Assignment A - The Presentation

1. Select a case from the annexed list

2. The presentation of the case

On the basis of the case you have chosen, introduce the topic and specify the issue and the purpose of your report. - Describe a specific question, which arises in the case. A case can consist of various questions, you are to choose one. Be very clear on what issue in the case that is of importance for your presentation. - The purpose should be presented in one sentence, where every word has a meaning and matters. Try to problematize. It cannot be enough underlined how important an absolutely clear purpose is for any type of assignment. The purpose is the line of argument in your presentation.

Introduce the issue that you have chosen taking in consideration that your fellow students are not familiar with your topic. Briefly describe the circumstances and facts from the case that represent the foundation of the problem that you have chosen.

3. Define Method When you know exactly what you shall investigate, you must already up front decide how you shall go about it. You have to define your method and your perspectives. See annexed method discussion paper and develop your own approach.

4. Delimitations Now, if your purpose is overly broad, you always have a possibility to provide separate delimitations. Describe what may fit under the purpose, but you do not intend to address.

5. Provide references - external sources In the making of you presentation, remember that it is important to indicate what sources you rely on. You shall provide at least ten relevant references, primarily from the case that you have chosen but you can also use external sources. If you find it necessary you might also discuss how trustworthy they are. See the linked document below to learn how to refer to your sources correctly.

**C-280/00 – ALTMARK**

**ISSUE:** The Altmark case deals with assessment of public subsidies that were granted to the public services provider regarding its conformity with EU State aid rules.[i] The CJEU judgment established four cumulative criteria that have to be met in order for the public subsidies not to be considered as unlawful State aid (“Altmark criteria”).[ii] The Altmark case clarified proper application of Article 106(2) TFEU and 107(1) TFEU provisions on State aid regarding compensation that can be granted to undertakings providing services of general economic interest (“SGEI”).[iii][iv]

**FACTUAL BACKGROUND:** Altmark Trans GmbH, an Austrian firm supplying transport services (a public bus service), received the public subsidies in form of compensation for respective transport services.

**ASSESSMENT:**

The CJEU faced purely legal problem of interpretation of contradictions between Article 107(1) TFEU and Article 106(2) TFEU provisions regarding a particular case envolved the SGEI concept. As a result, the judgment would be analyzed from a purely legal basis.

Article 106(2) TFEU provides that “[u]ndertakings entrusted with the operation of SGEI ... shall be subject to the rules contained in the Treaties, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them”.

Accordingly, Article 107 (1) TFEU provides that “[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market”.

Paying due respect to "the performance ... of the particular tasks assigned to" undertakings under Article 106(2) TFEU, the CJEU established the following cumulative criteria:

1. the recipient undertaking must actually have public service obligations to discharge, and the obligations must be clearly defined;[v]

2. the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner;[vi]

3. the compensation cannot exceed what is necessary to cover ... the costs incurred in the discharge of the public service obligations;[vii] and

4. where the undertaking is not chosen pursuant to a public procurement procedure ..., the level of compensation needed must be determined on the basis of an analysis of the costs of a typical, well run and adequately equipped undertaking.[viii]

As a result, if the Altmark criteria would be cumulatively met, there is no danger that particular public subsidies would be contrary to Article 107(1) TFEU and be regarded as unlawful State aid.

Footnotes:

[i]Case C-280/00 Altmark [2003] ECR I-7747.

[ii]Bacon (ed), European Community Law of State Aid (2-Ed.), 2013, pp.20-21.

[iii]Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. - Official Journal C 326, 26/10/2012. - p.0001–0390.

[iv]Quigley, European State Aid Law and Policy (2-Ed.), 2009, p.56.

[v]Case C-280100 Altmark [2003] ECR 1-7747, para.89.

[vi]Ibid., para.90;

[vii]Ibid., para.92;

[viii]Ibid., para.93;

### Evaluation/feedback on the above work

##### 1. The presentation of the case: 3 points Assess and score the student’s ability to (1) introduce the topic and (2) specify the issue and (3) the purpose of the report, on the basis of the case the student has chosen. - 3 points – The student has accurately and relevantly made a presentation of the three required elements. - 2 points – The presentation consists of at least two of the three required elements but lacks one element or other aspects of relevance. - 1 points – The presentation consists of at least one of the three required elements but lacks two element or other aspects of relevance. - 0 points - The presentation lacks all the required elements.

**2. Purpose and methodology:** 3 points

**Assess and score the student’s ability to define the purpose and the methodology of their legal report based on the criteria specified below.**

**- 3 points – The production has a clear and focused purpose and a clear description of the method and is otherwise well elaborated.**  
**- 2 points – The presentation of the purpose and method is understandable, but can be defined much more clearly.**   
**- 1 points – Based on an overall impression the reader understands the main features, but the presentation is generally messy and needs to be tightened up properly.**  
**- 0 points – The production either lacks purpose and methodology or is inconsistent and incomprehensible.**

**3. References: 3 points**

**Assess and score the student’s ability to refer to relevant sources. At this stage of the assignment** **it is primarily reference to the case the student has chosen that is relevant.**

**- 3 points - Student applies eight sources correctly.**   
**- 2 points - Student applies at least five sources correctly.**  
**- 1 points - The student refers to at least three sources, but they are incorrectly referenced.**  
**- 0 points – The student has used less than three or no references.**

### Overall evaluation/feedback

Write a statement of 100-300 words regarding the contents of the essay you just read. Your statement serves to indicate what the student needs to improve and should bring up the following points:

- Has the student specified the issue and the purpose is a clear and suitable way?

- Has the student given a relevant and understandable presentation of the issue?

- Has the student motivated their choice of methods and materials?

- What did the student do really well and what can the student improve?

- Any tips for the final report?

The student specified the issue and purpose in a clear and suitable way and I gave all perfect grades. They gave a relevant and understandable presentation of the issue. The student motivated their choice of methods and materials. The only think I can think of for improvement would be to add more details. They provided all that was needed for a clear understanding of their purpose. However, I'm from a mostly technical background and very new not only to business law, legal speak and the EU since I'm from the USA, the more details provided, the better for those less educated and experienced in these areas. I've taken some legal type humanities but those were more related to human rights than business law, and my only business course experience has been in economics, otherwise totally technical in background. So the manner of writing and presenting in legal worlds, the EU database resources, these things are all new for me, and the more details people provide in their writing the better for me, meaning they've sifted through the legal speak documents and databases and presented it in a more pleasing readable manner. I think they did a good job though - but they asked how it could be improved and this is what I can say.