Basic information

2014/0246(NLE) NLE - Non-legislative enactments Regulation	Procedure completed
Rules for the application of Article 108 of the Treaty on the Functioning of the European Union (TFEU). Codification Repealing Regulation (EC) No 659/1999 1998/0060(CNS) **Subject** 2.60.03 State aids and interventions	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	DUDA Andrzej (ECR)	27/10/2014
	Shadow rapporteur GERINGER DE OEDENBERG Lidia Joanna (S&D)	

Council of the European Union

Council configuration	Meetings	Date
Agriculture and Fisheries	3402	2015-07-13

European Commission

Commission DG	Commissioner
Legal Service	JUNCKER Jean-Claude

Key events

Date	Event	Reference	Summary
26/08/2014	Legislative proposal published	COM(2014)0534	Summary
20/10/2014	Committee referral announced in Parliament		
02/12/2014	Vote in committee		
04/12/2014	Committee report tabled for plenary, 1st reading/single reading	A8-0047/2014	Summary
29/04/2015	Decision by Parliament	T8-0117/2015	Summary
29/04/2015	Results of vote in Parliament		

13/07/2015	Act adopted by Council after consultation of Parliament		
13/07/2015	End of procedure in Parliament		
24/09/2015	Final act published in Official Journal		

Technical information

Procedure reference	2014/0246(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consultation of Parliament
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EC) No 659/1999 1998/0060(CNS)
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	JURI/8/01035

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE541.418	27/10/2014	
Committee report tabled for plenary, 1st reading/single reading		A8-0047/2014	04/12/2014	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0117/2015	29/04/2015	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2014)0534	26/08/2014	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2014)0534	05/03/2015	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2015/1589
OJ L 248 24.09.2015, p. 0009 Summary

Rules for the application of Article 108 of the Treaty on the Functioning of the European Union (TFEU). Codification

2014/0246(NLE) - 04/12/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Andrzej DUDA (ECR, PL) on the proposal for a Council regulation laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codified text).

The committee recommended that Parliament adopt its position in first reading, taking over the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

The Consultative Working Party expressed the view that the proposal in question contains a straightforward codification of the existing texts without any change in their substance.

Rules for the application of Article 108 of the Treaty on the Functioning of the European Union (TFEU). Codification

2014/0246(NLE) - 29/04/2015 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 643 votes to 45, with 10 abstentions, a legislative resolution on the proposal for a Council regulation laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codified text).

Parliament approved, without amendment, the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

According to the Consultative Working Party, the proposal in question contains a straightforward codification of the existing texts without any change in their substance.

Rules for the application of Article 108 of the Treaty on the Functioning of the European Union (TFEU). Codification

2014/0246(NLE) - 13/07/2015 - Final act

PURPOSE: codification of Council Regulation (EC) n° 659/1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.

LEGISLATIVE ACT: Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.

CONTENT: in the interests of clarity and rationality, this Regulation **codifies Regulation (EC) No 659/1999** which has been substantially amended several times. **The new Regulation will supersede the various acts incorporated in it**. It will fully preserve the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

The main elements of the Regulation are as follows:

Procedure regarding notified aid: the Regulation stipulates that any plans to grant new aid shall be notified to the Commission in sufficient time by the Member State concerned. The Commission shall inform the Member State concerned without delay of the receipt of a notification. In a notification, the Member State concerned shall provide all necessary information in order to enable the Commission to take a decision.

After examination of the notified measure, the Commission should, within two months: i) decide that this measure is compatible with the internal market; ii) or find that the notified measure raises doubts as to its compatibility with the internal market and decide to open up the formal investigation procedure in order to enable the Commission to gather all the information it needs to assess the compatibility of the aid and to allow the interested parties to submit their comments.

The Commission should be empowered to:

- request all necessary market information from any Member State, undertaking or association of undertakings whenever it has doubts as to the compatibility of the measure concerned with the Union rules, and has therefore initiated the formal investigation procedure;
- enforce compliance with the requests for information it addresses to any undertaking or association of undertakings, as appropriate, by means of proportionate fines and periodic penalty payments.

The Commission shall as far as possible endeavour to adopt a decision within a period of 18 months from the opening of the procedure. This time limit may be extended by common agreement between the Commission and the Member State concerned.

Confidentiality: in cases where information marked as confidential does not seem to be covered by obligations of professional secrecy, the Regulation establishes a mechanism enabling the Commission to decide the extent to which such information can be disclosed.

Unlawful aid: the Commission should be able, on its own initiative, to examine information on unlawful aid. The Regulation lays down the procedures to be followed in this regard. The Commission should have the right to obtain all necessary information enabling it to take a decision and to restore immediately, where appropriate, undistorted competition. The Commission should adopt interim measures addressed to the Member State concerned. These may take the form of information injunctions, suspension injunctions and recovery injunctions.

The powers of the Commission to recover aid shall be subject to a limitation period of 10 years. The powers conferred on the Commission shall be subject to a limitation period of 3 years for the imposition of fines and periodic penalty payments and a limitation period of 5 years for the enforcement of fines and periodic penalty payments.

Handling of complaints: complaints are an essential source of information for detecting infringements of the Union rules on State aid. The Regulation lays down the conditions that a complaint should fulfill in order to put the Commission in possession of information regarding alleged unlawful aid and set in motion the preliminary examination.

Complainants should be required to demonstrate that they are interested parties and provide a certain amount of information in a form that the Commission should be empowered to set out in an implementing provision.

Investigations into sectors of the economy and into aid instruments: in order to ensure that the Commission addresses similar issues in a consistent manner across the internal market, the Regulation provides for a specific legal basis to launch investigations into sectors of the economy or into certain aid instruments across several Member States.

Cooperation with national courts: for a coherent application of state aid rules, the Regulation provides for a cooperation mechanism to be established between the courts of the Member States and the Commission.

ENTRY INTO FORCE: 14.10.2015.

Rules for the application of Article 108 of the Treaty on the Functioning of the European Union (TFEU). Codification

2014/0246(NLE) - 26/08/2014 - Legislative proposal

PURPOSE: codification of Council Regulation (EC) n° 659/1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.

PROPOSED ACT: Council Regulation.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: Council Regulation (EC) No 659/1999 has been substantially amended several times. It is recalled that on 1 April 1987 the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement.

The Conclusions of the Presidency of the Edinburgh European Council in December 1992 confirmed this, stressing the importance of codification.

The European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

CONTENT: in the interests of clarity and rationality, the Commission presents this proposal, the objective of which is to **codify Regulation (EC) No 659/1999 of 22 March 1999** laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union.

The new Regulation will supersede the various acts incorporated in it. It will fully preserve the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

The proposal seeks to **establish procedural rules concerning the application of state aid rules**. In accordance with Article 108(3) TFEU, any plans to grant new aid are to be notified to the Commission and should not be put into effect before the Commission has authorised it.

Procedure regarding notified aid: the proposal stipulates that any plans to grant new aid shall be notified to the Commission in sufficient time by the Member State concerned. The Commission shall inform the Member State concerned without delay of the receipt of a notification. In a notification, the Member State concerned shall **provide all necessary information** in order to enable the Commission to take a decision.

After examination of the notified measure, the Commission should, **within two months**: i) decide that this measure is compatible with the internal market; ii) or find that the notified measure raises doubts as to its compatibility with the internal market and decide to open up the formal investigation procedure in order to enable the Commission to gather all the information it needs to assess the compatibility of the aid and to allow the interested parties to submit their comments.

The Commission should be empowered to:

- request all necessary market information from any **Member State, undertaking or association of undertakings** whenever it has doubts as to the compatibility of the measure concerned with the Union rules, and has therefore initiated the formal investigation procedure;
- enforce compliance with the requests for information it addresses to any undertaking or association of undertakings, as appropriate, by means of **proportionate fines and periodic penalty payments**.

Confidentiality: in cases where information marked as confidential does not seem to be covered by obligations of professional secrecy, the proposal establishes a mechanism enabling the Commission to decide the extent to which such information can be disclosed.

Unlawful aid: the Commission should be able, on its own initiative, to examine information on unlawful aid. The proposal lays down the procedures to be followed in this regard. The Commission should have the right to obtain all necessary information enabling it to take a decision and to restore immediately, where appropriate, undistorted competition. It is therefore appropriate to enable the Commission to adopt **interim measures** addressed to the Member State concerned. These may take the form of information injunctions, suspension injunctions and recovery injunctions. For reasons of legal certainty it is appropriate to provide for a period of limitation of **10 years** with regard to unlawful aid, after the expiry of which no recovery can be ordered.

Handling of complaints: complaints are an essential source of information for detecting infringements of the Union rules on State aid. The proposal lays down the conditions that a complaint should fulfill in order to put the Commission in possession of information regarding alleged unlawful aid and set in motion the preliminary examination.

Complainants should be required to demonstrate that they are **interested parties** and provide a certain amount of information in a **form** that the Commission should be empowered to set out in an implementing provision.

Investigations into sectors of the economy and into aid instruments: in order to ensure that the Commission addresses similar issues in a consistent manner across the internal market, it is appropriate to provide for a specific legal basis to launch investigations into sectors of the economy or into certain aid instruments across several Member States.

Cooperation with national courts: for a coherent application of state aid rules, the proposal provides for a cooperation mechanism to be established between the courts of the Member States and the Commission.