EUROPEAN COMMISSION

Brussels, 18.12.2013
C(2013) 9120 final

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| In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]. | | PUBLIC VERSION<br><br>This document is made available for information purposes only. |

**Subject:** **State aid No SA.37168 (2013/N) – Greece**
**School units in Attica (PPP - JESSICA)**

Sir,

## 1. PROCEDURE

(1) On 31 July 2013, the Greek authorities notified to the Commission the above-mentioned aid measure. The measure was notified pursuant to recital (222) of the Commission decision of 19 December 2012 on SA. 34405 JESSICA Holding Fund Greece[1] (hereinafter "Commission decision approving the JESSICA scheme for Greece"), according to which the Greek authorities undertook to notify to the Commission, before its implementation, any single urban development project, financed under the Jessica scheme, if its total costs exceed EUR 50 million.

[1] Commission decision C(2012) 9466 final,SA. 34405(2012/N) –JESSICA Holding Fund Greece

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(2) The Commission considered the notification incomplete and asked for further information on 27 September 2013, to which a reply was received on 11 November 2013. The Commission requested further clarifications on 20 and 25 November 2013, to which it received replies on 25 November 2013.

## 2. DESCRIPTION OF THE MEASURE

(3) Under the measure SA. 34405 JESSICA Holding Fund Greece, the Greek authorities intend to grant a sub-commercial loan of approximately **EUR 19,375,000** to an urban development project that consists of the design, financing, construction and facility management of schools in the region of Attica (hereinafter "the urban development project (UDP)"). This support is granted by means of JESSICA funds allocated to the Urban Development Fund managed by National Bank of Greece operating in the region of Attica (hereinafter "UDF"), in line with the Commission decision approving the JESSICA scheme for Greece .

(4) The urban development project includes the construction of 12 school buildings[2] - replacement of 10 existing buildings and construction of 2 new buildings - implemented in seven municipalities of the Region of Attica with a total population of 1,089,450 inhabitants: Athens, Ilion (Nea Liossia), Keratsini - Drapetsona, Kropia (Koropi), Pallini, Peristeri and Penteli. The school buildings will host altogether 3,500 students. The directly concerned population (students and their families) amounts to at least 10,500.

(5) The municipalities (local authorities) of Attica, where the projects are implemented, have the following common features:

a) High population density;
b) Urban settlements of over 2,000 inhabitants that are not served by schools or lack appropriate school infrastructure;
c) Continued upward trend in population density;
d) Existence of appropriate properties (land availability) for the construction of schools.

### 2.1. Addressing a common European objective and assuring an integrated approach to sustainable urban development

(6) According to the information submitted to the Commission by the Greek authorities, the implementation of the urban development project contributes to the objectives of the National Strategic Reference Framework and, in particular, the objectives of Priority Axis 4 of the Regional Operational Program (ROP) Attica for 2007-2013, which targets the rejuvenation of urban areas, with emphasis put on the enhancement of green areas and the

[2] 31st Primary School of Athens (Thymarakia – Kato Patissia); 9th Gymnasium of Athens (Koumoundourou Sq.); Special Primary School of Ilion (Nea Liossia) Municipality; 1st Gymnasium – 1st Lyceum of Formative Arts (Loutra Palatzian) – Municipality of Keratsini; 3rd Gymnasium – 2nd Lyceum of Kropia Municipality (Kitsi Koropiou); Primary School of Kropia Municipality (Kitsi Koropiou); Nursery School of Kropia Municipality (Kitsi Koropiou); 6th Primary School of Gerakas Municipality; 6th Nursery School of Gerakas Municipality; T.E.E. of Peristeri Municipality; T.E.E. of Keratsini Municipality; Primary School – Nursery School - Indoor Gym of Penteli Municipality.

development of cultural, touristic and business activities. Through these targeted interventions, the project contributes to the urban regeneration of the areas where the new school buildings will be constructed, through the development of modern building infrastructure and the reconfiguration of the surrounding premises. It will contribute to the improvement of the quality of life, the upgrading of the urban environment, the creation of employment and to the population's increased access to education.

(7) In their submission, the Greek authorities have emphasised that the local community has filed requests for the construction of schools, whereby their construction and development consists of a particular social and educational priority. In this regard, the Greek authorities have indicated that the building of new schools will upgrade existing urban areas (i.e. Athens, Keratsini, Peristeri) and facilitate urban infrastructure in developing areas (i.e. Penteli, Koropi, Gerakas). They have emphasised that the construction of modern school units in traditional urban neighbourhoods (e.g. Athens, Keratsini, Peristeri) to replace old, dilapidated school units will lead to the upgrade of the respective micro-urban areas near the schools. Moreover, growing urban areas (e.g. Penteli, Koropi, Gerakas) often lack the appropriate school infrastructure for their fast growing demographics. For example, the Kallithea suburb of the Penteli Municipality, in which one of the 12 school units will be built, has a population of approximately 1,000 inhabitants, and is located halfway between the suburbs of Doukissis Plakentias (500 inhabitants) and Drafi (500 inhabitants). The area incorporating the three suburbs has about 2,000 inhabitants with a primary school student population of approximately 150. The building of the school in Kallithea suburb will serve these 150 students, which currently attend other public primary schools in the Penteli municipality, located at much longer distances from the students' residences than the new school unit.

(8) Furthermore, according to the Greek authorities, each of the 12 proposed school buildings of the UDP is covered by a general urban plan of the respective municipalities, which qualifies as an Integrated Plan for Sustainable Urban Development (IPSUD). In light of the above, the Greek authorities have assured the Commission that, in accordance with the national institutional framework, these plans ensure an overarching integrated approach to urban development. The plans are used, amongst others, in urban areas which have critical developmental issues, issues of social and economic cohesion, environmental degradation and decline in the quality of life. These plans aim to improve the infrastructure and social services; tackle unemployment and social exclusion; structure the land use in a harmonic way; allow for utilisation of new technologies, and in general revitalize the social, economic, environmental and cultural aspect of cities and wider urban areas. The Greek authorities have also pointed out that the plans and actions are requested to be not only "sustainable", but also "integrated", covering a wide range of interdependent problems that have a clear spatial dimension, as well as those arising from lack of investment interest.

(9) Finally, the Greek authorities have confirmed that the IPSUDs covering the undertaken projects meet the requirements listed in recital (15) of the Commission decision approving the JESSICA scheme for Greece.

### 2.2. Costs of the project and financing structure

(10)The total costs of the urban development project have been estimated at **EUR 58,055,976,** out of which **EUR 42,447,646**[3] has been identified as eligible expenditure in accordance with section 2.7.2 of the Commission decision approving the JESSICA scheme for Greece.

[…]*

| USES OF FUNDS | Total Project Cost | Eligible Project Cost | | Non Eligible Project Cost |
|---|---|---|---|---|
| Construction Cost | 40.658.376 | | 40.658.376 | |
| Initial mobilization cost | 2.094.270 | | 1.789.270 | 305.000 |
| VAT | 9.680.518 | | | 9.680.518 |
| Debt Financial expenses | 5.622.811 | | | 5.622.811 |
| **TOTAL USES OF FUNDS** | **58.055.976** | | **42.447.646** | **15.608.330** |
| | | | | |
| **SOURCES OF FUNDS** | | | | |
| Private co-investors | | | % of Eligible Pr.cost | |
| - Equity | 9.625.457 | 7.333.165 | 17% | 2.292.293 |
| - EIB Funds | 19.375.000 | 15.739.481 | 37% | 3.635.519 |
| JESSICA Funds | 19.375.000 | 19.375.000 | 46% | |
| | **48.375.457** | **42.447.646** | **100%** | **5.927.811** |
| VAT Facility | 9.680.518 | | | 9.680.518 |
| **TOTAL SOURCES OF FUNDS** | **58.055.976** | **42.447.646** | | **15.608.330** |

(11)JESSICA funds, invested by the UDF in the form of a sub-commercial loan, will cover approximately 46% of the eligible expenditure of the UDP. JESSICA financing will amount to approximately **EUR 19,375,000,** being 50% of a senior long term debt facility (LTDF) provided together with the EIB. The UDF loan will extend for up to 27 years and its fixed interest will be equal to the swap rate prevailing at the date when final lending agreement for the project is signed. The JESSICA loan will be repaid in semi-annual instalments.

(12)As indicated above, the EIB will participate in the financing of the project in the amount of approximately **EUR 19,375,000**[4], being 50% of the senior LTDF (of up to 27 years) provided together with the UDF. The interest rate of the EIB loan is […] for the respective term of the loan (prevailing at the date when final lending agreement is signed), increased by a margin of […] basis points (bps). In addition, arrangement and commitment fees are included, respectively amounting to […] and […] bps (i.e. 50% of the margin). The

[3] According to the appraisal of the project carried out by the UDF manager on 23.10.2013

* Business secret.

[4] The EIB's Board of Directors provided on 17 November 2009 an in principle approval to participate in the financing of the project subject to the approval of the final terms and conditions of the proposed loan by the EIB's Management Committee prior to signature.

conditions of the loan are determined through market based criteria following the risk assessment of the project.

(13)The remaining financing for the project is provided by the project developer and by Alpha Bank, which is a commercial bank.

(14)The project developer will participate in the project's financing by investing overall **EUR 9,625,457.** Approximately […] will be in the form of own capital. The project developer will also provide subordinated loans in the amount of approximately […] (subordinated debt priced at […] bps)[5]. The Greek authorities have explained that the repayment of the subordinated debt is dependent on the project's cash flow and its economic success. It is a quasi-equity contribution subordinated to all other debt provided to the project and repaid only after satisfaction of specific covenants and conditions. The subordinated debt has no security and its order of repayment in the cash cascade of the project, in case of termination, is after all debt obligations and just before equity is repaid.

(15)AlphaBank will provide a loan facility of up to **EUR 9,680,518** in order to cover shorfalls/delays in the refund process of VAT amounts, which may be incurred throughout the construction period.

### 2.3. Legal structure of the project and selection of its partners

(16)The urban development project is organized in the form of a Private Public Partnership. The public partner in the project is the School Buildings Organisation S.A. (hereinafter "OSK"), fully owned by the State, responsible for the construction of school building infrastructure on behalf of the Hellenic Republic. The private partner, which was selected on the basis of a public tender, is a consortium of Greek construction companies: ATESE S.A and DOMIKI KRITIS S.A. (hereinafter "project developer").

(17)The Greek authorities have indicated that the project developer has been selected following an international two-phase tender process launched by OSK in 2008 for the assignment of the design, financing, construction and maintenance of the school units in the Region of Attica. Bids for the tender were submitted on 4 October 2010. On 7 December 2010, through a decision (No 478) of the Board of Directors of OSK, the joint venture of ATESE SA and DOMIKI KRITIS S.A. was declared the Preferred Bidder on the basis of the "most economically advantageous offer", in the meaning of the lowest net present value (NPV) of annual payments requested by the bidders for the maintenance of the school facilities throughout the concession period (so called "availability payments")[6]. These payments constitute the revenue of the project developer generated in the framework of the urban development project.

(18)The project developer undertakes to construct the school infrastructure within 24-months from the signing of the Partnership Agreement. Once the construction and development of the school facilities has been completed, the project developer will undertake the management of the constructed school facilities (such as technical maintenance, security, cleaning services and availability of the school units) throughout a concession period of an estimated 25-years duration (commencing upon the completion of the construction of the school infrastructure).

5 […].

6 These payments are subject to the quality objectives regarding the availability of facilities and services set out in the Partnership Agreement being met by the project developer.

(19) For the purpose of its execution and financing, the project is organized in the form of a project company, the sole shareholders of which are ATESE S.A, and DOMIKI KRITIS S.A. (each holding 50% of the share capital).

(20) The implementation of the project was postponed due to the financial crisis in Greece and the resulting lack of liquidity in the Greek banking system. The long term financing initially committed for the project had been withdrawn[7]. In these circumstances, the project developer submitted its proposal for JESSICA financing for the UDP on 13 June 2012 following the call for proposals issued by the UDF on 4 May 2012. Following the project's appraisal, the Investment Committee of the UDF approved the support for the project on 18 December 2012.

## 3. ASSESSMENT OF THE MEASURE

(21) The support for the urban development project, described above, is granted under an approved State-aid scheme (SA. 34405[8]), which lays down a general framework for sub-commercial public interventions made through Urban Development Funds endowed with public resources and targeting investments into sustainable urban development projects.

### 3.1. Legality of aid

(22) In notifying the support for the urban development project prior to its implementation, the Greek authorities have complied with their obligations under Article 108(3) TFEU and recital (222) of the Commission decision approving the JESSICA scheme for Greece.

### 3.2. Existence of aid

(23) In the case at hand, and as described in section 3.1.2 of the Commission decision approving the JESSICA scheme for Greece State resources are transferred to the Jessica Holding Fund for Greece (hereinafter "JHFG") and further on to the UDF, which in turn invests these public resources into the UDP together with private co-investors.

(24) As described in sections 3.1.2.3 and 3.1.2.4 of the same Commission decision, the JESSICA funding for the UDP (provided on sub-commercial terms) puts the private investors, as well as the UDP, in a position that is economically advantageous compared with a situation where investments into the UDP would be carried out in line with normal market conditions.

(25) Furthermore, the project developers, as well as the UDP, are active in markets open to competition and subject to intra-Union trade. The measure has therefore an effect on trade and poses a potential threat to competition.

(26) The Commission concludes that the notified JESSICA financing for the UDP, granted by the UDF, constitutes State aid within the meaning of Article 107(1) TFEU.

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7 The […] withdrew from its commitment to finance the project, which included a long term loan facility and the financing of shortfalls/delays in VAT refunds.

8 See footnote 1

## 4. COMPATIBILITY OF THE AID

(27) The State aid supporting the UDP has been granted on the basis of a State-aid scheme SA. 34405 approved by the Commission directly under article 107 (3) (c) TFEU.

(28) The Commission has assessed the compatibility of the JESSICA financing granted by the UDF to the UDP in line with the eligibility criteria for UDF investments set out in section 2.7 of the Commission decision approving the JESSICA scheme for Greece.

### 4.1. Eligibility of the project and costs

(29) In its assessment, the Commission takes note of the general eligibility conditions for UDF investments into UDPs set out in sections 2.7.1 to 2.7.3 of the Commission decision approving the JESSICA scheme for Greece.

(30) In light of the above requirements the Commission has concluded the following:

a) The project developer has submitted the application to the UDF for JESSICA funding before the start of the project works;

b) A special purpose vehicle has been established by the beneficiary in order to run the UDP;

c) The UDP contributes to the objectives defined by the Regional Operational Programme for Attica in Greece and complies with relevant IPSUDs;

d) JESSICA support for the project is granted for eligible expenditure as set out in section 2.7.2 of the Commission decision approving the JESSICA scheme for Greece;

e) The Lenders Technical Advisors[9] report confirms that overall construction costs covered by the project, as well as operational costs incurred in the management of facilities after completion, have been established on reasonable basis;

f) The project has been assessed as economically and technically sound with a prospect of financial viability. In this regard, it needs to be emphasised that the revenue generating risks of the projects are relatively limited since project revenues are payments made by a public organization and guaranteed by the Hellenic Republic through specific provisions in the Public Investment Programme Budget, therefore ensuring the repayment of the UDF loan. Moreover, the terms of the JESSICA loan granted by the UDF stipulate repayment of the initial UDF investment plus at least the inflation rate, taking into account that the swap rate incorporates long term inflation expectations as set by the target inflation rate of the European Central Bank of 2%;

g) The Greek authorities have clarified that the school infrastructure will solely be used for carrying out its educational purposes and sub-renting of school infrastructure is not considered;

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9 Lenders Technical Advisors Report in respect of 12 OSK Schools (PPP) in the region of Attica (Attiki) for European Investment Bank and Jessica Urban Development Holding Fund of Attica and Alpha Bank, prepared on 30.09.2013 by […].

h) Finally, the Greek authorities have confirmed the following: the UDF investment is not made into an UDP that favours domestic over imported products; the company undertaking the project is not active in the shipbuilding, coal, synthetic fibres and steel industry, in the fisheries or agricultures sector; the aid is not benefiting export-related activities; the company undertaking the urban project is not subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market; and the company undertaking the UDP is not "a firm in difficulty" within the meaning of Chapter 2 of the Community guidelines on State aid for rescuing and restructuring firms in difficulty[10].

(31) In the light of the above, the notified measure fulfils the eligibility conditions laid down in sections 2.7.1 to 2.7.3 of the Commission decision approving the JESSICA scheme for Greece.

### 4.2. Conditions for private investment

(32) The Commission has also assessed whether the financing structure of the project complies with private co-financing requirements established by the Commission decision approving the JESSICA scheme for Greece.

(33) JESSICA financing to be provided by the UDF covers 46% of the eligible costs of the UDP, thereby respecting the ceiling set out in recital (160) of the Commission decision approving the JESSICA scheme for Greece.

(34) Moreover, private co-investors will provide their own financial contribution in the form of committed equity and subordinated debt, covering on average 17% of a project's total costs, sharing investment risks together with the public investor.

(35) In the light of the above, the Commission considers that the measure fulfils the conditions for private co-investment as defined in section 2.7.4 of the Commission decision approving the JESSICA scheme for Greece.

### 4.3. Investment process and investment appraisal

(36) In accordance with section 2.7.5 of the Commission decision approving the JESSICA scheme for Greece, the UDF manager is responsible for making commercial decisions within the agreed investment strategy regarding the UDF investment into individual UDPs.

(37) Following the call for proposals issued by the UDF on 4 May 2012, the UDP was selected on "a first come, first served basis" and assessed by the fund manager of the UDF. The project has then been subject to the approval of the UDF Investment Committee on the basis of a preliminary investment appraisal looking into qualitative and quantitative indicators, amongst others the project's characteristics, associated risks and financial return (such as the internal rate of return (IRR), payback period and Debt Service Coverage Ratio). The project has been considered to have a sound and viable business plan and found eligible for JESSICA financing on 18 December 2012. Subsequently, the UDF proceeded with the detailed financial analysis of the UDP in order to determine the detailed terms and conditions for financing the project.

[10] OJ C 244, 1.10.2004, p. 2-17

(38)Following the approval of the UDF Investment Committee, the UDF engaged all other investors participating in the financing of the UDP (i.e. the project developer, the EIB and Alpha Bank), and a kick-off meeting attended by all parties was held on 23 January 2013, which initiated the due diligence process. During the course of the due diligence process, several project parameters have been updated to reflect current market conditions and these changes have been agreed by all project parties, including EIB. The Independent Model Auditor, […], has conducted a preliminary review of the financial model and has verified its good operation on 20 September 2013. As a condition precedent to financial close, the Independent Model Auditor will issue a final report on the financial model acceptable to Lenders.

(39)The Greek authorities have also confirmed that the EIB, manager of JHFG has approved that the investment of the UDF into the UDP exceeds 20% of the UDF's funds.

### *4.3.1. Incentive and necessity of JESSICA support*

(40)In line with recital (178) of the Commission decision approving the JESSICA scheme for Greece, the UDF manager has verified, prior to concluding the sub-commercial investment that reasonable efforts have been taken to secure the maximum level of private finance under normal market conditions.

(41)The Greek authorities have provided information pointing to the fact that the JESSICA support is necessary for the UDP to go ahead, as the project would not attract the required private investment. The Greek authorities have explained that the provision of long-term development finance for all new projects, including UDPs, was made extremely difficult as a result of the recession of the Greek economy, the drastic fiscal austerity and the dramatic rise in the yields of Greek government bonds[11]. The ensuing financial crisis caused a deterioration of the liquidity and capital adequacy of the Greek banking system, which severely constrained the ability of the Greek banks to provide new credit. As a result, the bank which initially supported the bid submitted by the project developer to the OSK, subsequently withdrew from initially committed financing for the project.

(42) It has also been pointed out in the submitted information that the costs of commercial financing have increased significantly since the conclusion of the public tender. According to the Greek authorities, margins for long term loans have increased to a level of 650 bps or higher vs. around 400 bps at the time of the tender. The EIB itself has priced its senior long term debt at a margin of approximately […] bps over applicable Euribor rate, as compared to […] bps at the time of the tender. VAT facility pricing terms have also deteriorated: […] bps as compared to […] bps at the time of the tender[12]. At the same time, the only project revenues are the payments to be received from the Greek government, which have been set as a result of the bidding process and cannot be increased in order to accommodate the higher costs of financing.

(43)The Greek authorities have furthermore demonstrated that, in a hypothetical situation where commercial banking would be available for the project, and JESSICA funding were to be replaced by commercial bank financing – with a margin of 600 bps applied to reflect

[11] 10-year Greek government bond yields (period averages): 2009: 5.17%, 2010: 9.09%, 2011: 15.75%, June 2012: 27.82%.

[12] The Greek authorities have explained that VAT financing can be arranged in the Greek market since it is short to medium term and is backed by VAT refunds.

market conditions (all other parameters being equal) – the projected IRR for the project developer would amount to only 4.27 %, rendering the project unattractive for private investment. In this scenario, the project developer would be required to further increase its own investment.

(44) Finally, the Greek authorities have pointed out that the financed assets (i.e. the 12 schools units) have an exclusive public use and will be owned by the State, which prevents them from being used as collateral for a long term loan agreement.

(45) Taking account of the above, the contribution of the UDF in the form of senior long term debt restores - to the extent possible - the attractiveness of the project for private investment. Therefore, without the participation of the UDF in the financing of the urban development project, its implementation would have been significantly delayed or even abandoned.

#### *4.3.2. Proportionality of aid*

(46) In line with recital (183) of the Commission decision approving the JESSICA scheme for Greece, the UDF preferential investments is limited to the minimum necessary to make UDPs commercially viable for the project developer to undertake the investment activities and for market investors to provide funding.

(47) The Commission observes that the Greek authorities have demonstrated that the intervention by means of JESSICA financing aim to restore the IRR of the project developer selected on the basis of a competitive process carried out by OSK.

(48) During the tender process the potential utilization of JESSICA financing was not available, so the financing structure of the project proposed in the project developer's offer included only a commercial bank facility and EIB financing. At that stage, the project developer’s IRR was established at […], which for the purpose of this decision corresponds to the fair rate of return (FRR), as defined in section 2.7.6.1 of the Commission decision approving the JESSICA scheme for Greece. It should be noted that, at the time of the tender, the average yield of a 10-year Greek Government bond was 9.09%, which is a significant comparator in assessing the fairness of the rate of return achieved through the tender process.

(49) Financial appraisal of the project, carried out by the UDF manager, shows that with JESSICA support the expected IRR for the project developer is assured at a level of […]. On the basis of the project appraisal carried out by the UDF manager the investment return prospects of the project developer still remain below the level of […] as established during the tender, this being mainly attributed to the impact of the higher pricing of the EIB senior long term loan facility (which cannot be fully offset by JESSICA financing replacing the commercial bank financing).

(50) It should be noted that the yield of the 10-year Greek Government bond in August 2013 was 10.01%, and has ranged between 9.07% and 11.58% in the first 8 months of 2013. This supports the finding that the IRR of the project developer, restored as a consequence of the UDF investment, corresponds to a FRR, taking also into account that investment in government bonds does not include the considerable construction and operational risks, which are inherent to the UDP under evaluation.

(51) The argument that the return expectations of private investors meet the FRR requirements is further supported by the fact that the project costs are reasonable, as verified by the advisors of the Lenders during the due diligence process. Project revenues are also reasonable since they were determined on the basis of the tender procedure.

(52) The Greek authorities have emphasised that without the approval by the Commission of the JESSICA support for the UDP, the terms and conditions of the project's financing cannot be completed. However, given the advanced stage of the due-diligence process carried out by the UDF manager, assuming the availability of JESSICA financing, any material deviation from the terms indicated in this decision is not foreseen. In this regard, the Greek authorities have confirmed that the final terms of the financing provided for the UDP, as approved by the UDF Investment Committee, will be transmitted to the Commission.

(53) In view of the above, the Commission finds that the necessity and proportionality of JESSICA support for the UDP project has been sufficiently demonstrated in accordance with section 2.7.5 of the Commission decision approving the JESSICA scheme for Greece.

## 5. DISTORTION OF COMPETITION AND TRADE

(54) In accordance with section 4.6 of the Commission decision approving the JESSICA scheme for Greece, the Commission notes that JESSICA financing for the UDP is granted in order to cover the project's viability gap. On that basis, private investors undertaking the project are not benefiting from resources that they could use for cross-subsidizing future projects or obtaining significant market power as a result of the measure.

(55) The Commission further observes that the investment into the UDP is made on the basis of business plans and realistic prospects of profitability, and that private investors undertaking the project have been selected on the basis of a public tender.

(56) Furthermore, the project aims at the development of infrastructure which will host State owned schools (public education). The schools will be used by the Greek Ministry of Education and the relevant municipalities. The pupils/students which will make use of the infrastructure will have no contractual relationship with the project promoters nor will they be required to pay fees or cover any expenses for the use of the schools (of any kind or nature).

(57) The Commission can therefore conclude that the aid does not distort the proper functioning of the internal market to any significant extent and does not produce significant disparities between undertakings established in different Member States or in the location of the production factors within the EU.

## 6. BALANCING TEST

(58) In order to decide about the measure's compatibility with the internal market, the Commission weighed its contribution to common European objectives against a possible distortion of competition.

(59) In addressing lack of efficiency in the financial sector and promoting sustainable urban development, the measure thrives to reach a common European objective of great importance.

(60) The common European objective mentioned above will be achieved by a public intervention that is the minimum required in order to allow an urban development project to go ahead. This has been ensured by providing sub-commercial loans that are appraised by professional fund managers on the basis of conditions resulting from a competitive selection process, thereby ensuring that aid to private investors is limited to the minimum. Compared to grant funding, the aid amount will be particularly low. As far as market distortion is concerned, the character of the urban development project and requirements of in-depth knowledge of local specificities will limit any distortive effects of the aid, which is not likely to have a significant impact on EU trade.

(61) In view of the above, the Commission considers that the measure's positive effects clearly outweigh any potential distortion of competition.

## 7. FINAL REMARKS

(62) In the light of the foregoing, the Commission has decided not to raise objections to the notified measure, because the aid can be found compatible with the internal market in accordance with Article 107(3)(c) TFEU.

(63) The Commission reminds the Greek authorities that, in accordance with Article 108(3) TFEU, plans to refinance, alter or change that aid measure have to be notified to the Commission pursuant to Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty[13].

(64) This decision does not prejudge the position that the Commission may take on the eligibility of the notified measure for co-financing by the Structural Funds and the Cohesion Fund.

(65) Finally, the Greek authorities are reminded of their commitment to transmit to the Commission the final terms of the financing provided for the UDP, as approved by the UDF Investment Committee.

(66) The Commission notes that Greece has agreed the present decision to be adopted and published in the English language.

## 8. CONCLUSION

The Commission has accordingly decided:

– to consider the aid to be compatible with the internal market in accordance with Article 107(3)(c) of the Treaty on the Functioning of the European Union .

[13] OJ L 140, 30.4.2004, p. 1.

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European Commission
Directorate-General for Competition
Directorate for State Aid
State Aid Greffe
1049 Brussels
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Fax No: (0032) 2-296.12.42

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President