesion Fund (EU Regulation 2021/1058) foresees in Article 7(g) that the following investments are excluded from support:

“investment increasing the capacity of facilities for the treatment of residual waste, except for:

- (i) the outermost regions in duly justified cases only;*
- (ii) investment in technologies to recover materials from residual waste for circular economy purposes.*

DG REGIO interpretation of Article 7(g) of EU Regulation 2021/1058 (Non-Paper) issued May 2022 considers that **support from ERDF and Cohesion Fund may exceptionally be provided for new facilities that would be treating both residual waste and separately collected waste** on a pro-rata basis in a very limited number of Member States (MSs). The Non-Paper also stipulates the following:

- The need to establish guiding principles on the practical application of the eligibility criteria and the pro-rata principle.
- JASPERS to support the Commission in setting up the guiding principles.
- JASPERS may support managing authorities in assessing the plausibility of estimations submitted by beneficiaries.

Thus, in July 2022, DG REGIO entrusted JASPERS with a horizontal assignment to *“Support in setting up guiding principles for the implementation of the limited eligibility of solid waste treatment in 2021-2027 Cohesion Policy”*. Guidance Note 2 of this assignment dated 1 August 2023 titled *‘Guiding principles for the implementation of the limited eligibility of solid waste treatment in 2021-2027 Cohesion Policy’*, elaborates the general guiding principles for EU support for eligible waste treatment projects in 2021-2027, including defining of new type Recovery and Recycling Facilities (RRFs). The general guiding principles comprise the following:

- Technical conditions – technical framework conditions and specific conditions
- **State aid aspects**
- Grant calculation.

The general guiding principles were presented and agreed to by representatives of DG REGIO (Croatia and Romania Unit – REGIO.E.2 and Cyprus and Greece Unit – REGIO.G.3) and DG ENV (From Waste to Resources Unit – ENV.B3 and Green Finance and Investments Unit – ENV.E.1).

It was additionally agreed with DG REGIO for country specific guiding principles to be developed as separate assignments in cooperation with the respective national Managing Authorities of Greece, Romania, and Croatia, based on the agreed general guiding principles and taking into consideration country specific aspects.

In April 2023 the Greek Managing Authority (‘the MA’) of the “Environment and Climate Change” 2021-2027 Programme (PEKA) officially requested JASPERS’ support in setting up the country specific guiding principles for solid waste eligibility in the form of Recovery and Recycling Facility (RRF) in 2021-2027 programmes (horizontal assignment 2023 119 GR SCE HOR). According to the assignment fiche, JASPERS is to provide the MA with:

- 1) Support to develop the conceptual RRF framework including the elaboration of the technical and financial aspects of an RRF project as foreseen in the “Environment and Climate Change Programme.
- 2) Drafting guiding principles for the technical conversion of MBTs to RRFs in line with the CEP targets and EU cohesion policy 2021-2027 and for the calculation methodology for the related cost.
- 3) Elaborate a methodology for the calculation of the EU grant for the RRFs, calculated ex-ante, for each operation, over the lifecycle of the facility, and support for drafting guiding principles of the methodology to calculate the intervention rate of the 2021-2027 EU funding of new RRFs or phased projects for which the Regulation 2022/2039/EC “Fast care” is not applicable.
- 4) Provision of practical examples showing the impact of the guiding principles on the amount of the EU grant.
- 5) Provide guidelines for the organisation and upgrading of collection systems so that they support RRFs and contribute adequately to regional targets.
- 6) Elaborate State aid considerations of the RRF framework (technical and financial aspects). This request is since further broken down into i) State aid compliant scenarios for treatment of separately collected waste streams in RRFs, and ii) Guiding principles for modifying existing SGEIs to include additional investments and services.
- 7) Support for the elaboration of co-funding applicant guide and organise jointly with the Greek Authorities a workshop with all beneficiaries/FOSDA to disseminate information.

JASPERS considers that following agreement of the developed proposals with the MA, the guiding principles are made available for the attention of DG REGIO prior to being annexed to the Applicant Guide for waste management projects to be supported under the PEKA Programme.

1.2 Purpose and scope of the current GN

The purpose of this Guidance Note 2 of the current assignment addresses above point 6.i, namely, to provide practical guide on **applicable State aid scenarios in providing public support to publicly owned Resource Recovery Facilities (RRFs) used for the treatment of separately collected municipal waste streams** (recyclables, packaging waste, and bio-waste).

The following aspects are considered in the development of the country specific guiding principles for Greece:

- Relative European and National waste legislation
- Relative European legislation and guidance on State aid
- Provisions of the Regional Waste Management Plans (RWMPs), currently under revision / review.
- Provisions of the PEKA Programme 2021-2027
- The provisions contained within Greek RRF projects intended to be implemented under the PEKA programme, including draft project documentation concerning the project “Recycling and waste recovery unit of the Eastern Sector of Central Macedonia region.”
- GN-1 and GN-2 prepared within the assignment 2022 99 SCE HOR “*Support in setting up guiding principles for the implementation of the limited eligibility of solid waste treatment in 2021-2027 Cohesion Policy*”.
- The rationale for and envisaged role of RRFs in municipal waste management

2. Applicable state aid objectives

2.1 Introduction

1. When modelling alternative State aid scenarios, Member States must take into account targets and obligations imposed on them with the EU Directive 2008/98/EC on waste and the Council Directive 1999/31/EC on the landfill of waste (Landfill Directive).
2. Article 11 (2) of the Waste Directive and Article 5 (5) of the Landfill Directive sets the following targets to Member States:
 - By 2025, the municipal waste re-use and recovery rate should be at least 55 % (by weight) [by 2030 – 60% and by 2035 – 65%],
 - By 2035, the amount of municipal waste landfilled should be 10 % or less of the total amount of municipal waste generated (by weight).
3. Article 22 (1) of the Waste Directive requires Member States to ensure from the end of 2023 that bio-waste is either separated and recycled at source or is collected separately and is not mixed with other types of waste.
4. Article 6 (1) of the Packaging Waste Directive sets out additionally following recovery and recycling target to Member States:
 - By 2025, at least 65 % (by weight) of all packaging-waste should be recycled [by 2030 – 70%].
5. Waste hierarchy is set in Article 4 (1) of the Waste Directive:



6. The Waste Directive aims to improve the quality and the quantity of the resources fit for reuse and recycling by fostering separate collection of waste¹. The Waste Directive obliges Member States to set up schemes to ensure separate collection of different waste streams (types of waste).
7. To incentivise separate collection of waste in households, economic incentives can be introduced by Member States. The economic policy instrument Pay-As-You-Throw (PAYT) targets consumers with the primary objective to ensure source sorting of household municipal waste, to therefore increase separate collection and recycling. PAYT requires households to pay according to the quantities of source separated wastes streams. It is critical that mixed waste is made more expensive while recyclable streams can then be much less costly (in some cases almost free) to give a clear incentive to sort.
8. Similarly, restrictions on landfilling of all waste that is suitable for recycling can be introduced by Member States as well as application of taxes for landfilling to incentivise municipalities to improve the effectiveness of waste sorting, collection, and recycling therefore reducing the quantities of residual waste.
9. The Waste Directive repeats that polluter-pays principle is a guiding principle in the environmental law with a meaning that the waste producer and the waste holder should manage the waste in a way that guarantees a high level of protection of the environment and human health.
10. The Waste Directive introduces the concept of Extended Producer Responsibility (EPR), to ensure the shifting (fully or partially) of the financial and operational responsibility of waste management from national authorities / municipalities to the producers of goods. Member States should ensure that the producers, manufacturers, brand owners, and first importers of products and packaging are given the legal responsibility for collection, recycling, and end-of-life management of the respective packaging materials.
11. This Guidance Note reflects changes made in the 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 (GBER) and applicable since 1 July 2023².

2.2 Analysis of applicable state aid objectives

12. State aid may be needed to support the costs linked to waste treatment if the State aid beneficiary would not carry out such activities (investments) without State aid considering normal business practice and commercial risks.
13. Table 1 provides a summary of the State aid objectives that normally could be used to provide support to investments in the infrastructure linked to waste treatment and production of new products from the waste.

¹ European Commission, Directorate-General for Environment, Dubois, M., Sims, E., Moerman, T. et al., *Guidance for separate collection of municipal waste*, Publications Office, 2020, <https://data.europa.eu/doi/10.2779/691513>

² Amendments made with the Commission Regulation (EU) 2023/1315 of 23 June 2023

Table 1: Combination of alternative State aid objectives to support infrastructure linked to the waste treatment.

Objectives that cannot be applied for investments linked to energy generation		Objectives to be applied for investments linked to energy generation (Not covered by this Guidance Note)
[1]	[2]	[3]
Applicable only where the service cannot be provided satisfactory under normal market conditions	Applicable where the service is/ may be satisfactory provided by the market	Energy production, normally, is a service provided by the market
Services of General Economic Interest (SGEI) ✓ Altmark Judgement ³ ✓ SGEI Decision ⁴ ✓ SGEI Framework ⁵	Regional investment aid ✓ Regional aid guidelines ⁶ (RAG) ✓ GBER ⁷ , Article 14	Energy production from renewable sources, including production of biogas and biomass fuel. ✓ CEEAG, Section 4.1 ✓ GBER, Article 41
	Investment State aid for the separate collection and sorting of waste, re-use or recycling of waste (etc.) ✓ CEEAG ⁸ , Section 4.4 ✓ GBER, Article 47	Investment State aid for high-efficiency cogeneration (CPH) ✓ CEEAG, Section 4.1 ✓ GBER, Article 41
	Investment State aid for local infrastructures ✓ GBER, Article 56	Investment State aid for energy efficient district heating and/or cooling ✓ CEEAG, Section 4.10 ✓ GBER, Article 46

³ Judgement of the Court of 24 July 2003 in Case C-280/00 – *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH*, and *Oberbundesanwalt beim Bundesverwaltungsgericht*.

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62000CJ0280>

⁴ 2012/21/EU: 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 (2012/21/EU).

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32012D0021>

⁵ Communication from the Commission — European Union framework for State aid in the form of public service compensation (2011) (2012/C 8/03).

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52012XC0111%2803%29>

⁶ Regional aid guidelines. Currently in force Guidelines on regional State aid for 2022-2027 (2021/C 153/01).

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021XC0429\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021XC0429(01))

⁷ General Block Exemption Regulation: 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.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0651-20230701> [consolidated version, version in force from 01/07/2023]

⁸ Guidelines on State aid for climate, environmental protection and energy 2022. [EUR-Lex - 52022XC0218\(03\) - EN - EUR-Lex \(europa.eu\)](#)

14. It is important to emphasize that many horizontal State aid objectives cannot be applied to investments intended for the energy production. Table 1 presents this separation.
15. According to the market practice in the field of waste management, it is possible that at different stages of waste treatment, different energy outputs are obtained/ processed, for example, landfill gas is obtained from landfilling of biological waste or from special landfill waste cells, afterwards gas is burned in a power generation unit to obtain electricity and heat, heat energy only may also be produced by the burning landfill gas⁹. Accordingly, before planning any investments linked to the waste treatment processes, it is important to correctly define what processes will be performed and what final outputs will be produced within a single facility.
16. It is also necessary to assess whether investments related to the waste treatment processes (treatment of mixed municipal waste, treatment of separately collected municipal waste, treatment of packaging waste, treatment of biological waste) and production of different final outputs can be physically separated, or if the same infrastructure/ equipment is to be used for different processes linked to the waste treatment.
17. If the use of the infrastructure/ equipment is easily separable within different waste treatment processes, as well as production of final outputs are separable, such as the production of energy, eligible costs can be divided to attribute each individual cost item to specific State aid objective provided in Table 1.
18. Typically, it is mainly investments linked to energy generation that are found to be easily separable. For example, landfill gas extracted from waste cannot be directly used as an energy product. Additional processing of landfill gas is necessary for which extra infrastructure is required. Eligible costs linked to the energy production following the waste treatment shall be established as extra investment costs in line with the legal framework for State aid objectives specified in column [3] of Table 1.
19. Application of various State aid objectives listed in columns [1] and [2] of Table 1 are examined in this Note.
20. The State aid objectives listed in columns [1] and [2] of Table 1 can be applied individually or in combination [as detailed within this Note].

3. State Aid Scenarios.

21. This Section provides a summary of the main requirements applicable to waste management projects under the following State aid objectives:
 - State aid as compensation for SGEI (SGEI Decision, SGEI Framework, Altmark Judgement),
 - State aid for Regional investments, (RAG / GBER, Article 14)
 - State aid for the separate collection and sorting of waste, waste re-use and recycling, and other waste treatment activities, (CEEAG, Section 4.4 / GBER, Article 47)
 - State aid for local infrastructures (GBER, Article 56).
22. Each State aid objective has its limitations in the applicability. Accordingly, Member State must make careful considerations as to the best suited State aid objective or combination of State aid objectives to address the need to support establishment of RRFs.

⁹ For example, see information about sources of energy produced by SIA "Getlini EKO" within the different waste treatment stages < <https://www.getlini.lv/energijas-razosana/> >.

3.1 Considerations linked to the application of SGEI (SGEI Decision, SGEI Framework and Altmark Judgement)

3.1.1 Definition of an SGEI

23. There are no specific EU rules defining the scope for the existence of an SGEI for the waste management sector, they provide Member States with discretion in defining a given service as an SGEI and in granting compensation to the service provider. Still, Member States should respect the European Court rulings establishing the meaning of "special task" (SGEI) cannot be attributed to an activity which is already provided or can be provided satisfactorily under normal market conditions considering public interests and conditions defined by the State, such as price, objective quality characteristics, continuity, and access to the service.
24. Applicability of State aid for SGEI compensation is initiated with the establishment of a legal definition of an SGEI. In the waste management sector the EU has set ambitious targets to improve municipal waste management. Member States need to introduce effective strategies and policy instruments to achieve these targets.^{10 11}
25. Based on case practice of the EC and the European Courts, ***Member States must have justifiable market deficiencies, established for example by public consultations, market research or based upon other appropriate studies or instruments, to decide on the necessity in defining some services as services of general economic interest and set specific requirements for the provision of such services.***
26. In case of Member State defining and entrusting an SGEI where scope of SGEI is not defined at the EU level, the EC assessment is limited to checking whether the Member State has made a manifest error in deciding whether a service can be provided satisfactorily by the market¹².
27. The EC has clarified that *"where there are other undertakings operating under normal market conditions, not entrusted with an SGEI, who already provide or can provide a service satisfactorily under conditions, such as price, objective quality characteristics, continuity and access to the service, consistent with the public interest as defined by the State, the Commission considers that it would not be appropriate to attach a public service obligation to such a service"*¹³. Table 2 provides examples how Member States have justified the necessity of providing an SGEI for specific cases.

¹⁰ For example, the Netherlands is a frontrunner in recycling in Europe. See information in Early warning assessment related to the 2025 targets for municipal waste and packaging waste – Netherlands (June 2022). Accordingly, the market has sufficient incentives to provide services on market terms. Assessment report available via search tool at webpage: < [Early warning assessment related to the 2025 targets for municipal waste and packaging waste — European Environment Agency \(europa.eu\)](#) >.

¹¹ Provides an overview of some of the main instruments used across the EU and the performance of Member States in achieving targets set by directives in waste management sector for improving municipal waste management. < [Economic instruments and separate collection systems — key strategies to increase recycling — European Environment Agency \(europa.eu\)](#)

¹² On 23 February 2024, the EC has initiated in-depth State aid investigation to assess whether the public service compensation granted to maritime transport companies in France is in line with State aid rules (State aid case SA.101557 - *Desserte maritime de la Corse* (2023-2030), France). In November 2024, following the in-depth investigation, in the course of which France and interested parties provided to the EC clarifications on the questions initially raised by the EC, the EC has concluded that the public service compensation in favour of Corsica Linea and La Méditerranée is in line with EU State aid rules. (Press news: [State aid](#); the decision of the EC is not made public at the moment of writing the GN2).

¹³ See Points 11 and 12 of the Commission Staff Working Document Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and

Table 2: Justification of the need for SGEI

<i>Case T-17/02¹⁴, Points 173, 179, 192 – 197, 201 – 202, 204 – 208, 216 – 227</i>
The ruling stresses that where the market provides services in parallel to defined public services, it is important to show that the market is not interested to ensure provision of such services based on the commercial interest considering requirements defined by the public authorities. Public authorities should be able to present that market forces are not able to guarantee provision of the equivalent services thus there is a real need for defining SGEI. In a case of dispute, it is important to present market analysis data to justify that the authorities have assessed the real need for a public service.
<i>Case T-289/03¹⁵, Points 165 – 167, 174 – 207</i>
The ruling emphasizes that in the EU law there is no clear and precise regulatory definition of the concept of an SGEI mission and no established legal concept definitively fixing the conditions that must be satisfied before a Member State can properly invoke the existence and protection of an SGEI mission within the meaning of Article 106(2) of the TFEU. Determination of the nature and scope of an SGEI mission in spheres which do not fall within the powers of the EU is within the competence of Member States. The Member State must be able to demonstrate the special universal nature of the service as well as to point to legal acts which precisely prescribe the scope of the service. The provision of the service in question must be aimed to assume a general or public interest.
<i>Case C-205/99¹⁶, Point 34 (Grounds) and Point 1 (Operative part)</i>
The ruling stresses that the freedom to provide services can be limited by an administrative decision if it is possible to demonstrate that there is a real public service need in a situation where market is not interested to provide adequate services under conditions of free competition.
<i>State aid case SA.48120, Points 9 – 10, 13 – 14, 60 – 62, 66 – 67</i>
<i>State aid case SA.49523, Points 13 – 14, 17 – 18, 63 – 66, 70 – 72</i>
Based on market data it was concluded that the operation of a service is not profitable for overall 12 months of the year. Service provider (shipping companies) have a commercial interest in operating pre-defined routes only in summer (peak season), when revenue exceed expenditure; profits generated in the peak season is not sufficient to cover losses registered in the rest of the year. Demand for the service in question cannot be satisfied by market operators without a public service contract and public service compensation. Defined scope of SGEI concerned is linked with granting exclusive rights. Assigning of exclusive rights linked to an SGEI was justified as it provides opportunity to reduce the amount of the public compensation.
<i>State aid case SA.32014, SA.32015, SA.32016, Points 178-195, 289-293, table 9</i>
During the period leading up to the signature of the new public service contract with the selected SGEI provider, other operators offered ferry services on some of the routes subject to the new public service contract albeit not necessarily throughout the entire year, with the same frequency and same type of service. The EC assessed for each of the routes concerned whether the services provided by other operators were equivalent to those that the selected SGEI provider has to provide under the new public service contract. It was established that the services offered by the selected SGEI provider are not substitutable to those offered by other competitors, as the latter do not serve or do not serve in full the public service obligations laid down in the new public service contract with the selected SGEI provider (on four out of the seven routes, there was no other operator apart from the selected SGEI provider offering the service). As regards the routes where other operators also offered services, the EC considered that there are major differences concerning the type, the regularity, the capacity and the price of the services offered.

in particular to social services of general interest (hereinafter – the 2013 EC Q-A document on SGEI) < [fa5e107c-ad5c-4ae8-a8ae-b0037c993b23_en](#) >

¹⁴ [showPdf.jsf;jsessionid=CFBDBE08789C37FF953A3F39B1BD1B9D \(europa.eu\)](#)

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62003TJ0289>

¹⁶ [EUR-Lex - 61999J0205 - EN \(europa.eu\)](#)

28. ***Where municipal waste¹⁷, as well as EPR schemes¹⁸ waste is commingled in such a way that it is not possible to establish the presence of different origin waste streams before treatment/ sorting of waste, the overall waste treated by an RRF may be considered solely forming SGEI (100% SGEI).*** This could be acceptable in situations where waste streams of different origin are disposed of in bins intended for household waste and similar waste, which could include also packaging waste (including waste fully or partially falling under EPR schemes), and such waste is collected and transported in a merged/ commingled state. But it should be assessed on case-by-case basis.
29. Treatment of bio-waste from offices, restaurants, wholesale, canteens, caterers, and retail premises as well as comparable waste from food-processing plants may be included within the scope of an SGEI to the extent that the market is not providing bio-waste treatment capacities to serve the businesses concerned. It should be assessed on a case-by-case basis.
30. Undertakings may not have sufficient incentive to perform required investments and engage in activities linked to treatment of municipal waste. For example, a valid reason of why market is not willing to invest in treatment services in Greece can be too low gate fees not adequate to cover the needed investment and re-investment costs. SGEI can be applied in a situation where the State has set fees that are affordable for citizens but does not cover expenses to have a business case (suggested as the situation for residual waste, separately collected bio-waste and separately collected municipal recyclable wastes). Accordingly, State can define SGEI to have service provider willing to provide a service against the compensation.
31. Separable waste falling within EPR schemes or the management of other waste that may generate sufficient profit to be treated by the market should not be included within the scope of SGEI and should be considered as 'other services' and proportion of RRF infrastructure used for 'other services' cannot be covered with SGEI compensation.

3.1.2 SGEI Entrustment

32. The EU law does not regulate how Member States entrust SGEIs, it only prescribes requirements that shall be included in each SGEI entrustment act. The EC has clarified that *"A public service assignment is necessary in order to define the obligations of the undertaking and of the State. In*

¹⁷ Waste Directive, Article 3 (2b) provides definition of municipal waste:

"2b. 'municipal waste' means:

(a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture.

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households.

Municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or construction and demolition waste.

This definition is without prejudice to the allocation of responsibilities for waste management between public and private actors."

¹⁸ Waste Directive, Article 3 (2b) provides definition of EPR scheme:

"21. 'extended producer responsibility scheme' means a set of measures taken by Member States to ensure that producers of products bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product's life cycle."

*the absence of such an act, the specific task of the undertaking is unknown, and fair compensation cannot be determined.*¹⁹

33. The public service task must be assigned by way of an act that, depending on the legislation in Member States, may take the form of a legislative, a regulatory instrument, a contract or in the case of a grant, the financing agreement, may be considered as SGEI entrustment act. SGEI entrustment may also be laid down in several acts.
34. The public authority entrusting the provider with the SGEI must ensure that State aid rules are respected. The conditions necessary to ensure that SGEI compensation is granted in line with the State aid rules should be reflected in the entrustment act so that the provider of SGEI is fully aware of these.²⁰ Annex 2 provides guidance on how to ensure that actual SGEI provider is informed about the SGEI character of the service concerned and other relevant aspects associated to the implementation of the service (including compensation) where the SGEI entrustment is defined at the level of infrastructure owner and the provision of the SGEI is later transferred to a third-party operator.
35. SGEI entrustment can be awarded:
 - Directly in accordance with relevant national legal acts; or
 - Based on open, transparent, and non-discriminatory public procurement procedure in line with existing EU rules.
36. SGEI award procedure may differ depending on the applied SGEI legal framework. Information is summarised in Table 3.

Table 3: Applicable SGEI award procedures

Legal base	Applicable award procedure
Altmark Judgement	Award is granted based on public procurement procedure to ensure that the most advantages SGEI provider is selected (least costly to the community to conclude that the presence of State aid is excluded (forth Altmark Criterion).
	Direct award is possible and State aid still would be excluded, if the required compensation amount is justified comparing it with the costs of typical and well-run undertaking, with adequate equipment required for discharging public service requirements. In practice, it is difficult to prove compliance with market requirements in case of the directly awarded SGEI entrustment ²¹ .
SGEI Decision	Award may be granted directly in accordance with relevant national legal acts.
	Award may be granted based on open, transparent, and non-discriminatory public procurement procedure in line with existing EU rules.
SGEI Framework	Award should, in principle, be granted based on open, transparent, and non-discriminatory public procurement procedure in line with existing EU rules.
	The EC decision in State aid case SA.106193 provides that exceptionally concession to operate an SGEI may be awarded without organising an open procedure (direct award), when the services can be supplied only by a particular economic operator due to the existence of an exclusive right, provided that no reasonable alternative or substitute exists, and that the absence of competition is not the result of an artificial narrowing down of the parameters of the concession award (Paragraph 80 of the EC decision). The EC decision in State aid case SA.55270 provided that pursuant to Postal Services Directive, Article 7 (2) Member States have the discretion to designate by law the operator

¹⁹ See Points 46 and 53 of the 2013 EC Q-A document on SGEI

²⁰ Points 21 and 22 of the 2013 EC Q-A document on SGEI

²¹ See the EC decision of 21 October 2008 in State aid case [SA.20461](#) State aid scheme implemented by Italy to remunerate *Poste Italiane* for distributing postal savings certificates (Italy)

Legal base	Applicable award procedure
	of the universal postal service obligation and, thus, Member State is not obliged to organise a tendering procedure for its selection (Paragraph 73 of the EC decision). ²²

37. SGEI entrustment act always must specify-the following information:

- the content and duration of the public service obligations,
- the undertaking and, where applicable, the territory concerned,
- the nature of any exclusive or special rights assigned to the undertaking by the authority in question,
- a description of the compensation mechanism and the parameters for calculating, controlling, and reviewing the compensation,
- the arrangements for avoiding and recovering any overcompensation,
- [a reference to the SGEI Decision, where relevant].

3.1.3 Duration of an SGEI entrustment

38. The concept of SGEI is an evolving notion that depends, among other things, on the needs of citizens, technological and market developments and social and political preferences in the Member State concerned. Member States, when implementing SGEI, must make careful assessment of the maximum duration of the service, taking into account expected market development, which are guided by local and/or global market trends in the area concerned.

39. Where within the duration of an SGEI entrustment period, part of services become market services (full cost services not requiring any compensation), correction will be required on excessive State aid.

40. The duration of the period of entrustment may differ depending on the applied SGEI legal framework. Information is summarised in Table 4.

²² See also the EC decision of 19 July 2022 in State aid case [SA.100860 bpost SA/NV](#) (Belgium), Paragraphs 132 – 144

Table 4: Duration of an SGEI entrustment

Legal base	Eligible maximum duration of an SGEI entrustment
Altmark Judgement	Entrustment period, normally, is established within the open public procurement procedure used for the selecting service provider. Duration proposed may be justified by period of amortisation of assets, repayment of loans taken to invest into the assets necessary to provide the service concerned, etc.
SGEI Decision	Normally, 10 years ²³ . Longer period than 10 years, if significant investment is required from the service provider that needs to be amortised over a longer period in accordance with generally accepted accounting principles ^{24, 25 26}
SGEI Framework	Duration needs to be justified by reference to objective criteria such as the need to amortise non-transferable fixed assets.

41. The length of the entrustment period is strongly interlinked with establishing the annual amount of compensation for the purposes of application of SGEI Decision. If the amount of compensation varies over the duration of the entrustment, for example, because in some years substantial investments are required in infrastructure/ equipment, the annual amount of compensation may be calculated as an average amount per year of total expected compensation over the entrustment period (Article 2(1)(a) of SGEI Decision). This average amount cannot exceed EUR 15 million per annum.

3.1.4 SGEI compensation and recovery of overcompensation

42. An SGEI entrustment act must prescribe the SGEI compensation mechanism, which includes parameters for establishing, controlling, and reviewing the compensation. Likewise, the SGEI entrustment act should prescribe the arrangements for avoiding and recovering any overcompensation. The mechanism of SGEI compensation and parameters for calculating SGEI compensation amount should consider in advance potential existence of any income from waste treatment.

²³ SGEI Decision, Paragraph 12 of Preamble states that: “(12) *The extent to which a particular compensation measure affects trade and competition depends not only on the average amount of compensation received per year and the sector concerned, but also on the overall duration of the period of entrustment. Unless a longer period is justified due to the need for a significant investment, for example in the area of social housing, the application of this Decision should therefore be limited to periods of entrustment not exceeding 10 years.*”

²⁴ SGEI Decision, Article 2 (2).

²⁵ When considering longer SGEI duration of 10-years, it should be evaluated also whether this longer period is indeed needed for the service as defined. The EC has clarified that “*in cases where it is clear that the market will be able to provide the service within a short time under the conditions (including price, quality, continuity and access to it) desired by the Member State, the public authorities should reduce the entrustment period accordingly and monitor the evolution of the market in order to be able to decide whether a new entrustment is still needed when the previous one expires. If the market is still failing to provide the service at the end of the entrustment period, and the Member State considers that the service still qualifies as an SGEI, a new entrustment compliant with Article 106 TFEU is possible.*” See Point 12 of the 2013 EC Q-A document on SGEI

²⁶ Examples where the entrustment is shorter than the amortisation period of the most relevant assets linked to the provision of the SGEI:

- Paragraphs 73, 122, 305-306 of the EC decision of 30 September 2021 on the measure SA.32014, SA.32015, SA.32016 [<https://eur-lex.europa.eu/eli/dec/2022/1328>]
- Paragraphs 34, 37, 39-40, 70, 127-128 of the EC decision of 11 February 2017 on the measure SA.45779 [[264986_1870314_62_2.pdf \(europa.eu\)](#)]

43. SGEI compensation cannot exceed the amount of the net cost linked to the provision of an SGEI, to which reasonable profit may be added.

Establishing amount of compensation

44. SGEI net costs may be calculated based on the cost allocation methodology. Under the cost allocation methodology, the net cost necessary to discharge the public service obligation can be calculated as the difference between the costs linked to operating the SGEI and the revenues earned from the SGEI, considering estimations provided in the entrustment act²⁷.
45. SGEI net costs may be calculated also based on the net avoided costs methodology. Under the net avoided cost methodology, the net cost necessary, or expected to be necessary, to discharge the public service obligations is calculated as the difference between the net cost for the provider of operating with the public service obligation and the net cost or profit for the same provider of operating without that obligation (ref also Annex 3 of the current GN, “Examples of account separation”).²⁸ Due attention must be given to correctly assessing the costs that the service provider is expected to avoid and the revenues it is expected not to receive, in the absence of the public service obligation. The net cost calculation should assess the benefits, including intangible benefits as far as possible, to the SGEI provider.²⁹
46. ‘Reasonable profit’ means the rate of return on capital that would be required by a typical undertaking considering whether or not to provide the SGEI for the whole period of entrustment, taking into account the level of risk. The ‘rate of return on capital’ means the internal rate of return that the undertaking makes on its invested capital over the duration of the period of entrustment. Where the provision of the service of general economic interest is not connected with a substantial commercial or contractual risk, in particular, when the net cost incurred in providing the service of general economic interest is essentially compensated ex post in full, the reasonable profit may not exceed the relevant swap rate³⁰ plus a premium of 100 basis points.
47. Where compatibility of SGEI compensation is assessed based on the SGEI Framework; in devising the method of compensation, Member States must introduce efficiency incentives for the provision of SGEI of a high standard.³¹
48. Costs linked to operating the SGEI must be calculated on the basis of generally accepted cost accounting rules, considering following principles:
- Where the SGEI service provider performs only the SGEI activities entrusted to it, all costs of the SGEI provider can be taken into consideration,

²⁷ SGEI Decision, Article 5 and SGEI Framework, Points 28 - 32

²⁸ SGEI Framework, Points 25 - 27

²⁹ Annex VII to EU Directive 2018/1972 establishing the European Electronic Communications Code (Recast) [[Directive - 2018/1972 - EN - eecc - EUR-Lex \(europa.eu\)](#)] and Annex I to Directive 97/67/EC on common rules for the development of the internal market of Community postal services and the improvement of quality of service [[EUR-Lex - 01997L0067-20080227 - EN - EUR-Lex \(europa.eu\)](#)] contain more detailed guidance on how to apply the net avoided cost methodology.

See also, as example, the EC decision in State aid case [SA.55270](#), Section 4.2.7. Amount of compensation – Calculation of the net cost of the USO and verification of the absence of overcompensation using the net accounting cost method, Paragraphs 78 – 125

³⁰ Swap rate proxies are established by the EC and published in the webpage of the DG Competition: < [Swap rate proxies - European Commission \(europa.eu\)](#) >

³¹ SGEI Framework, Points 39 – 43

- where the SGEI provider is engaged also in activities outside the SGEI activities entrusted to it, only the costs related to the SGEI can be taken into consideration,
 - All direct costs related to the operating the SGEI can be taken into consideration, as well as appropriate part from common costs necessary to perform different activities of the SGEI provider (the SGEI activities and other activities),
 - Costs linked to investments in infrastructure/ equipment may be taken into account if such costs are necessary for the implementation of the entrusted SGEI and such costs may be considered only at the proportion attributable to the SGEI, where the SGEI provider is engaged also in activities outside the SGEI activities entrusted to it.
49. Where the investment costs in infrastructure/ equipment are covered by the SGEI compensation, the compensation amount for such costs shall not exceed the difference between the eligible costs and the operating profit from the investment. The operating profit shall be deducted from the eligible costs *ex ante*, on the basis of reasonable projections (funding gap calculation), or through a *claw-back* mechanism. The claw-back mechanism should ensure a balanced distribution of additional gains when the project is more profitable than forecasted in the initial funding gap analysis. Any such claw-back mechanism should be clearly defined in advance.
50. When applying the funding gap calculation to establish maximum SGEI compensation amount, this is normally aligned with the amortisation period of the SGEI related assets. Where SGEI entrustment period is shorter than amortisation period, the period used for the funding gap calculation is normal to be aligned with SGEI entrustment period. Table 5 provides a risk assessment overview regarding potential overcompensation considering time period used for the funding gap calculation and the actual SGEI entrustment period.

Table 5: Period of funding gap calculation and SGEI entrustment period

Funding gap calculation period	Entrustment period	Repayment of overcompensation
10 years	10 years	To avoid repayment of overcompensation in relation to investment costs, funding gap calculation period should be aligned with the period of expected SGEI entrustment. In this way compensation would only be determined for the period of the economic utilisation of the asset linked to SGEI entrustment period. <i>Claw-back</i> mechanism still would be applicable, which means, that funding gap recalculation should be made at the end of the SGEI entrustment period to consider actual profits and expenditures linked to the utilisation of an asset for the provision of an SGEI.
25 years (or another period of the economic utilisation of an asset)	10 years	If it may be reasonably presumed that the service will be continued as an SGEI after (e.g.) a 10 year period and entrustment will be granted to the same SGEI provider, compensation for an investment in the infrastructure/ equipment could be determined for the overall period of the economic utilisation of the asset, even if it is longer than the initial SGEI entrustment period. Recalculation of funding gap as well as reassessment of actual compensation amount may be required at the end of each successive period of an SGEI entrustment. Recovery of excessive compensation (overcompensation) may be applied, where entrustment is not extended beyond the initial SGEI entrustment period.

Funding gap calculation period	Entrustment period	Repayment of overcompensation
25 years (or another period of the economic utilisation of an asset)	25 years (or another period of the economic utilisation of the asset)	Claw-back mechanism would still be applicable, as such a funding gap recalculation should be performed at the end of the SGEI entrustment period to consider actual profits and expenditures linked to the utilisation of an asset for the provision of the SGEI.

Control and recovery of overcompensation

51. An SGEI provider cannot receive compensation more than compensating the net cost linked to the provision of an SGEI, to which reasonable profit may be added. **Member States authorities need to carry overcompensation checks on an annual basis or at least every 3 years during the period of the SGEI entrustment and at the end of the SGEI entrustment period.**
52. Repayment of overcompensation also affects compensation granted to cover investment costs in infrastructure/ equipment. In accordance with the *claw-back* mechanism, at the end of the lifetime of an asset (period of the economic utilisation of the asset), a funding gap recalculation should be made to take into account actual profits and expenditures as well actual use of the asset for the provision of the SGEI. Where the SGEI entrustment period is shorter than the lifetime of an asset, the *claw-back* mechanism recalculation of the funding gap must take place at the end of the SGEI entrustment period. This corresponds to the obligation established in SGEI Decision, Article 6(1) that Member States authorities are to conduct overcompensation checks also at the end of the SGEI entrustment period.
53. Compensation in excess to what is necessary to cover the net costs of SGEI constitutes incompatible State aid that should be repaid³² in line with the requirements established in the State aid Recovery Notice³³. Summary rules on repayment of overcompensation are provided in Table 6.
54. Where the amount of overcompensation does not exceed 10 % of the amount of the average annual compensation, such overcompensation may be carried forward to the next period and deducted from the amount of compensation payable in respect of that period. To avoid any further overcompensation, the parameters for the calculation of the compensation shall be updated.
55. Considering conditions defined in State aid Recovery Notice³⁴ provisional repayment of overcompensation may be agreed between the State aid beneficiary and the State aid grantor for any overcompensation established for any 3-year period. Provisional repayment of overcompensation, for example, can be achieved by paying amount of established overcompensation into an escrow account.
56. It is **within the competence of the Member States to introduce mechanisms on how funds obtained from overcompensation refunds are used**. A Member State may, for example, introduce a requirement that the repayments (both overcompensation refunds and adjustment to the amount of the originally granted State aid) need to be made into a specially established target fund, and Member State may impose obligation on this fund (in the context of this GN) to finance only activities linked to circular economy initiatives.

³² SGEI Decision, Paragraph 16 of Preamble; SGEI Framework, Point 48.

³³ Communication from the Commission – Commission Notice on the recovery of unlawful and incompatible State aid (State aid Recovery Notice).

³⁴ State aid Recovery Notice, Points 117 – 119.

Table 6: Summary rules applicable to SGEI compensation and repayment of overcompensation in the case of solely SGEI use of the infrastructure

Ex-post corrections required to comply with State aid rules - sole SGEI use of the infrastructure
The funding gap is calculated for the entire costs of planned investments in the infrastructure and equipment attributable to SGEI. It is required to establish the amount of SGEI compensation linked to the investment calculated for the overall entrustment period. At the end of the lifetime of an asset (period of the economic utilisation of the asset) or at the end of an SGEI entrustment, if the entrustment period is shorter than the lifetime of the asset, a funding gap recalculation is required to consider actual profits and expenditures linked to the SGEI. <i>Claw-back</i> of excess profit linked to investment is required. Excess SGEI compensation (overcompensation) paid during the entrustment period need to be repaid in line with the State aid Recovery Notice.

Establishing SGEI compensation and control of overcompensation in case of mixed use of the infrastructure

57. Where an undertaking carries out activities falling both inside and outside the scope of the SGEI, the internal accounts shall be maintained separately for the costs and receipts associated with the service of general economic interest and those of other services, as well as the parameters for allocating costs and revenues.
58. It is complex, when the same facility cannot be technically and functionally separable for different operations (e.g., treatment of different types of waste) or the separation of activities is not economically justified. In such situations a careful *ex-ante* estimation of proportion attributable to the different types of activities (expressed as for example percentage time or capacity used, or by other suitable criterion) should be estimated *ex-ante*. The period applicable for estimating proportion attributable to the different types of activities must correspond to the useful life of an asset (depreciation period).
59. Where within the same RRF 'SGEI waste' and 'non-SGEI waste' is treated (i.e., mixed services), actual proportion of SGEI should be monitored on annual basis, obliging the State aid beneficiary to report on any changes in the proportion between SGEI services and other services provided within the same RRF. Table 7 summarises requirements applicable to compensation and repayment of overcompensation in the situation where the an entity is providing a SGEI and also performs other activities with the same (SGEI) infrastructure.

Table 7: Summary rules applicable to SGEI compensation and repayment of overcompensation in the case of mixed use of the infrastructure

Ex-post corrections required to comply with State aid rules - Mix of SGEI & Other Services
The estimated proportion (e.g., percentage time or capacity used) of different types of activities should be established <i>ex-ante</i>. Eligible costs only for the proportion attributable to the SGEI can be taken into consideration to calculate SGEI compensation amount. Also costs linked to investment in infrastructure and equipment may be considered only for the proportion attributable to the SGEI [Article 5(3)(b) & (d) of SGEI Decision/ SGEI Framework 29] The time period for the estimation of the proportion between SGEI and other services has to correspond to the useful life of the asset (depreciation period). Compliance with the estimated proportion shall be monitored on an annual basis. The State aid beneficiary shall be obliged to inform the State aid granting body if there is a change in the proportion that requires correction. If the asset in fact is used to a different proportion for the two activities, a correction becomes necessary. Correction and recovery of excess State aid amount shall be performed in line with the State aid Recovery Notice.

The funding gap is calculated only for the proportion corresponding to SGEI costs. *Claw-back* of excess profit linked to investments in SGEI is required. Excess SGEI compensation paid during the entrustment period need to be repaid in line with the State aid Recovery Notice.

No compensation can be granted in respect of costs linked to other services [Article 5(9) of SGEI Decision], thus the proportion attributable to other services shall be 100% funded from the beneficiary own resources or resources borrowed from the market without State aid attached. Alternatively, other State aid rules may be considered for granting State aid to the parts of activities falling outside the scope of the SGEI.

60. Investment State aid is eligible only in areas of the country defined in Annex 1 of RAG and further specified in the regional aid map of the Member State. Applicable State aid intensities may vary between 10% and 60% (rarely, 70%), where these are approved by the EC for each Member State³⁵. Some territories of a Member State may fall outside the regional aid map, thus in such territories regional investment aid may not be granted at all.
61. According to the Annex 1 of RAG and regional aid map of Greece for the period 2022 – 2027, there are ‘Article 107(3)(a) assisted areas’ and ‘Article 107(3)(c) assisted areas’ in Greece with State aid intensity varying between 40-60% in the ‘Article 107(3)(a) assisted areas’ and 15-25% in the ‘Article 107(3)(c) assisted areas’.
62. Regional aid maps set basic maximum aid intensities for large undertakings, these can be increased by 10 percentage points for medium-sized enterprises, and by 20 percentage points for small enterprises for the initial investments with eligible costs up to EUR 50 million.
63. Considering that regional investment aid has fixed State aid intensities, amount of State aid is not dependent on funding gap calculations or developments in the market, accordingly corrections of the State aid amount would not be required at the later stage based on funding gap recalculation or market developments.
64. Investments eligible for regional investment aid should be made in the assisted areas identified in the regional aid map of a Member State.
65. According to GBER, Article 13 (c), GBER is not applicable to regional State aid schemes³⁶ which are targeted at a limited number of sectors of economic activity. According to GBER, Article 2 (46) *“scheme targeted at a limited number of specific sectors of economic activity” means a scheme which covers activities falling within the scope of less than five classes (four-digit numerical code) of the NACE Rev. 2 statistical classification*. Thus, for **regional State aid schemes that are aimed to support the waste management sector** *Guidelines on regional State aid 2022 – 2027 (RAG) shall be applied*.
66. Examples, where regional State aid was used for providing support to invest in separate waste collection system, are presented below:

³⁶ 'State aid scheme' means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount (GBER, Article (2)(15)).

- The EC decision of 17 November 2009 – State aid SA.28907 – Development of separate waste collection systems (Latvia).
 - The EC decision of 18 July 2018 – State aid SA.46228 – Development of separate waste collection systems (Latvia).
67. GBER, Article 14 may be applied to *ad hoc*³⁷ regional State aid cases. Still, according to GBER, Article 4 (a), GBER cannot be applied to regional State aid (*ad hoc*) where eligible investment costs are EUR 110 million or more and the State aid amount per undertaking per investment project exceeds calculated adjusted State aid amount (amounts are provided in GBER, Article 4 (a))³⁸.
68. Depending on the status of the assisted area, State aid may be granted either to any form of initial investments or only to initial investment that creates a new economic activity in the area concerned as specified in following points of this GN. Differences may exist also as whether or not State aid is granted to large undertakings or SMEs.
69. Eligible investments for regional investment aid in 'Article 107(3)(a) assisted areas' for any size of undertaking are investments in tangible and intangible assets related to one or more of the following:
- the setting-up of a new establishment,
 - the extension of the capacity of an existing establishment,
 - the diversification of the output of an establishment into products not previously produced in the establishment; or
 - a fundamental change in the overall production process of the product(s) concerned by the investment in the establishment.
70. In 'Article 107(3)(c) assisted areas' the regional investment aid to small and medium sized enterprises (SME) may be granted for any form of initial investment listed in Point 69 of this Note.
71. In 'Article 107(3)(c) assisted areas' the **regional investment aid to large undertakings may be granted only for an initial investment that creates a new economic activity in the area concerned**. According to GBER, Article 2 (51) "*initial investment that creates a new economic activity*" means: (a) *an investment in tangible and intangible assets related to one or both of the following: the setting up of a new establishment; the diversification of the activity of an establishment, provided that the new activity is not the same or a similar activity to the activity previously performed in the establishment; or (b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased, provided that the new activity to be carried out using the acquired assets is not the same or a similar activity than the one carried out in the establishment before the acquisition. Sole acquisition of the shares of an undertaking does not qualify as initial investment that creates a new economic activity*".
72. Where State aid is awarded to large enterprises for a fundamental change in the production process, the eligible costs shall exceed the depreciation of the assets linked to the activity to be modernised over the preceding 3 fiscal years.
73. Where State aid is awarded to large enterprises or SMEs for a diversification of an existing establishment, the eligible costs shall exceed by at least 200 % the book value of the reused assets, as registered in the fiscal year preceding the start of works.
74. After the completion of the investments, they shall be maintained in the area where investments were made for at least 5 years, or 3 years for SMEs.

³⁷ 'Ad hoc aid' means State aid not granted on the basis of a State aid scheme (GBER, Article 2 (17))

³⁸ See definition of 'adjusted aid amount' in GBER, Article 2 (20)

75. Regional investment aid may be applied when investments are targeted to pre-identifiable beneficiaries.
76. Any initial investment related to the same or a similar activity³⁹ started by the same beneficiary (at group level) within a period of 3 years from the date of start of works on another aided investment in the same level 3 region of the Nomenclature of Territorial Units for Statistics shall be considered to be part of a single investment project.
77. The State aid beneficiary shall provide a financial contribution of at least 25 % of the eligible costs through its own resources or by external financing, in a form that is free of any public support.
78. The State aid beneficiary shall confirm that it has not carried out a relocation⁴⁰ to the establishment in which the initial investment for which State aid is requested is to take place, in the two years preceding the application for aid and give a commitment that it will not do so up to a period of two years after the initial investment for which State aid is requested is completed.

3.3 Considerations linked to the application of State aid for the separate collection and sorting of waste, waste re-use and recycling, etc. (Art. 47 of GBER and Section 4.4 of CEEAG)

79. From 1 July 2023 following targeted support may be granted according to GBER, Article 47:
- investments for the prevention and reduction of waste generation, preparing for re-use, decontaminating and recycling of waste generated by the beneficiary or investments for the preparing for re-use, decontaminating and recycling of waste generated by third parties and which would otherwise be unused, disposed of, or be treated based on a treatment operation that is situated lower in the priority order of the waste hierarchy referred to in Article 4(1) of the Waste Directive or in a less resource-efficient manner, or would lead to a lower quality of recycling output,
 - investments for the collection, sorting, decontamination, pre-treatment and treatment of other products, materials or substances generated by the beneficiary or by third parties and which would otherwise be unused or used in a less resource-efficient manner,
 - investments for the separate collection and sorting of waste with a view to its preparing for re-use or recycling.
80. According to GBER, Article 47(4) State aid cannot be granted to relieve undertakings that generate waste from any costs or obligations relating to the treatment of waste for which they are liable under the EU or national law, including under EPR schemes (polluter pays principle), or from costs that should be considered as normal costs for an undertaking.
81. According to GBER, Article 47(10) State aid cannot be granted for investments undertaken to comply with Union standards that have been adopted and are in force.

³⁹ 'Same or a similar activity' means an activity in the same class (four-digit numerical code) of the NACE Rev. 2 statistical classification of economic activities (NACE Rev. 2) (GBER, Article 2 (50))

⁴⁰ 'Relocation' means a transfer of the same or similar activity or part thereof from an establishment in one contracting party to the EEA Agreement (initial establishment) to the establishment in which the aided investment takes place in another contracting party to the EEA Agreement (aided establishment). There is a transfer if the product or service in the initial and in the aided establishments serves at least partly the same purposes and meets the demands or needs of the same type of customers and jobs are lost in the same or similar activity in one of the initial establishments of the beneficiary in the EEA (GBER, Article 2 (61a))

82. According to GBER, Article 47(6) State aid cannot be granted to investments related to technologies constituting an already profitable established commercial practice throughout the EU.
83. The EC has provided clarifications on application of GBER, Article 47(6) in e-WIKI⁴¹. According to the EC, *“for example, the recycling of paper, glass and of metals are widespread recycling activities in the Union; they are also profitable as they are deployed in the Union without public subsidies. There exists no fixed set of criteria that needs to be fulfilled to meet this condition, given that whether something is a profitable established commercial practice evolves over time. If the activity is already widespread in the Union without public support, this would be a strong indication that the activity for which aid is planned would be caught by Article 47(6) and would therefore be excluded for aid under that Article of the GBER.”*
84. Still market deficiencies may exist where market participants would not make investments if State aid would not be provided. Market deficiencies may also exist where polluter pays principle is fully respected in line with national legal provisions (for example, full cost recovery gate fees paid, pay-as-you-throw system introduced, EPR system regulated and functional).
85. **Member States have applied GBER, Article 47 for investments to incentivise collection of separated municipal waste, and to incentivise investments linked to recycling of separately collected waste** (it may cover municipal waste or other waste streams). Latvia has introduced two related schemes in 2024:
- Investments in recycling capacities to treat third parties waste⁴²,
 - Investments in separate waste collection infrastructure⁴³.
86. According to GBER, Article 47(7) (a) and (c) the eligible costs shall be the extra investment costs determined by comparing the total investment costs of the project with costs of counterfactual scenario which foresees implementation of less environmentally friendly project or activity based without State aid. A counterfactual scenario may consist in treating the waste based on a treatment operation that is situated lower in the priority order of the waste hierarchy referred to in Waste Directive, Article 4 (1) [see also Point 4 in this Note] or treating the waste, other products, materials, or substances in a less resource-efficient way⁴⁴. The counterfactual scenario shall correspond to an investment with comparable output capacity and lifetime that complies with European Union standards already in force.
87. According to GBER, Article 47(7), where the investment consists in installing an add-on component to an already existing facility, for which there is no less environmentally friendly equivalent, or where the State aid applicant can demonstrate that no investment would take place in the absence of State aid, the eligible costs shall be the total investment costs.
88. GBER, Article 47(7) foresees the possibility to demonstrate that no investment would take place in the absence of State aid. Following examples of market deficiencies can be mentioned:

⁴¹ Clarifications are provided as replies to questions raised by Croatia on 21.09.2023 and Poland on 08.12.2023 (to which the EC provided replies on 19.02.2024 and 20.03.2024 accordingly).

⁴² Legal base available at webpage: <https://likumi.lv/ta/id/350819> and annotation (explanations on the scheme's necessity) available at webpage: <https://tapportals.mk.gov.lv/annotation/c7b48eb3-0a54-49f8-ad78-beee5944f5be> [in Latvian, eligible for machine translation]

⁴³ Legal base available at webpage: <https://likumi.lv/ta/id/355002> and annotation (explanations on the scheme's necessity) available at webpage: <https://tapportals.mk.gov.lv/annotation/5f7ca2b9-27a7-4f87-99fa-eec0d2e10d49> [in Latvian, eligible for machine translation]

⁴⁴ GBER, Article 47(7)(b)

- Lack of sufficient volumes of locally generated separately collected waste to recycle. The EU has set targets, but habits of households and businesses are determining whether there are sufficient volumes of waste and whether it can be projected that waste indeed will be separated once the investment project is finished.
 - Continual fluctuation of prices of secondary raw materials⁴⁵.
89. Accordingly, to define scope of application (eligible waste categories) of GBER, Article 47, a market assessment is required (it is noted for instance that market deficiencies may exist worldwide for recycling of tires)
90. The determination of the applicable State aid intensity is reflected in Table 8.

Table 8: Applicable State aid intensity

Base rate	Small-sized undertaking	Medium-sized undertaking	Article 107(3)(a) region	Article 107(3)(c) region
40%	+ 20%	+ 10%	+ 15%	+ 5%

91. According to GBER, Article 4 (s), GBER cannot be applied investment State aid for environmental protection where State aid exceeds EUR 30 million per undertaking per investment project. When exceeding the mentioned threshold, CEEAG, Section 4.4 (State aid for resource efficiency and for supporting the transition towards a circular economy) may be used for granting State aid. Still, also according to CEEAG, State aid may not be granted to support the costs of an activity that the State aid beneficiary would anyhow carry out and must not compensate for the normal business risk of an economic activity, as well as to cover the costs in order to eliminate pollution for which an undertaking is responsible (polluter pays principle).

3.4 Considerations linked to the application of State aid for local infrastructures (Art.56 GBER)

92. Applicable to financing for the construction or upgrade of local infrastructures, it concerns infrastructure that contribute at a local level to improving the business and consumer environment and modernising and developing the industrial base. State aid applicants and direct beneficiaries can only be municipalities/ municipal institutions.
93. Applicable only to cases where investments are not foreseen in the dedicated infrastructure. 'Dedicated infrastructure' is defined as infrastructure that is built for *ex-ante* identifiable undertaking(s) and tailored to their needs. It means that GBER, Article 56 cannot be applied to State aid for investments which are targeted to pre-identifiable beneficiaries.
94. The infrastructure/ equipment covered by the investment project cannot be so specific that it corresponds only to needs of one specific undertaking. Infrastructure/ equipment built must be generally usable by any undertaking working in the sector concerned, taking into account the planned functional purpose of the infrastructure/ equipment.

⁴⁵ If waste recovery and treatment is done within a single operator it is possible to reduce impact of price fluctuation by cross-subsidising between different activities (as practised by private market operators). Such cross-subsidisation would not be possible where waste treatment (sorting) is subject to SGEI. Income from SGEI cannot be transferred to offset losses of other activities.

95. Based on GBER, Article 6 (2) the State aid according to GBER, Article 56 cannot be granted, if State aid is intended for investments in infrastructure that is covered by other sections of Chapter III of GBER, except regional State aid. The EC has provided interpretation on the scope of this provision following questions raised by several Member States⁴⁶.
96. Where GBER, Article 56 is applicable, the eligible costs are the investment costs in tangible and intangible assets.
97. According to GBER, Article 56(4) any concession or other entrustment to a third party to operate the infrastructure shall be assigned on basis of an open, transparent, and non-discriminatory basis in line with applicable public procurement rules.
98. According to GBER, Article 56(3) the infrastructure shall be made available to interested users on an open, transparent and non-discriminatory basis and the price charged for the use of the infrastructure shall correspond to the market price.
99. For the application of GBER, Article 56(4), direct transfer to operate the infrastructure to the municipality owned undertaking (in-house) is permissible where this undertaking is 100% owned by the State aid beneficiary municipality and the undertaking concerned is considered as an "extension" of the State aid beneficiary municipality (it forms a functionally inseparable part of the municipality), the undertaking provides specific services under the strict control of the municipality, and the municipality controls this undertaking similarly as its own internal structural units⁴⁷.
100. The State aid amount may not exceed the difference between the eligible costs and the operating profit of the investment. Potentially, State aid may cover up to 100% of eligible costs. The operating profit shall be deducted from the eligible costs *ex-ante*, on the basis of reasonable projections, or through a *claw-back* mechanism.

⁴⁶ For example:

- 18.01.2021, Hungarian authorities asked clarification whether GBER, Article 56 can be applied to electricity and gas storage projects and oil infrastructure. In views of the Hungarian authorities mentioned infrastructure is not covered by GBER, Article 48, thus State aid to such investments could be granted in line with GBER, Article 56. The EC in its reply of 01.10.2024 explained that energy infrastructure is covered by GBER, Article 48, Therefore, Article 56 does not apply to energy infrastructure, whether or not it is exempted under GBER, Article 48.
- 07.10.2021, Estonian authorities asked clarification whether GBER, Article 56 can be applied to refuelling infrastructures that supply vehicles with renewable hydrogen, considering that new GBER, Article 36a has been introduced to support investments for publicly accessible recharging or refuelling infrastructure for zero and low emission road vehicles. The EC in its reply of 06.05.2022 clarified that **"GBER, Article 56(2), read in conjunction with GBER, Article 36a, provides that, as of the introduction of GBER, Article 36a, GBER, Article 56 is no longer applicable to aid for publicly accessible recharging and refuelling infrastructure"**.

⁴⁷ In reply to question of the German authorities (question of 09.02.2017) the EC has clarified *"that an in-house operator under the EU public procurement rules would not qualify as a "third party" for the purposes of GBER, Article 56(4)"* (reply of 24.02.2017).

3.5 Summary of alternative State aid objectives to support RRFs

Table 9: Summary applicability of alternative State aid objectives to support RRFs

State aid objectives	Summary on applicability
SGEI compensation	Can be applied to investments where market is not be interested to invest, considering specific condition defined by the State, such as price, objective quality characteristics, continuity, and access to the services. In the waste management sector Member States have discretion to define a service as an SGEI in the public interests and grant compensation for the provision of the service. Cannot be applied to the waste management activities that are already provided by the market. Maximum State aid intensity: Established based on funding gap calculations
Regional investment aid(GBER, Article 14)	Can be applied to investments (ad hoc State aid or State aid granted according to State aid scheme) to investments in areas of the country that are covered by the regional aid map. State aid may be granted if planned investments are foreseen to set up a new facility, in extension of existing facility, for starting of a new economic activity, for changing fundamentally existing activity (qualify as initial investments as defined in GBER and RAG). Cannot be applied in territories of a Member State not covered by the regional aid map. Maximum State aid intensities: Dependent on territory where investments take place: • 15-25% in the 'Article 107(3)(c) assisted areas' • 40-60% in the 'Article 107(3)(a) assisted areas' • Bonusses for small undertakings 20% and for medium sized undertakings 10%
Investment State aid for the separate collection and sorting of waste, re-use or recycling of waste (etc.) (GBER, Article 47)	Can be applied for waste management activities with identifiable market deficiencies that could not be addressed by the market without State aid. Cannot be applied: • for investments undertaken to comply with Union standards that have been adopted and are in force. • To investments related to technologies constituting an already profitable established commercial practice throughout the EU. Still, market deficiencies may be justified following a detailed market assessment justifying why market is not willing to invest in the waste management activities necessary to comply with the EU set waste management targets. Maximum State aid intensities: • 40% basic intensity • 55% for undertakings located in the 'Article 107(3)(a) assisted areas' • 45% for undertakings located in the 'Article 107(3)(c) assisted areas' • Bonusses for small undertakings 20% and for medium sized undertakings 10%
Investment State aid for local infrastructures (GBER, Article 56)	Can be applied only to the extent that GBER, Article 47 is not applicable. Cannot be applied if the infrastructure is built for an in-advance pre-defined third-party operator. Does not apply, if the infrastructure is built and further entrusted to operate it to an in-house company. Maximum State aid intensity: To be established based on funding gap calculations

101. JASPERS assessment of State aid objectives shows that currently a combination of two State aid objectives – SGEI compensation and regional investment aid (dependent on specific region of application) - could be optimal to support investments in RRF. This combination, whilst not always returning maximum possible State aid compensation, is considered due to applicability, monitoring requirements, and potential risks.

Table 10: Applicability of alternative State aid objectives to support different waste streams at RRFs

	SGEI	Regional State aid (GBER, Article 14/RAG)	Circular economy (GBER, Article 47, CEEAG)	Local infrastructure (GBER, Article 56)
Residual municipal waste	✓	✓	✓	n/a
Sep Collected MW Dry recyclables not under EPR	✓	✓	✓	n/a
Sep Collected MW Dry recyclables under EPR	n/a	✓	✓	n/a
Rejects / residual waste from sorting of separately collected municipal waste	✓*	✓*	✓	n/a
Sep Collected MC biowaste	✓	✓	✓	n/a
Other waste / Non-municipal waste	n/a	✓	✓	n/a

* case by case dependent on initial waste stream (municipal / EPR)

JASPERS considerations on the optimal State aid objectives for treatment of different waste streams by RRFs are highlighted in green in the above table 10, whereas it is noted that Art. 47 can also potentially be applied.

4. Combination of different State aid objectives in case of inseparable infrastructure

148. When the same facility cannot be technically and functionally separable for different operations (treatment of different types of waste) or the separation of activities is not economically justified, the proportion of the use of the same facility for different activities must be determined for the purpose of applying correctly different State aid rules to each activity. An estimation of the proportion of use of the same infrastructure/ equipment for the different areas of activity is needed to establish the scope of application of the different State aid objectives (SGEI and others analysed in this Guidance Note). See example provided in Table 11.

Table 11: Application of State aid rules where mix of State aid objectives are used (example)

Mix of services: SGEI & Other Services	
SGEI [95%]	Other services [5%] e.g., Regional investment aid
The eligible costs are net cost linked to the provision of the entrusted SGEI (operational costs and investments costs, where necessary), to which reasonable profit may be added The funding gap calculation method can be used for calculation of public support linked to investments for the proportion of costs attributable to SGEI.	The eligible costs are costs linked to initial investments in tangible and intangible assets that are targeted to: - the setting-up of a new establishment, - the extension of the capacity of an existing establishment, - the diversification of the output of an establishment into products not previously produced in the establishment; or

Excess SGEI compensation paid during the SGEI entrustment period shall be monitored and recovered as unlawful State aid. Claw-back of excess profit linked to investment is required. Excess SGEI compensation linked to investments need to be repaid at the end of the useful life of the asset (depreciation period or entrustment period if the latter is shorter).	a fundamental change in the overall production process of the product(s) concerned by the investment in the establishment. The State aid amount shall be established as a fixed percentage of eligible costs for State aid granted in line with GBER, Article 14/ RAG. There is no need to recalculate State aid amount at the end of depreciation period of assets. Only control mechanisms applicable to regional investment aid is to ensure that actual State aid granted does not exceed maximum State aid amount to be established at the fixed percentage rate from eligible costs. State aid amount initially approved for regional investment aid cannot be increased at a later stage to ensure compliance with incentive effect criterion.
- The estimated proportion (expressed as percentage from the time used or capacity used) of different types of activities should be established ex-ante - The eligible costs for SGEI proportion and proportion of other services shall be established separately. - The eligible SGEI compensation amount and eligible State aid amount for other activities shall be established according to respective State aid rules. <i>Besides claw-back mechanisms applied to correct investment aid granted under SGEI rules, recovery of unlawful State aid may also be required if the proportion attributed to other services is higher than initially estimated.</i>	

149. It is recommended to elaborate generally applicable guidelines for the division of costs and their attribution to different State aid objectives respecting the principle of proportionality.
150. In order to ensure a conservative approach when determining the proportion of the utilisation of an asset/ infrastructure for different activities, at least two criteria can be used that would most accurately reflect the expected utilisation capacity for different types of activities.
151. Applicable criteria for establishing the proportion between different types of activities could be the following:
- ✓ Share of activities turnover by turnover value,
 - ✓ Share of activities turnover by units,
 - ✓ Time of utilisation of the asset to be purchased or created in the project for each of the activities,
 - ✓ The capacity used of the asset to be purchased or created in the project for each of the activities (e.g. based on the quantities of different waste streams being treated through the asset),
 - ✓ Space occupied of the asset to be purchased or created in the project for various activities,
 - ✓ Other – according to the justification provided by the State aid applicant.
152. Similarly, like it is established in the SME definition⁴⁸, in the guidelines it may be determined that the proportion is compared over two consecutive accounting periods. This principle could be applied both – for establishing proportion before the project' implementation and while performing *ex-post* annual controls.
153. If the asset is in fact used to a different proportion for the two activities, a correction becomes necessary. It is important that the State aid beneficiary within its accounting system implements appropriate tools for separation of different activities and distinction of costs associated with different activities.

⁴⁸ GBER, Annex I, Article 4.

154. Correction of excess State aid amount may have to be performed in line with State aid Recovery Notice, if the asset was used at higher proportion (%) to other services than SGEI.
155. It may be established in the guidelines that the correction may not be required if the change in the proportion is insignificant, that is, if the change in the proportion does not exceed 3% compared to the initially (*ex-ante*) determined applicable distribution between different types of activities.
156. Compliance with estimated proportion between different activities should be monitored on yearly basis. Formula for the *claw-back* mechanisms needs to be established by the State aid granting authority in advance. As stated earlier, the Member State may develop generally applicable guidelines, in which it may be set that, for example, the change of proportion not exceeding 3% from *ex-ante* estimated proportion does not require correction and that comparison of 'estimated vs actual proportion' is done on the basis of 2-year accounting data, etc.
157. Where the work on the project has been started⁴⁹ the State aid beneficiary cannot change at a later stage the activities of the project between different State aid objectives, where State aid in part is covered with GBER rules.
158. GBER, Article 6 (2), Points (d) and (e)⁵⁰ require that the State aid application contains *inter alia* the list of project costs and the amount of public funding needed for the project. The EC has explained that relocation of public funding between different State aid objectives would remove the presumption of incentive effect under GBER, Article 6 (2) and it would be necessary for the State aid beneficiary to submit a new State aid application with a new breakdown of costs per type of activity. Since the works on the project have been started or may even have been finalised already, compliance with requirement of incentive effect cannot be satisfied.

5. Obligation to separate accounts and costs between different activities.

160. Requirement to ensure separation of accounts and costs between different activities of a single undertaking is defined in several legal acts which are summarised in Table 12.

⁴⁹ According to GBER, Article 2, Point 23 “‘start of works’ means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, ‘start of works’ means the moment of acquiring the assets directly linked to the acquired establishment”.

⁵⁰ GBER, Article 6 (2) reads following:

“2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the Member State concerned before work on the project or activity starts. The application for the aid shall contain at least the following information:

(a) undertaking's name and size.

(b) description of the project, including its start and end dates.

(c) location of the project.

(d) list of projects costs.

(e) type of aid (grant, loan, guarantee, repayable advance, equity injection or other) and amount of public funding needed for the project.”

Table 12: Obligation to separate accounts and costs between different activities.

Legal act	Relevant provisions
SGEI Decision, Article 5(9)	Where an undertaking carries out activities falling both inside and outside the scope of the service of general economic interest, the internal accounts shall show separately the costs and receipts associated with the service of general economic interest and those of other services, as well as the parameters for allocating costs and revenues. The costs linked to any activities outside the scope of the service of general economic interest shall cover all the direct costs, an appropriate contribution to the common costs and an adequate return on capital. No compensation shall be granted in respect of those costs.
SGEI Framework, Point 18	Aid will be considered compatible with the internal market on the basis of Article 106(2) of the Treaty only where the undertaking complies, where applicable, with Directive 2006/111/EC on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (Financial Transparency Directive). Aid that does not comply with that Directive is considered to affect the development of trade to an extent that would be contrary to the interest of the Union within the meaning of Article 106(2) of the Treaty.
Transparency Directive/ Directive 2006/111/EC, Article 1(2), Article 4(1), Article 5(2)(c)	<i>Article 1</i> 2. Without prejudice to specific provisions laid down by the Community the Member States shall ensure that the financial and organisational structure of any undertaking required to maintain separate accounts is correctly reflected in the separate accounts, so that the following emerge clearly: (a) the costs and revenues associated with different activities. (b) full details of the methods by which costs and revenues are assigned or allocated to different activities. <i>Article 4</i> 1. To ensure the transparency referred to in Article 1(2), the Member States shall take the measures necessary to ensure that for any undertaking required to maintain separate accounts: (a) the internal accounts corresponding to different activities are separate. (b) all costs and revenues are correctly assigned or allocated on the basis of consistently applied and objectively justifiable cost accounting principles. (c) the cost accounting principles according to which separate accounts are maintained are clearly established. <i>Article 5</i> 2. As far as the transparency referred to in Article 1(2) is concerned, this Directive shall not apply: (c) to undertakings which have been entrusted with the operation of services of general economic interest pursuant to Article 86(2) of the Treaty [now – Article 106(2) of the TFEU] if the compensation they receive, in any form whatsoever, was fixed for an appropriate period following an open, transparent and non-discriminating procedure.
GBER, Article 1(3)(e)	Where an undertaking is active in the excluded sectors as referred to in points (a), (b) or (c) of the first subparagraph [of Article 1(3)] and in sectors which fall within the scope of this Regulation, this Regulation applies to aid granted in respect of the latter sectors or activities, provided that Member States ensure by appropriate means, such as separation of activities or distinction of costs, that the activities in the excluded sectors do not benefit from the aid granted in accordance with this Regulation.

161. Account separation is required to ensure that the net cost calculation of an SGEI is accurate. Account separation is also important to identify net costs of SGEI and non-SGEI if an entity entrusted with SGEI is engaged also in other activities (activities falling outside SGEI).

162. Examples of account separation are provided in Annex 3

6. Conclusions and recommendations

163. JASPERS assessment the optimal application of State aid objectives, as outlined in section 3.5, currently considers a combination of SGEI compensation and regional investment aid (dependent on specific region of application) optimal for to support investments in RRF in Greece. This combination, whilst not always returning maximum possible State aid compensation, is considered due to applicability, monitoring requirements, and potential risks.
164. It is highlighted that in the case of SGEI compensation, any potential subcontractor is obliged to perform the SGEI services in the same manner as prescribed by the main entrustment act. Accordingly, both – infrastructure owner/ developer and (subcontracted) infrastructure operator are bound by the same SGEI entrustment act. Therefore, an SGEI operator can only perform services prescribed in the SGEI entrustment act, may be compensated for the SGEI costs only, is obliged to keep separate accounts for services falling outside the SGEI, must respect compensation and overcompensation control requirements prescribed by the SGEI entrustment act, etc.
165. The *claw-back* provision is always applicable for investments in infrastructure, whenever the State aid amount has been established based on funding gap calculation. Funding gap recalculation always is due to be made at the end of economic lifetime (amortisation period) of main assets forming the investment project. Where the SGEI entrustment period is shorter than economic lifetime of an asset, recalculation of funding gap (CBA) needs to be performed at the end of the SGEI entrustment period.
166. Allocation of eligible costs by applying the principle of proportionality, should be monitored during the period of the economic utilisation (amortisation period) of the asset.
167. It is recommended to elaborate generally applicable guidelines for the division of costs and their attribution to different State aid objectives respecting the principle of proportionality.
168. If the estimated proportion attributable to different activities has changed, assessment must be made on required correction and potentially part of State aid paid should be recovered as unlawful State aid in line with the State aid Recovery Notice.

ANNEXES

Annex 1 Guidance to Greek authorities on applicable alternatives for granting State aid to RRFs.

ALTERNATIVE STATE AID OBJECTIVES AND APPLICATION ISSUES

In the main part of this Note it is established that two State aid objectives – SGEI compensation and regional investment aid – could be used to support investments in RRF.

SGEI rules may be used only where the market cannot provide services satisfactory under normal market conditions considering public interests.

Regional investment aid rules could be used when the market is functioning well for a given service and additional investments are needed to extend current business activities of an entity or to start new or additional activities. It is noted that Art. 47 can also potentially be applied. (ref. table 10 of the Guidance Note).

In the main part of this Note it is explained how different State aid objectives can be combined for investing in the same infrastructure (RRF).

Where the costs of infrastructure cannot be declared eligible under a single State aid objective, but under different State aid objectives, and individual cost items are clearly separable, they may be easily divided and attributed to specific State aid objectives. Investments linked to energy generation can be an example of easily separable costs.

Where RRF investment costs are not able to be clearly divided, the proportions of the use of the same facility for different activities must be determined in order to correctly apply different State aid rules to each activity. The proportions attributable to the different types of activities (expressed as % of time used or capacity used, or by another criterion) should be estimated *ex-ante*.

Applicable criteria for establishing the proportion between different types of activities can be the following:

- ✓ Share of activities turnover by turnover value,
- ✓ Share of activities turnover by units,
- ✓ Time of utilisation of the asset to be purchased or created in the project for each of the activities,
- ✓ The capacity used of the asset to be purchased or created in the project for each of the activities (e.g. based on the quantities of different waste streams being treated through the asset),
- ✓ Space occupied of the asset to be purchased or created in the project for various activities,
- ✓ Other – according to the justification provided by the State aid applicant.

To ensure a conservative approach when determining the proportion of the utilisation of an asset/ infrastructure for different activities, it is suggested at least two criteria to be used that would most accurately reflect the expected utilisation capacity for different types of activities.

This Note explains requirements applied to establish the amount of State aid for a mix of different State aid objectives as well as requirements for *ex-post* corrections required to comply with State aid rules.

Ex-post corrections may require recovering part of State aid granted, and such recovery should be implemented in line with rules set in State aid Recovery Notice.

Conclusions/ recommendations

- 1) It is generally recommended to avoid combining different State aid objectives for investing in a RRF with inseparable eligible costs. Where possible, the Greek authorities should consider applying either SGEI rules or regional investment aid rules for the entire project.
- 2) Regional investment aid is the preferred alternative where the market is functioning and where an undertaking can gain revenues from its business activities to cover investment costs at a certain level from its own revenues or commercial loans. Regional State aid rules require that the State aid beneficiary shall provide a financial contribution of at least 25 % of the eligible costs through its own resources or by external financing, in a form that is free of any public support.
- 3) Where the waste management market is not functioning and waste management services cannot be provided satisfactorily under normal market conditions, SGEI alternative can be used to grant State aid for investments in RRFs.
- 4) In applying SGEI, there are two alternative scenarios to be considered: a) solely SGEI (100% SGEI); and b) a mix of SGEI and other services. Where 'SGEI waste' and 'other waste' are treated within the same RRF (mixed services), a planned proportion of SGEI should be established *ex-ante*. The actual proportion of SGEI should be monitored on an annual basis (ongoing and final/ *ex-post*). The State aid beneficiary will be obliged to report on any changes in the proportion between SGEI services and other services provided within the same RRF.
- 5) It is recommended for the Greek authorities to elaborate generally applicable guidelines for the division of costs and their attribution to different State aid objectives respecting the principle of proportionality. Such guidelines may foresee, for example, that the change of proportion not exceeding 3% from *ex-ante* estimated proportion does not require correction and that comparison of 'estimated vs actual proportion' should be done on the basis of 2-year accounting data, etc.

(2) SGEI COMPENSATION - ALTERNATIVES

There are two alternative scenarios are considered:

- a. Solely SGEI (100% SGEI); and
- b. Mix of services: SGEI and other services.

Considerations regarding each SGEI alternative are provided further in this Point. See also relative Section of this Note.

a. Solely SGEI (100% SGEI)

For example, where the municipal packaging waste is commingled with EPR waste in such a way that it is not possible to establish the origin of the waste streams before treatment/ sorting, it might be justified that the overall waste treated by an RRF is considered as sole SGEI (100% SGEI).

This can be acceptable in situations where waste streams of different origin are disposed of in bins intended for household packaging waste and similar waste (including waste fully or partially falling under EPR schemes), and such waste is collected and transported in a merged/ commingled state.

The mechanism of SGEI compensation and parameters for calculating SGEI compensation amount should consider in advance the potential income from treating wastes of different origin.

When establishing SGEI compensation, all costs of the SGEI provider can be taken into consideration.

Costs linked to investments in infrastructure/ equipment may be taken into account if such costs are necessary for the implementation of the entrusted SGEI. Accordingly, all investment costs would be considered as eligible costs in calculating the funding gap for an investment project. The remaining part of funding required for the implementation of the investment project cannot contain State aid. That is, such additional funds should be obtained on market terms.

As a minimum, overcompensation should be controlled every 3 years during the period of the SGEI entrustment and at the end of the entrustment period. Overcompensation constitutes incompatible State aid that should be recovered in line with State aid Recovery Notice.

b. Mix of services: SGEI and other services

Clearly separable wastes falling within EPR schemes or the management of other waste that may generate sufficient profit to be treated by the market should not be included within the scope of SGEI and should be considered as 'other services'. The part of the RRF infrastructure used for 'other services' cannot be covered by SGEI compensation.

Where the SGEI provider is also engaged in activities outside the SGEI activities entrusted to it, only the costs related to the SGEI can be taken into consideration when establishing SGEI compensation.

This requires a careful *ex-ante* estimation of proportions of use of the same infrastructure/ equipment for the different areas of activity.

Compliance with estimated proportions between different activities should be monitored on a yearly basis.

The authority granting State aid need to establish a formula for the *claw-back* mechanisms in advance of providing the State aid. If the asset was used for 'other services' at a higher proportion (%) than planned, the excess State aid amount may have to be returned in line with State aid Recovery Notice.

Conclusions/ recommendations

- 1) It is possible to establish an SGEI definition that allows 100% of an RRF to be classified as SGEI, however with well encompassing and sound justification.
- 2) The 'Solely SGEI' alternative requires a regular control of excess State aid granted in the form of SGEI compensations (i.e., overcompensation). However a "mix of services: SGEI and other services" alternative would also require a regular control of overcompensation and an annual revision of proportion applied between SGEI and "other services".
- 3) Excess amounts of SGEI compensation shall be recovered in line with the State aid Recovery Notice unless overcompensation is within limits of 10%. Simultaneously, it is necessary to revise the method of establishing SGEI compensation considering established overcompensation.
- 4) If the alternative scenario "mix of services: SGEI and other services" is applied, it is recommended to establish the correct proportion between SGEI and "other services" from the start to avoid having to classify part of the public funding received as unlawful State aid that shall be recovered in line with the State aid Recovery Notice.
- 5) The Greek authorities ought to introduce generally applicable guidelines for the division of costs and their attribution to different activities respecting principle of proportionality.

(3) JUSTIFICATION AND SCOPE OF AN SGEI

The Court of Justice has established that SGEIs are services that exhibit special characteristics compared to other economic activities that are provided by the market participants based on their commercial interest.

In order to qualify for SGEI, the Greek authorities shall justify that the municipal waste management services in question cannot be provided satisfactorily on market conditions, and that the required investments in waste management infrastructure (RRF) to reduce waste in landfills cannot be made by the market. That is, the Greek authorities should prove that undertakings do not have sufficient incentive to perform the required investments in RRFs and engage in activities linked to treatment of municipal waste.

SGEI cannot be attached to services that are already provided or can be provided satisfactorily on market terms. If different services of RRF (treatment of different waste streams) cannot be separated⁵¹ potentially overall activities of an entity could be considered as SGEI.

It has been established earlier that, for example, where the municipal packaging waste is commingled with EPR scheme waste in such a way that it is not possible to establish the origin of the different waste streams before treatment/ sorting of waste, it might be justified that the overall waste treated by an RRF is considered as sole SGEI (100% SGEI).

In the waste management sector, there are no specific EU rules defining the scope for SGEI. The Member States have the discretion to defining a given service as an SGEI. In such cases the EC assessment is limited to checking whether the Member State has made a manifest error in deciding whether a service can be provided satisfactorily by the market.

Examples of the EC having questioned SGEI contracts due to insufficient prove of need of SGEI for the public services in question:

- i With the recent decision of 23 February 2024, State aid case SA.101557, the EC will investigate whether part of maritime transport services defined by France are justified by public service needs given the presence of market of commercial offer⁵².
- ii With decision of 15 December 2009, State aid case SA.29818, in the Dutch housing case the EC agreed with the complainants that the scope of SGEI definition for social housing is too broad, i.e., it covers also building of expensive rental houses which attracts high-income customers.

Before deciding to apply for SGEI, the Greek authorities should analyse the potential market development in Greece for the services under consideration, within the expected entrustment period. This may be done by consulting market participants and by performing analysis of the market developments in other Member States, including relevant factors that may influence market development.

In the case of a dispute, the Member State needs to present market analysis data to justify their assessment of the real need for an SGEI and justify the scope of the SGEI aimed at general or public interests.

⁵¹ For example, reasoning provided in the judgement of the Court in Case C-138/11 may be used in arguments.

⁵² Press news of the EC: [State aid investigation into French compensation \(europa.eu\)](https://ec.europa.eu/competition/state_aid/press/20240223_101557_en.htm)

Conditions required by the State which market could not deliver on its own (i.e., without the State's intervention) can be following:

- ✓ Price,
- ✓ Objective quality criteria,
- ✓ Continuity,
- ✓ Access.

In the case of Greece, the following potential shortcomings may be of consideration:

- ✓ Lack of capacity with respect to sorting of recyclable materials,
- ✓ Lack of facilities to recover mixed municipal waste from households,
- ✓ Need for upgrading of existing installations (increased capacity, added waste treatment units and recycling recovery units, etc.),
- ✓ Need for specialised installations for certain types of waste,
- ✓ Need to reduce waste sent to landfill.

Several reports issued in 2022 and 2023 outline that Greece⁵³ failed in introducing efficient financial instruments (such as landfill tax/ landfill gate fee, PAYT system, others) in a timely manner. Where the services are not sufficiently remunerated it is not reasonable to expect that market forces will commit to invest without substantial contribution from public funds.

Conclusions/ recommendations

- 1) In the waste management sector, there are no specific EU rules defining the scope for an SGEI. The Member States have the discretion to decide how to define some service as an SGEI.
- 2) When defining the scope of SGEI, the Greek authorities must assess which services (why and to what extent) cannot be provided by market forces.
- 3) The conditions of price, objective quality criteria, continuity, and access – may be used to justify that the market is not able to deliver the services required by the State on its own. At the same time, EU directives impose obligations to Member States to introduce effective strategies and policy instruments, including financial instruments to achieve targets set in the EU directives to improve municipal waste management.

(4) SGEI ENTRUSTMENT PERIOD

Member States, when implementing SGEI, must make careful assessment of the maximum duration of the service, taking into account the expected market development, including local and/or global market trends in the area concerned.

The duration of the period of entrustment may differ depending on the applied SGEI legal framework. Detailed information is provided in the main part of this Note.

⁵³ Information may be obtained from documents:

- Early warning assessment related to the 2025 targets for municipal waste and packaging waste – Greece, June 2022, European Environment Agency. Accessible at webpage: [Early warning assessment related to the 2025 targets for municipal waste and packaging waste — European Environment Agency \(europa.eu\)](https://www.eea.europa.eu/en/early-warning-assessment-related-to-the-2025-targets-for-municipal-waste-and-packaging-waste)
- Waste Early Warning Reports 2023 - Greece, 8 June 2023, European Commission. Available at webpage: [Waste Early Warning Reports 2023 - country specific factsheets - European Commission \(europa.eu\)](https://ec.europa.eu/eurobarometer/surveys/trends/waste-early-warning-reports-2023-country-specific-factsheets)

SGEI compensation affects trade and competition depending on the overall duration of the period of entrustment – longer entrustment period than objectively required limits efficient competition. Normally, the SGEI entrustment period cannot exceed 10 years.

If significant investment is required from the service provider that needs to be amortised over a longer period in accordance with generally accepted accounting principles, longer periods than 10 years may be applied.

It is important to correctly estimate the necessary maximum duration of an SGEI entrustment. Where within the duration of an SGEI entrustment period, part of services become market services (full cost services not requiring any compensation), correction will be required on excessive State aid.

In some Member States it may reasonably be presumed that the service will be continued as an SGEI also after the initial 10 years period and SGEI will be entrusted to the same SGEI provider anew, considering peculiarities of the country concerned. In such a case, provisionally, an SGEI contract might be signed for the overall period of the economic utilisation of the asset, it may contain a termination clause after any consecutive 10-year term if the continuation of an SGEI is not justified considering market developments or changes in the EU legal framework.

Considering the experience of other Member States⁵⁴, 10-15 years could be considered as reasonable periods before functional market conditions would be established in the waste management sector.

In some cases, the funding gap calculation period exceeds the SGEI entrustment period. Details are provided in Table 6 in the main part of this Note.

Conclusions/ recommendations

- 1) Carefully consider duration of SGEI entrustment. Amortisation period of assets should not be considered as the only element to decide the duration of an SGEI.
- 2) Ideally, the funding gap calculation period should correspond to the entrustment period. If the SGEI entrustment period is shorter or due to the market developments SGEI entrustment shall be terminated before the end of the entrustment period, recalculation of funding gap must take place and excess public funds shall be recovered as incompatible State aid.

⁵⁴ Developments in the Netherlands municipal waste management sector may be considered as an example. Information may be obtained from documents:

- Municipal waste management in Netherlands, February 2013, European Environment Agency (can be obtained by using Google search and search words 'Municipal waste management in Netherlands').
- Early warning assessment related to the 2025 targets for municipal waste and packaging waste – Netherlands, June 2022, European Environment Agency. Accessible at webpage: [Early warning assessment related to the 2025 targets for municipal waste and packaging waste — European Environment Agency \(europa.eu\)](#)
- Waste Early Warning Reports 2023 - Netherlands, 8 June 2023, European Commission. Available at webpage: [Waste Early Warning Reports 2023 - country specific factsheets - European Commission \(europa.eu\)](#)

(5) REPAYMENT OF OVERCOMPENSATION

Control of overcompensation shall be made on an annual or 3-year basis, as well as at the end of the SGEI entrustment period.

Repayment of overcompensation shall take place in line with the State aid Recovery Notice.

Where the amount of overcompensation does not exceed 10 % of the amount of the average annual compensation, such overcompensation may be carried forward to the next period and deducted from the amount of compensation payable in respect of that period.

Where the SGEI compensation is granted for investments linked to provision of SGEI, an accurate assessment of the amount of overcompensation is established at the end of entrustment period based on recalculation of funding gap (use of *claw-back* clause).

Considering the conditions defined in the State aid Recovery Notice, provisional repayment of overcompensation may be agreed between the State aid beneficiary and the State aid grantor for any overcompensation established for any 3-year period. Provisional repayment of overcompensation, for example, can be achieved by paying the amount of established overcompensation into an escrow account.

The State aid granting authority needs to establish in advance the formula for the *claw-back* mechanism applied to recover excessive State aid.

Conclusions/ recommendations

- 1) SGEI Decision require that overcompensation is control minimum every three years and at the end of an SGEI entrustment period. To avoid that potential overpaid SGEI compensation every three years is first refunded and then returned back to the service provider, option of provisional repayment of overcompensation may be considered by paying of overcompensation into an escrow account. The final settlement of received overcompensation would be done at the end of the SGEI entrustment period.
- 2) Such model would be suitable where the SGEI compensation is granted for investments linked to provision of SGEI, because an accurate assessment of the amount of overcompensation can be established at the end of entrustment period based on recalculation of funding gap (use of *claw-back* clause).

(6) REUSING REPAID OVERCOMPENSATION

It is within the competence of the Member States to introduce mechanisms on use of funds obtained from overcompensation refunds. Such mechanisms need to be established in advance.

For example, a Member State may introduce a requirement that the repayments (both overcompensation refunds and adjustment to the amount of the originally granted State aid) need to be channelled into a special target fund. Member State may impose obligations on such target fund to finance only activities linked to circular economy initiatives.

Conclusions/ recommendations

- 1) Greece may set up specialized fund targeted to fund actions linked to circular economy⁵⁵. Such a fund may be formed from financial resources received as repayment of overcompensation as well as due to other financial corrections that may be applied to RRFs projects.

⁵⁵ For example, it is planned to establish special fund (Housing Affordability Fund) for an SGEI State aid scheme in Latvia foreseen for the construction of low-rent housing.

Legal base of the scheme < <https://likumi.lv/ta/id/334085-noteikumi-par-atbalstu-dzivojamo-ires-maju-buvnieciba- Eiropas-savienibas-atveselosanas-un-noturibas-mehanisma-plana-3-1#p68&pd=1> > [Points 68 & 69 of the Regulation]

Annex 2, Levels of the assessment of State aid compatibility (SGEI) when investments in infrastructure are planned

When granting public financing to investments into the infrastructure, it is necessary to analyse the presence of State aid and conclude on compatibility of State aid at different levels.

Levels of the State aid assessment involve:

- a) Infrastructure owner/ developer,
- b) Infrastructure operator, and
- c) Infrastructure end-user.

The assessment levels may differ from case-by-case and could involve a combination of several assessment levels for a single body simultaneously, for example, there may be integrated infrastructure developer and operator.

1. Infrastructure owner/ developer

The construction, upgrade or extension of waste management infrastructure which will be commercially exploited constitutes an economic activity. Economic nature of waste management services is apparent from the fact that the provision of that kind of services exists in the markets in the EU countries and globally⁵⁶, particularly, when the treatment of sorted recyclable materials is concerned.

Infrastructure owner includes any entity exercising the effective ownership rights over the infrastructure and enjoying the economic benefits thereof. For example, in case the owner delegates its ownership rights to a separate public entity that manages the infrastructure on behalf of the owner, this can be seen as replacing the owner for the purposes of State aid control⁵⁷.

The owner or its delegated body may be responsible for developing the necessary infrastructure but may delegate the provision of services (operation of infrastructure) to a third party.

State aid to the infrastructure owner/ developer is present, irrespective of whether they make direct use of the infrastructure to provide services themselves or make the infrastructure available to a third-party operator who in turn provides services to end-users of the infrastructure.

State aid remains only at the level of infrastructure owner/ developer, if the infrastructure owner/ developer receives remuneration for the operation of the infrastructure that corresponds to the market fee⁵⁸. In such a case, the compatibility of State aid must be ensured at the level of infrastructure owner/ developer only. And at the level of the operator the presence of State aid would be excluded due to the lack of an advantage.⁵⁹

⁵⁶ Infrastructure Analytical Grid for Waste Management Infrastructure, Points 2 and 3.

Available at webpage: < [99b25350-5f86-499d-b064-78cc126f16c7_en \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:99b25350-5f86-499d-b064-78cc126f16c7_en) >.

⁵⁷ 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 (Notice on the notion of State aid), Footnote 298.

⁵⁸ Notice on the notion of State aid, Points 89 - 105.

⁵⁹ See, for example, decision of the European Commission of 15 June 2011 in State aid case [SA.30381](#) "Public financing of port infrastructure in *Krievu Sala*" (Latvia) [Section 3.1.2.2].

Where the infrastructure is not intended for market services, but for the provision of an SGEI, it is more likely that State aid from the infrastructure owner/ developer will be transferred also to the chosen infrastructure operator. Still, passing of State aid to the infrastructure operator should be assessed on a case-by-case basis.

2. Infrastructure operator

An operator is an undertaking who makes direct use of the infrastructure to provide services to end-users, including undertakings which acquire the infrastructure from the developer/owner to exploit it economically or which obtain a concession or lease for the use and operation of the infrastructure⁶⁰.

Operators who make use of the aided infrastructure to provide services to end-users receive an advantage if the use of the infrastructure provides them with an economic benefit that they would not have obtained under normal market conditions. This normally applies if what they pay for the right to exploit the infrastructure is less than what they would pay for a comparable infrastructure under normal market conditions.⁶¹

Operation/ management of the infrastructure on market terms can be implemented where the services provided by the infrastructure operator are market services. It is more likely not possible where the infrastructure operator has received infrastructure for operating of an SGEI. Still, this should be assessed on a case-by-case basis.

If the operation of an SGEI can be performed on market terms the question arises whether the necessity to have a service as SGEI is justified or there is a manifest error in defining the service as SGEI.

Where the SGEI entrustment is defined at the level of infrastructure owner/ developer and the provision of the SGEI is later transferred to a third-party operator such transfer of performance of SGEI to the third-party may be considered as subcontracting of SGEI implementation.⁶²

Legal acts defining SGEI, and SGEI contracts shall indicate, in a transparent manner, whether, and if so to what extent, subcontracting may be considered for the provision of an SGEI.

A subcontractor is obliged to perform SGEI services in the same manner as prescribed by the main entrustment act. Accordingly, both – infrastructure owner/ developer and infrastructure operator are bound by the same SGEI entrustment act. It means that the (subcontracted) SGEI operator can perform only services prescribed in SGEI entrustment act, may be compensated for the SGEI costs only, is obliged to comply with the obligation to keep separate account for separate activities for services falling outside SGEI, and must respect compensation and overcompensation control requirements prescribed by the SGEI entrustment act, etc.

⁶⁰ Notice on the notion of State aid, Point 200.

⁶¹ Notice on the notion of State aid, Point 223.

⁶² See model foreseen by the 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, Article 4 (7). Available at webpage: < [Regulation - 1370/2007 - EN - EUR-Lex \(europa.eu\)](#) >.

3. Combined construction and operation of an infrastructure

Implementation of the large-scale infrastructure projects may be organised also according to model 'build-operate-transfer back' (BOT). It means a private entity is chosen to finance, design, construct, own and operate a SGEI infrastructure for a certain period of time needed to recover investment costs, as well as operating and maintenance expenses linked to the operation of the service. Usually, this model is implemented as public-private partnership (PPP).

In case of PPP, the selected private operator is State aid beneficiary. Accordingly, for example, compliance with SGEI rules must be ensured by the private partner – State aid beneficiary – selected to construct and operate a SGEI infrastructure.

4. Infrastructure end-user

End-users may be undertakings and citizens/ society. Where the users are citizens/ society, an advantage cannot be granted to an undertaking.⁶³ It is specified in the Notice on the notion of State aid, Point 6 that State aid rules only apply where the beneficiary of a measure is an 'undertaking'. Physical persons – members of households – shall not be considered as an 'undertaking' for the purpose of application of State aid rules.

In case the end-users are undertakings, and the operator of waste management infrastructure has received State aid, an economic advantage at the level of the end-users (undertakings) can be excluded:

- ✓ If the waste management infrastructure is not dedicated for the use by a specific end-user,
- ✓ All users enjoy equal and non-discriminatory access to the infrastructure, and
- ✓ The infrastructure pricing policy for users is established on market terms.

Where end-users (undertakings) do not pay appropriate remuneration for the service (it is, they do not pay a fee that would ensure full cost recovery), such end-users are considered as State aid beneficiaries and compliance with State aid rules must be assessed also at end-users' level.

⁶³ See, for example, decision of the European Commission of 30 May 2007 in State aid case [SA.21168](#) "Prague Municipal Wireless Network" (Czech Republic) [Points 13 – 18, 32 – 34, 42].

Annex 3 Examples of account separation

Accounts separation models (examples) are presented from the postal sector. Details on how account separation is ensured are available in the decisions of the European Commission (directly accessible via case number link).

1. Compensation of Poczta Polska for the net cost of USO 2013-2015 (Poland) [SA.38869](#)

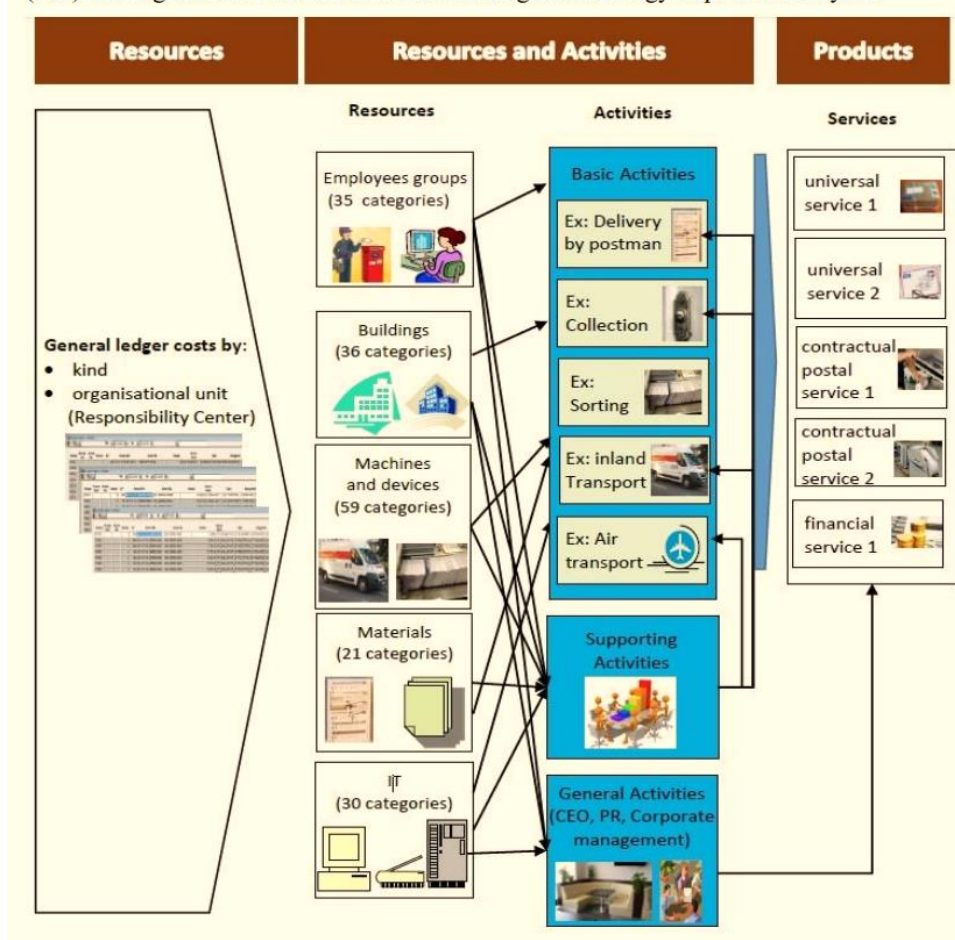
Cost accounting is kept based on consistently applied and objectively justified principles of revenue and cost accounting to also allow verification of internal transfers between activities.

For its accounting Poczta Polska (PP) uses an activity-based costing (ABC) methodology, which allocates all operational costs to the various products, in line with the Fully Distributed Costing (FDC) method. All operating costs and all organisational units of PP are included in the cost accounting model, which is built with three layers (resources, activities and products), in order to measure the appropriate share of costs of each product:

- *The costs of resources are allocated to activities depending on the consumption of resources by activities, using keys to reflect the degree of usage. For example, transport related cost (e.g., for fuel consumption) is allocated to resources (car categories) which are then allocated to activities, while other costs (e.g., repair services) are allocated to resources (machines and devices) which are then allocated to several activities such as sorting of letters, mail material preparation (weighting, stamping).*
- *Basic activity costs are allocated to products in accordance with various keys, which are typically based on labour effort or volumes. General activity costs are allocated to products according to previously allocated costs.*
- *The cost of each product consists of basic and general costs, which include supporting costs of resources and activities. For example, the cost of delivery of a letter consists of postal worker delivery cost (basic activity), management cost (general activity) and technical support cost (supporting activity).*

The figure below illustrates the accounting methodology implemented by PP.

(134) The figure below illustrates the accounting methodology implemented by PP:



The EC made a conclusion that PP's accounting and cost allocation system allows for an allocation of costs and revenues between activities with a sufficient level of adequacy. The EC therefore considers that PP complies with Directive 2006/111/EC [Financial Transparency Directive].

2. State compensations to bpost for the delivery of public services over 2013-2015 (Belgium) [SA.31006](#)

For its cost accounting, bpost (Belgium post) uses an activity-based costing (ABC) methodology which allocates all operational costs, up to the level of earnings before interest and tax (EBIT), to the various products, in line with the Fully Distributed Costing (FDC) method.

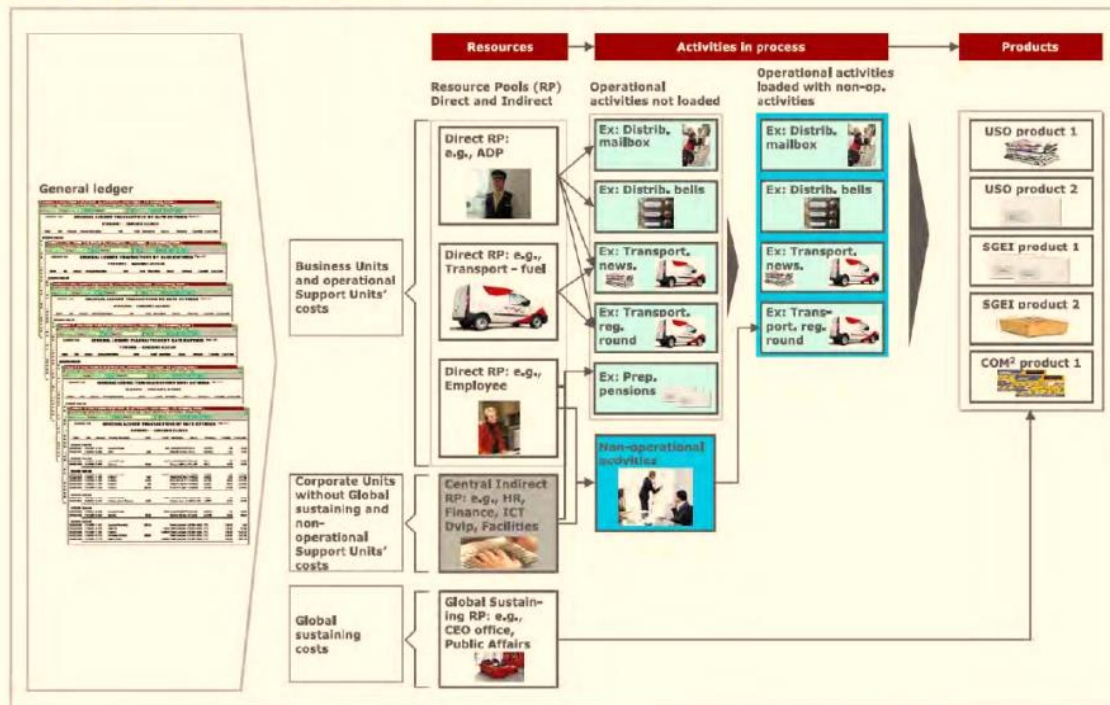
The scope of the cost accounting includes all operating costs and all organisational units of bpost. The cost accounting methodology relates to three layers: resources, activities and products. The aim is to calculate the appropriate share of costs of each product.

The costs of the resources are allocated to activities depending on their nature: "direct resources" are directly linked to a specific activity, while "indirect resources" contribute to several activities and need to be allocated using allocation keys that reflect the degree of usage of the resource by each activity. For example, transport costs (e.g., for fuel consumption) are directly associated with activities such as the transport of newspapers, while IT costs (e.g., for the renting of hardware and software) are allocated to several activities such as sorting of letters, preparation of pension payments and management and supervision in post offices.

At the last step of the procedure, the costs of the operational activities are finally allocated to each product in accordance with an allocation key, which is typically based on volume. All products that rely on an activity carry a share of the costs of that activity which is proportional to their volume of reliance on that activity.

The figure below illustrates the accounting methodology implemented by bpost.

Figure 2: Cost accounting methodology



Source: bpost

3. State compensations granted to Poste Italiane SpA for the delivery of the universal postal service (Italy) [SA.22356](#) ; [SA.33989](#) ; [SA.43243](#) ; [SA.55270](#)

Poste Italiane (PI) has adopted an accounting system based on the cost accounting methodology called activity-based costing. The activity-based costing system ("ABC system"), which is a particular method of the fully distributed cost allocation method.

PI's analytical accounting divides costs into:

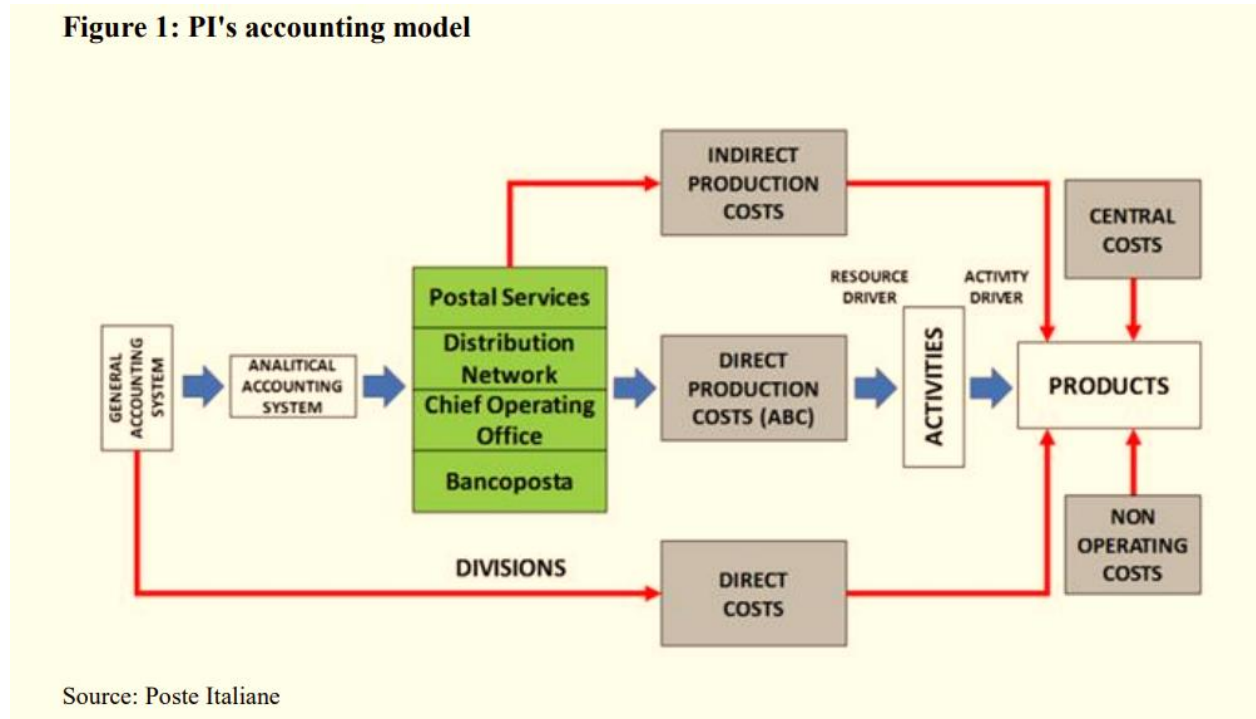
- **Direct costs:** they are the costs relating to components used specifically to obtain a given product or service. They are entirely 'directed' towards the products in question via a detailed analysis of the General Accounting Plan of entries. In 2019, they represented [omissis] % of PI's total costs.
- **Direct production costs:** they are the costs of divisional production structures whose activity contributes to the delivery of products or services. In 2019, they represented [omissis] % of PI's total costs.
- **Indirect production costs:** they are the costs of the non-operational divisional structures, such as the general Division and territorial area Division structures, which have the task of developing production strategies for the post and financial business and of implementing them in full. In 2019, they represented [omissis] % of PI's total costs.

- Central costs: they are central support, orientation and control activity costs incurred for the purpose of ensuring operational consistency of the activities carried out by the Divisions with central policies and strategies. In 2019, they represented [omissis] % of PI's total costs.
- Non-operating costs: includes finance costs/income, impairment loss/(reversal) on financial instruments, income tax for the year. In 2019, they represented [omissis] % of PI's total costs.

The most detailed explanation of applied accounting methodology is included in the EC decision in State aid case [SA.22356](#) (it is, when the first time the EC assessed it in 2008).

The figure below illustrates the accounting methodology implemented by PI.

Figure 1: PI's accounting model



4. USO compensation to Correos (Spain) [SA.37977](#) ; [SA.50872](#)

The Correos (Spanish post) cost accounting system is based on the cost accounting methodology called activity-based costing. The activity-based costing system is a particular method of the fully distributed cost allocation method.

To determine the costs, several steps are followed. First, the costs to be imputed from the Profit & Loss account are determined.

Second, costs are attributed to cost centres: the bulk of the imputable costs ([85- 90]%) is attributed to cost centres (CeCos); a small percentage of the costs ([10-12]%) is attributed directly to final products.

The cost centres are the basic units of the analytical accounting system. They are defined as units of consumption of resources which are relevant from a cost accounting viewpoint. The analytical accounting system of Correos distinguishes between:

- Operational cost centres: CeCos that consume resources directly related to the final products and services (e.g., post office).
- Structural cost centres: CeCos that concentrate the structural costs which are not directly related to final products and services. These correspond notably to the support, administration, human resources management, and IT functions.

Third, the costs attributed to structural cost centres are distributed to operational cost centres based on a causality relationship between them, on the basis of “activities”. Activities are groups of homogeneous tasks aimed at providing final services or at supporting their provision (e.g., manual sorting, automatic sorting, transport). [21 activities were distinguished in the analytical accounting system of Correos in 2018.]

The costs attributed to operational cost centres are distributed to activities based on their consumption of resources.

Lastly, the costs of activities are attributed to final products and services based on a causal link.

■ Attribution of revenues

To determine the revenues, several steps are followed. First, the amount of revenues to be attributed are determined from the Profit & Loss account.

Most of these revenues ([94-97] %) correspond to direct sales registered in the billing system of Correos and can be attributed directly to final products and services.

The rest of the revenues ([3-6] %), which have different origins, are allocated to final products and services on the basis of a table of percentages derived from studies made by Correos on the causality link between the registered revenues and the products and services that have generated these revenues.

The figure below illustrates the accounting methodology implemented by Correos.

