



## Commission opens in-depth State aid investigation into German measures to support local bus transport operator WestVerkehr

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The European Commission has opened an in-depth investigation to assess whether certain support measures to German local public transport company WestVerkehr GmbH ('WestVerkehr') are in line with EU State aid rules.

### The Commission's investigation

The Commission's assessment started on the basis of a complaint of a competitor of WestVerkehr, alleging that WestVerkehr benefitted from State aid incompatible with the internal market. WestVerkehr has been entrusted with the performance of a public service obligation in the district of Heinsberg since 2007.

The alleged aid measures are: (i) a **direct award** of a public service contract by the district of Heinsberg to WestVerkehr; (ii) a **profit and loss transfer agreement** between WestVerkehr and its majority shareholder NEW Kommunalholding GmbH; (iii) a payment into WestVerkehr's **capital reserve** by its minority shareholder Kreiswerke Heinsberg GmbH; and (iv) a **current account agreement** between WestVerkehr and Kreiswerke Heinsberg. NEW Kommunalholding and Kreiswerke Heinsberg are companies in which the district of Heinsberg holds shares.

The Commission takes the preliminary view that these four measures constitute State aid. On the basis of the available information, the measures do not seem to meet the cumulative criteria for excluding State aid in regard to compensation for public service obligations and appear to fulfil all conditions for State aid under Article 107(1) TFEU.

Furthermore, at this stage, the Commission needs to further investigate to determine whether the compensations received by WestVerkehr may give it an undue advantage over its competitors, in breach of State aid rules applicable to public passenger transport services by rail and by road.

The opening of an in-depth investigation gives Germany and interested third parties, including the alleged beneficiary of the aid and the complainant, the opportunity to submit comments. It does not prejudice the outcome of the investigation.

### Background

WestVerkehr performs local public passenger transport in the district of Heinsberg, Germany. The company – until 2014, its predecessor WestEnergie und Verkehr GmbH & Co. KG – has been entrusted with the performance of a public service obligation in the district of Heinsberg since 2007.

According to Article 107(1) TFEU, a measure shall constitute State aid if the following four cumulative conditions are met: (i) the measure has to be granted by Member States through State resources; (ii) the measure has to confer a selective economic advantage to certain companies, (iii) the advantage has to distort or threaten to distort competition, and (iv) the measure has to affect trade between EU Member States.

Member States are free to impose public service obligations upon selected operators for the performance of economic activities which deliver outcomes in the overall public good that would not be supplied (or would be supplied under different conditions in terms of objective quality, safety, affordability, equal treatment or universal access) by the market without public intervention. In its [Altmark](#) ruling, the Court of Justice of the EU set out the conditions under which compensation for public service obligations falls outside the scope of State aid control.

### For More Information

The non-confidential version of the decision will be made available under the case number SA.55744 in the [State Aid Register](#) on the Commission's [Competition website](#) once any confidentiality issues have been resolved. New publications of State aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).

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