Basic information

2012/0344(NLE) NLE - Non-legislative enactments Regulation	Procedure completed
State aid rules: aid categories or measures exempted from notification requirements Amending Regulation (EC) No 994/98 1997/0203(CNS) Amending Regulation (EC) No 1370/2007 2000/0212(COD) **Subject** 2.60.03 State aids and interventions 3.45.08 Business environment, reduction of the administrative burdens 8.50.02 Legislative simplification, coordination, codification	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	DORFMANN Herbert (PPE)	14/01/2013
	Shadow rapporteur CUTAȘ George Sabin (S&D) IN 'T VELD Sophia (ALDE) BESSET Jean-Paul (Verts /ALE)	

Committee for opinion	Rapporteur for opinion	Appointed
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
TRAN Transport and Tourism	SIMPSON Brian (S&D)	21/01/2013
AGRI Agriculture and Rural Development	The committee decided not to give an opinion.	
PECH Fisheries	The committee decided not to give an opinion.	

	CULT Culture and Education	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	3242	2013-05-29

European Commission

Commission DG	Commissioner
Competition	ALMUNIA Joaquín

Key events

Date	Event	Reference	Summary
05/12/2012	Legislative proposal published	COM(2012)0730	Summary
15/01/2013	Committee referral announced in Parliament		
20/05/2013	Vote in committee		
27/05/2013	Committee report tabled for plenary, 1st reading/single reading	A7-0179/2013	Summary
02/07/2013	Decision by Parliament	T7-0299/2013	Summary
02/07/2013	Results of vote in Parliament		
22/07/2013	Act adopted by Council after consultation of Parliament		
22/07/2013	End of procedure in Parliament		
31/07/2013	Final act published in Official Journal		

Technical information

Procedure reference	2012/0344(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consultation of Parliament
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 994/98 1997/0203(CNS) Amending Regulation (EC) No 1370/2007 2000/0212(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 109
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/11473

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE506.361	19/03/2013	
Amendments tabled in committee		PE510.488	18/04/2013	
Committee opinion	TRAN	PE508.199	07/05/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0179/2013	27/05/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0299/2013	02/07/2013	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0730	05/12/2012	Summary
Commission response to text adopted in plenary	SP(2013)625	24/09/2013	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2012)0730	19/04/2013	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2013/0733
OJ L 204 31.07.2013, p. 0011 Summary

State aid rules: aid categories or measures exempted from notification requirements

2012/0344(NLE) - 05/12/2012 - Legislative proposal

PURPOSE: to amend the provisions of Council Regulation (EC) No 994/98 (Enabling Regulation) in order to modernise State aid control.

PROPOSED ACT: Council Regulation.

BACKGROUND: Council Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid (the '**Enabling Regulation**') allows the Commission to declare, by means of regulations, that certain categories of State aid are compatible with the common market and **are exempted from the notification requirement** provided for in Article 108(3) of the TFEU.

The categories concerned include *de minimis* aid, aid to small and medium-sized enterprises, aid for research and development, environmental protection or employment and training, and aid that complies with the map approved by the Commission for each Member State for the grant of regional aid.

The Commission indicated in its Communication on State aid Modernisation of 8 May 2012 that State aid enforcement should focus on cases with the biggest impact on the internal market. This implies:

- on the one hand, **stronger scrutiny of large and potentially distortive aid**,
- and, on the other, **simplified analysis of cases with only limited effect** on trade and limited potential to seriously distort competition. The latter can be achieved by reviewing the regime of exemptions, in particular the scope of Council Regulation (EC) No 994/98, which would enable the Commission to block-exempt further categories of aid from the notification requirement, in addition to the categories already included in the current Enabling Regulation.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: **Article 109 TFEU**, which allows the Council to make any appropriate regulations, in particular to determine the conditions in which Article 108(3) TFEU shall apply, and the categories of aid exempted from that procedure. The Council must decide by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

CONTENT: this proposal is a key element in **State Aid Modernisation** (SAM), an initiative launched by Commission. It should contribute to the overall objectives of the Union, in particular the objective of focusing State aid enforcement on cases having the biggest impact on the internal market and to the EU 2020 strategy to foster growth in a strengthened, dynamic and competitive internal market.

New categories proposed for inclusion in the Enabling Regulation: the proposal to include certain new categories in the Enabling Regulation entails neither the immediate block exemption of all these categories, nor does it mean that all measures within a category would be block-exempted in their entirety. Rather, it enables the Commission to **adopt block exemptions gradually**, when experience acquired is sufficient to allow the Commission to define clear compatibility criteria for certain types of aid measures, ensuring that the effect on competition and trade between Member States is limited.

The Commission proposes to include new categories in the Enabling Regulation:

- State aid in the culture and heritage conservation sectors
- State aid in relation to natural disasters
- State aid in relation to certain adverse weather conditions in fisheries
- State aid for innovation
- State aid for forestry and promotion of non-Annex-I products in the food sector
- State aid for the conservation of marine biological resources
- State aid for amateur sports
- Social aid to residents of remote regions for transport
- State aid for the transport sector pursuant to Article 93 TFEU
- State aid for certain broadband infrastructure.

Specifying block-exempted aid categories: current rules specify that, for each category of block-exempted aid, the thresholds should be expressed either in terms of aid intensities in relation to a set of eligible costs or in terms of maximum aid amounts.

The Commission proposes to define the thresholds **not only in terms of aid intensities or maximum aid amounts, but also in terms of maximum level of State support**, whether it qualifies as State aid in the meaning of Article 107(1) TFEU or not.

Provisions concerning transparency: the current Regulation provides that on implementation of aid systems or individual aids granted outside any system, which have been exempted pursuant to such regulations, Member States shall forward to the Commission, with a view to publication in the Official Journal of the European Communities, summaries of the information regarding such systems of aid or such individual aids as are not covered by exempted aid systems.

The obligation to publish the above summaries in the Official Journal should therefore be replaced by the **obligation to publish on the Commission's website.**

The Commission states that **more frequent revisions of the Enabling Regulation may in the future be needed**, in particular to have due regard to the investments required by and compatible with the development of the internal market, in the light of the experience gained. Following a decision on the next Multiannual Financial Framework, the Commission will also assess without delay **the possibilities to simplify the State aid procedures for projects co-financed under the EU structural policies**.

BUDGETARY IMPLICATION: the proposal has no negative implications for the Union budget.

State aid rules: aid categories or measures exempted from notification requirements

2012/0344(NLE) - 27/05/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Herbert DORFMANN (EPP, IT) on the proposal for a Council Regulation amending Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid and Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road.

The parliamentary committee approves the Commission proposal subject to the following amendments:

Exemptions by category: Council Regulation (EC) No 994/98 (**'Enabling Regulation'**) permits the Commission to declare, by means of regulations, that certain defined categories of horizontal state aid are compatible with the single market and are exempted from the notification requirement of Article 108 (3) of the Treaty on the Functioning of the European Union (TFEU).

Members propose including in the 'Enabling Regulation' aids in favour of:

- **research, development and innovation**, in particular if they are in line with EU2020 flagship initiatives and the new Innovation policy Horizon 2020;
- **environmental protection**, in particular if they are in line with EU2020 flagship initiatives and the Union's objectives in the field of the environment;
- **promotion of tourism**, in particular if in line with the Union tourism policy objectives.

On the other hand, **aids in the following areas should be excluded:**

- residents of remote regions for transport, when this aid has a social character and is granted without discrimination related to the identity of the carrier;
- coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service pursuant to Article 93 of the Treaty.

Transparency and control: on implementation of aid systems or individual aids granted outside any system, which have been exempted pursuant to the regulations, Member States shall take into consideration the respect of public procurement rules, Europe 2020 and the environmental policies and objectives of the Union.

The Commission should make access to the Member States' annual reports on the application of group exemptions **available to the European Parliament**.

Evaluation report: every two years, the Commission should submit a report. Every year, the Commission should submit to the European Parliament and to the Council the results of the monitoring exercise on the application of the block exemption regulations and publish on its website a summary report.

Legal basis: the report notes that the legal basis for this Regulation, Article 109 TFEU, **provides only for the consultation of Parliament, not for the ordinary legislative procedure** in line with other areas of market integration and economic regulation further to the entry into force of the Lisbon Treaty.

Members consider that this **democratic deficit cannot be tolerated** in respect of proposals that concern the means of oversight by the Commission of decisions and acts by national and local elected authorities. This **deficit should be corrected** in any future Treaty change.

State aid rules: aid categories or measures exempted from notification requirements

2012/0344(NLE) - 02/07/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 598 votes to 19, with 93 abstentions, a legislative resolution on the proposal for a Council Regulation amending Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid and Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road.

Parliament approved the Commission proposal subject to the following amendments:

Exemptions by category: Council Regulation (EC) No 994/98 (**'Enabling Regulation'**) permits the Commission to declare, by means of regulations, that certain defined categories of horizontal state aid are compatible with the single market and are exempted from the notification requirement of Article 108 (3) of the Treaty on the Functioning of the European Union (TFEU).

Parliament proposes including in the 'Enabling Regulation' aids in favour of:

- **research, development and innovation**, in particular if they are in line with EU2020 flagship initiatives and the new Innovation policy Horizon 2020;
- **environmental protection**, in particular if they are in line with EU2020 flagship initiatives and the Union's objectives in the field of the environment;
- **promotion of tourism**, in particular if in line with the Union tourism policy objectives;

- **amateur sports and youth development in sport;** an amendment stipulates that amateur sport cannot be regarded as an economic activity and that amateur sports include economic activities on an exceptional basis.

On the other hand, **aids in the following areas should be excluded:**

- residents of remote regions for transport, when this aid has a social character and is granted without discrimination related to the identity of the carrier;
- coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service pursuant to Article 93 of the Treaty.

Transparency and control: on implementation of aid systems or individual aids granted outside any system, which have been exempted pursuant to the regulations, Member States shall take into consideration the respect of public procurement rules, Europe 2020 and the environmental policies and objectives of the Union.

The Commission should make access to the Member States' annual reports on the application of group exemptions **available to the European Parliament**.

Evaluation report: every two years, the Commission should submit a report. The report shall, in particular, provide for a broad cost-benefit assessment of the group exemptions granted in accordance with this Regulation as well as an assessment of its contribution to the overall Europe 2020 flagship initiatives and the Horizon 2020 policy objectives. Every year, the Commission should submit to the European Parliament and to the Council the results of the monitoring exercise on the application of the block exemption regulations and publish on its website a summary report.

Legal basis: the resolution notes that the legal basis for this Regulation, Article 109 TFEU, **provides only for the consultation of Parliament, not for the ordinary legislative procedure** in line with other areas of market integration and economic regulation further to the entry into force of the Lisbon Treaty.

Parliament considers that this **democratic deficit cannot be tolerated** in respect of proposals that concern the means of oversight by the Commission of decisions and acts by national and local elected authorities. This **deficit should be corrected** in any future Treaty change.

State aid rules: aid categories or measures exempted from notification requirements

2012/0344(NLE) - 22/07/2013 - Final act

PURPOSE: to reform the State Aid rules.

NON-LEGISLATIVE ACT: Council Regulation (EU) No 733/2013 amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid.

CONTENT: the Council adopted two Regulations aiming to update two main regulations governing the EU's state aid rules: (i) the "procedural regulation " which sets out the rules concerning state aid investigations and; (ii) the "enabling regulation" enabling the Commission to adopt "block exemption regulations for state aid".

These Regulations are part of the broader reform initiated after the presentation of the Commission communication on EU state aid modernisation.

The changes made to Council Regulation (EC) No 994/98 (**'Enabling Regulation'**) will allow the Commission to apply a simplified control procedure to certain categories of aid without weakening efficient supervision and monitoring.

Exemptions by category: the scope of the Enabling Regulation has been enlarged to include new types of aid. The Regulation now covers aid in favour of:

- small and medium-sized enterprises;
- research, development and innovation;
- environmental protection;
- employment and training;
- culture and heritage conservation;
- making good the damage caused by natural disasters;
- making good the damage caused by certain adverse weather conditions in fisheries;
- forestry;
- promotion of food sector products not listed in Annex I of the TFEU;
- conservation of marine and freshwater biological resources;
- sports;
- residents of remote regions, for transport, when this aid has a social character and is granted without discrimination related to the identity of the carrier;
- basic broadband infrastructure, small individual infrastructure measures covering next- generation access networks, broadband-related civil engineering works and passive broadband infrastructure, in areas where there is either no such infrastructure or where no such infrastructure is likely to be developed in the near future;
- infrastructure in support of other objectives of common interest, in particular the Europe 2020 objectives.

Thresholds: the present Regulation specifies that, for each category of block-exempted aid, the thresholds should be expressed either in terms of aid intensities in relation to a set of eligible costs or in terms of maximum aid amounts.

The amending Regulation defines the thresholds not only in terms of aid intensities or maximum aid amounts, but also in **terms of maximum level of State support**.

Transparency: the Enabling Regulation requires Member States to provide summaries of information concerning aid implemented by them which is covered by an exemption regulation. The new Regulation stipulates that the publication of those summaries on the **Commission's website** (as well as in the Official Journal) is necessary to ensure the transparency of the measures adopted by the Member States.

ENTRY INTO FORCE: 20.08.2013.