


# Articles 33 and 34 - net increase in number of employees, voluntary departure, eligible costs (transport of workers)

1. **Page title:** Please insert the full Article reference (e.g. "Art. 1(4) a)") and a short title (e.g. "Deggendorf principle")
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Article	<p>Article 33 - Aid for the employment of workers with disabilities in the form of wage subsidies</p> <p>Article 34 - Aid for compensating the additional costs of employing workers with disabilities</p>
Key words	<i>voluntary departure, calculation of net increase, eligible costs, transport of workers</i>
Member State	HU
Question	<p><b>1. Net increase of job created</b></p> <p>According to Article 33 (3) of Commission Regulation 651/2014/EU</p> <p><i>'Where the recruitment does not represent a net increase, compared with the average over the previous 12 months, in the number of employees in the undertaking concerned the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.</i></p> <p>We would like to ask clarification on the followings:</p> <p><b>a)</b> In our understanding if the employment is terminated with mutual agreement it falls under the category of voluntary departure. Is this interpretation correct?</p> <p><b>b)</b> According to the Hungarian legislation, workers with disabilities who may be able to work in the market, are employed by sheltered employers during a limited rehabilitation period and after this period the employee has to find a job outside the sheltered employment. In our interpretation this termination of the employment relationship can be classified as voluntary departure, because the employment and rehabilitation period is definite.</p> <p><b>c)</b> We would like to ask clarification concerning 'the average over the previous 12 months'. Namely, to establish the net increase for example in March 2015, could we look the last financial year (2014) or the period should only be March 2014-February 2015 (12 preceding months)? The application of the last financial year would be preferred by the aid grantors from the point of view of controllability.</p> <p><b>2. Eligible costs</b></p> <p><b>a)</b> According to Article 34 (2) Point a) of Commission Regulation 651/2014/EU</p>

	<p><i>'2. The eligible costs shall be the following:</i></p> <p><i>costs of adapting the premises;'</i></p> <p>We would like to ask clarification whether costs of adapting the premises are eligible when they are additional to those which the beneficiary would have incurred had it employed workers who are not workers with disabilities. Article 42 of Regulation 800/2008/EC contained that all eligible costs shall be costs other than wage costs covered by Article 41, <u>which are additional to those which the undertaking would have incurred if employing workers who are not disabled</u>, over the period during which the worker concerned is being employed. Commission Regulation 651/2014/EU does not contain this general rules in Article 34.</p> <p><b>b)</b> According to Article 34 (2) Point a) of Commission Regulation 651 /2014/EU</p> <p><i>'The eligible costs shall be the following:</i></p> <p><i>costs directly linked to transport of workers with disabilities to the working place and for work related activities'</i></p> <p><b>b1)</b> We would like to ask clarification concerning whether costs of a special bus exclusively used for transporting workers with disabilities owned by the beneficiary can be eligible under Article 34.</p> <p><b>b2)</b> The Hungarian version of this Point contains the following: costs directly linked to transport of workers with disabilities to the working place and costs directly linked to work activities. We understand the English version that the term means 'transport costs of transporting workers with disabilities to different places where they work or do activities relating to work'. Is it right and is the Hungarian translation incorrect? In our understanding the English version has the right approach.</p>
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COMP Reply	<p>1 a) Yes.</p> <p>1 b) In the light of the specific provision of Hungarian law which you explained, we would tend to agree.</p> <p>1 c) The GBER provision does not refer to the financial year. The 12 preceding months should be considered in this case to be able to preserve a level playing field among companies hiring towards the beginning of the year and towards the end of the same year.</p> <p>2 a) The eligible cost are the ones for adapting the premises to the workers with disabilities but this should not include expenses that would have been done to accommodate any employee (otherwise it would lack incentive effect).</p> <p>2 b1) Yes.</p> <p>2 b2) Indeed, the English version seems clearer. We will flag to the colleagues in translation this discrepancy between the EN and HU versions.</p> <p><i>Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.</i></p>
COMP Reply date	2015.03.16
COMP Responsible	<input checked="" type="checkbox"/> COMPsupport ESTATE-AID-WIKI

<sup>1</sup> Article numbers & names

- Article 32 - Aid for the recruitment of disadvantaged workers in the form of wage subsidies
- Article 33 - Aid for the employment of workers with disabilities in the form of wage subsidies
- Article 34 - Aid for compensating the additional costs of employing workers with disabilities
- Article 35 - Aid for compensating the costs of assistance provided to disadvantaged workers

<sup>2</sup> AT, BE, BG, HR, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SE, SI, UK.