

## EASPD RESPONSE

# Consultation on a draft General Block Exemption Regulation (GBER) on state aid measures

EASPD is the European Association of Service Providers for Persons with Disabilities. We are a European not-for-profit organisation and represent over 10,000 social service provider organisations across Europe and disability. The main objective of EASPD is to promote equal opportunities for people with disabilities through effective and high-quality service systems.

One third of EASPD members is composed of employment-related service providers, most of which are sheltered workshops and supported employment settings.

EASPD is registered at the Transparency Register under the following number: 120906010805-50

Here is our reaction to the 'Draft General block exemption Regulation', commenting on the articles which are relevant for our sector.

Given the important role played by EASPD in terms of representation of employment services for persons with disabilities, we are available for further support to the draft GBER.

## Article 1.2 Scope

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This Regulation shall not apply to:

- (a) schemes under sections 1 (with the exception of article 15), 2, 3, 4, 7 (with the exception of article 40), and 10 of this Regulation, for which the annual State aid expenditure exceeds 0,01% of the national gross domestic product (GDP) for the Member State concerned, in so far as the annual State aid expenditure of the scheme in question exceeds EUR 100 million.

**OUR RESPONSE:** EASPD supports and welcomes the changes made with regard to expenditure which no longer take into account sections 5 and 6. We believe this is a positive change as it reaffirms our previous stance which stated that annual expenditure is not a key factor when the action of a scheme is effective in terms of quality and outcomes. When the other requirements of the GBER regulation are met, this would only be an unnecessary additional barrier. Moreover, this might be an excessive interference in the competence of Member States. We therefore welcome the modifications made in this article.

## Article 4. Notification thresholds

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This Regulation shall not apply to aid which exceeds the following thresholds:

(n) aid for the recruitment of disadvantaged workers: EUR 5 million per undertaking per year;

(o) aid for the employment of workers with disabilities: EUR 10 million per undertaking per year;

**OUR RESPONSE:** EASPD questions the relevance of having monetary notification thresholds (5 million/year for the recruitment of disadvantaged workers, 10million/year for the employment of workers with disabilities). EASPD believes that what should be relevant is whether the support is delivered efficiently and effectively, contributing to quality employment for persons with disabilities, in line with the UN Convention on the Rights of Persons with Disabilities. Such thresholds could lead to schemes which are both effective and efficient to not take place due to the fact that it would require financial support over a certain monetary threshold, even if the scheme is worthy of such investment both in terms of quality and outcome.

**OUR PROPOSAL:** We therefore suggest that the monetary thresholds (n) and (o) be deleted from this article.

## Article 8.6 Cumulation

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By way of derogation from paragraph 3(b), aid in favor of workers with disabilities, as provided for in Articles 32 and 33 may be cumulated with aid exempted under this Regulation in relation to the same eligible costs above the highest applicable threshold under this Regulation, provided that such cumulation does not result in an aid intensity exceeding 100% of the relevant costs over any period for which the workers concerned are employed.

**OUR RESPONSE:** EASPD reaffirms its support for this concept and its formulation

## Article 30.3 Training Aid

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The eligible costs shall be:

(d) where the aid is granted to SMEs, trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training.

**OUR RESPONSE:** EASPD supports and welcomes the proposal by the European Commission to take into account the direct and indirect costs of training as admissible to state aid. This is a positive step taken to ensure that employment projects for persons with disabilities, for example, can be financed

by European structural funds. However, EASPD believes that limiting this proposal to SMEs will harm a certain amount of employment opportunities which could have, if this was not the case, been implemented in bigger companies. Indeed, we believe that this restriction represents a double financial cost for companies with over 250 employees. Companies with over 250 employees will already have to pay the usual costs related to employment. They will also not be allowed to receive co-financing of up to 50% of the eligible costs -according to Article 30.4 of the new proposal- because of their status of employing over 250 employees. This will consequently reduce the chances of persons with disabilities of being employed by larger companies.

**OUR PROPOSAL:** As such, we would propose to remove the following from article 30.3.(d): “*where the aid is granted to SMEs*”.

### **Article 30.4 Training Aid**

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The aid intensity shall not exceed 50% of the eligible costs. It may be increased, up to a maximum aid intensity of 70% of the eligible costs, as follows:

(a) by 10 percentage points if the training is given to workers with disabilities or disadvantaged workers;

**OUR PROPOSAL:** EASPD suggests the following:

*4. The aid intensity shall not exceed [50%] of the eligible costs. It may be increased, up to a maximum aid intensity of 80% of the eligible costs, as follows:*

*(a) by 30 percentage points if the training is given to/by workers with disabilities or disadvantaged workers and their trainers;*

### **Article 32.3 Aid for the employment of workers with disabilities in the form of wage subsidies**

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Where the recruitment does not represent a net increase, compared with the average over the previous twelve months, in the number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disabilities, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.

**OUR RESPONSE:** EASPD welcomes the Commission’s willingness to bring additional flexibility to what represents a net increase. Yet, we continue to believe that requiring an increase in the number of disadvantaged or disabled employees might lead to counterproductive results, in particular in the current economic context, leading to the loss of aid for undertakings that cannot meet this requirement and, thus, to less employment opportunities for persons with disabilities. We also believe that the flexibility is not sufficient to withdraw the hindrance caused by the requirement to have a net increase in terms of recruitment of persons with disabilities.

**OUR PROPOSAL:** We would suggest, thus, to delete this paragraph.

### **Article 33 Aid for compensating the additional costs of employing workers with disabilities.**

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1. Aid for compensating the additional costs of employing workers with disabilities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempt from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be the following:

(a) costs of adapting the premises;

(b) costs of employing staff solely for time spent on the assistance of the workers with disabilities and of training such staff to assist workers with disabilities;

(c) costs of adapting or acquiring equipment, or acquiring and validating software for use by workers with disabilities, including adapted or assistive technology facilities, which are additional to those which the beneficiary would have incurred had it employed workers who are not workers with disabilities;

(d) costs directly linked to transport of workers with disabilities to the working place and for work related activities;

(e) wage costs for the hours spent by a worker with disabilities on rehabilitation;

(f) where the beneficiary provides sheltered employment, the costs of constructing, installing or modernising the production units of the undertaking concerned, and any costs of administration and transport, provided that such costs result directly from the employment of workers with disabilities.

**OUR RESPONSE:** EASPD welcomes and supports the changes made to this article which widens the scope for aid compensating the additional costs of employing workers with disabilities. This can only help to increase the employment of persons with disabilities.

However, we are concerned that the rephrasing of (f) replacing the term “expanding” by “modernising” could harm the cooperation between our members and industry. Indeed, although we welcome the opportunity to modernise older premises with the use of state aids, we are concerned that this rephrasing would limit the opportunity to build upon –in other words, expand– current infrastructure. It is our experience that the possibility to expand is a key ingredient in cooperating with industry, especially in the most economically disadvantaged regions. As sheltered employment is strongly linked to conditions from industry, and that industry often requires the need to expand on the premises, it is of utmost importance that state aid rules allows for both the modernisation and the expansion of the production units of the undertaking concerned. Without this, opportunities for sheltered employment could well be harmed; reducing the possibility of persons with disabilities to participate in working life.

**OUR PROPOSAL:** We therefore suggest the following phrasing: “(f) where the beneficiary provides sheltered employment, the costs of constructing, installing, expanding and modernising the concerned undertaking (...)”.

## **Annex 1. 27.**

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‘sheltered employment’ means employment in an undertaking where at least 30% of workers are workers with disabilities

**OUR RESPONSE:** EASPD welcomes the attempt by the Commission to broaden the definition of sheltered employment. Yet, we also regret that the Commission has continued to feel the need to define sheltered employment in terms of percentage of workers being workers with disabilities. Member states have different definitions of what sheltered employment is. In our view, the definition should stay at national level. Moreover, it should not limit itself to appointing the percentage of persons with disabilities employed, but should also make reference to the accommodation and support provided to the persons with disabilities employed. Finally, we wish to reaffirm our believe that a more flexible solution, as the one proposed, is more suitable to this economic context.

**OUR PROPOSAL:** As such, EASPD suggests changing the definition to:

*‘sheltered employment’ means employment in an undertaking where a significant number of workers are disabled and where the workplace is adapted to their specific needs, respective of any definition under national law*