



European Economic and Social Committee

INT/872

**Application of Articles 107 and 108 TFEU
to certain categories of horizontal State aid**

OPINION

European Economic and Social Committee

**Proposal for a Council Regulation amending Council Regulation (EU) 2015/1588 of 13 July 2015
on the application of Articles 107 and 108 of the Treaty on the Functioning of the European**

Union to certain categories of horizontal State aid

[COM(2018) 398 final – 2018/0222 (NLE)]

Rapporteur: **Jorge PEGADO LIZ**

Referral	European Commission, 12/07/2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	21/11/2018
Adopted at plenary	12/12/2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	205/3/4

1. **Conclusions and recommendations**

- 1.1 The EESC takes note of the proposal for a Council Regulation amending Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid (COM (2018) 398 final), the purpose of which is to add two new categories to the Enabling Regulation under which the Commission can adopt block exemptions (Regulation (EU) 2015/1588 of 13 July 2015).
- 1.2 The EESC finds the proposal necessary and fitting as part of a whole raft of new proposals related in particular to the next Multiannual Financial Framework, since it is an instrument crucial to the efficient operation of many of the measures envisaged in these new initiatives. It makes a decisive contribution to ensuring that the Commission plays a strong role in the selection of supported projects in accordance with a common EU interest, and that public support will complement private investment in a fully transparent manner.
- 1.3 The EESC therefore agrees with and endorses this new Commission proposal. The Committee also thinks it a good idea to encourage the interested parties concerned to follow the guidelines in the code of best practice.

2. **The Commission proposal**

- 2.1 On 6 June 2018, the Commission presented its proposal for a Regulation amending Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid¹ as part of a whole raft of new proposals related in particular to the next Multiannual Financial Framework (MFF)².
- 2.2 Since the proposal aims to improve the interplay of certain EU funding programmes – particularly in the COSME and Horizon Europe programmes, Digital Europe, the new InvestEU fund and the promotion of European territorial cooperation and State aid rules – it must enable targeted modifications of current State aid rules so that national money – including from the European Structural and Investment Fund managed at national level – and EU funds managed centrally by the Commission can be combined as seamlessly as possible, without distorting competition in the EU's Single Market.
- 2.3 The aim of the proposal is therefore to include two new categories in the Enabling Regulation enabling the Commission to adopt block exemptions (Regulation (EU) 2015/1588 of 13 July 2015)³, based on a definition of clear compatibility criteria, ensuring that the effect on competition and trade between Member States is limited. By adopting such block exemptions it would be possible to significantly simplify administrative procedures for Member States and the Commission on the basis of clearly defined ex ante compatibility conditions.

¹ COM(2018) 398 final.

² COM(2018) 321 final, 2 April 2018.

³ [OJ L 248, 24.9.2015, p. 1](#)

2.4 In short, then, the Commission proposes to add the following two subpoints to point (a) of Article l(1) of Regulation (EU) 2015/1588:

(xv) financing channelled through or supported by EU centrally-managed financial instruments or budgetary guarantees, where the aid consists in the form of additional funding provided through State resources;

(xvi) projects supported by EU European Territorial Cooperation programmes.

3. **General comments**

3.1 The EESC has backed the Commission's new programme initiatives in some opinions adopted very recently, notably those on:

- a) InvestEU⁴;
- b) Horizon Europe⁵;
- c) Artificial Intelligence for Europe⁶;
- d) R&I: A renewed European agenda⁷;
- e) European Regional Development Fund and Cohesion Fund⁸;
- f) Regulation on European Territorial Cooperation 2021-2027⁹;
- g) Connecting Europe Facility¹⁰;
- h) Implementation of the TEN-T projects¹¹;
- i) Connected and automated mobility¹²;
- j) Digital Europe programme¹³.

3.2 The present Commission proposal is necessary for the effective operation of a large number of measures envisaged in these new initiatives, of which just a few are listed for information, because the discussions of the co-legislators are still ongoing. It also makes a decisive contribution to ensuring that the Commission plays a strong role in the selection of supported projects and schemes in accordance with a common EU interest, and that public support will complement private investment in a fully transparent manner.

4 ECO/474 (not yet published in the OJ).

5 INT/858 (not yet published in the OJ).

6 [OJ C 440, 6.12.2018, p. 51.](#)

7 [OJ C 440, 6.12.2018, p. 73.](#)

8 ECO/462 (not yet published in the OJ).

9 [OJ C 440, 6.12.2018, p. 116.](#)

10 [OJ C 440, 6.12.2018, p. 191.](#)

11 INT/669 (not yet published in the OJ).

12 INT/673 (not yet published in the OJ).

13 INT/677 (not yet published in the OJ).

- 3.3 It should be said that Articles 107, 108 and 109, in the Rules on Competition chapter, are the core provisions governing State aid in the EU's basic law (TFEU).
- 3.4 In terms of its implementation, Regulation (EU) 2015/1588 of 13 July 2015 provided for Articles 107 and 108 of the TFEU to be applied to certain categories of horizontal State aid, be they investment or state guarantees.
- 3.5 This regulation must be adapted to enable the goals set out in the Commission proposal – which the EESC fully supports – to be implemented.
- 3.6 The EESC therefore agrees with the changes to be made to Regulation (EU) 2015/1588 as set out in the Commission proposal, considering them essential to pursue the stated goals.
- 3.7 In addition, the EESC is pleased that, some days after the present proposal, the Commission also published a Code of Best Practices for the conduct of State aid control procedures¹⁴ that replaces the code adopted in 2009 and incorporates the Simplified Procedure Notice¹⁵.
- 3.8 The EESC welcomes this initiative to take full advantage of updated State aid rules such as those in the current proposal, to give Member States, aid beneficiaries and interested parties guidelines on how State aid procedures work in practice and to "make State aid procedures as transparent, simple, clear, predictable and timely as possible".
- 3.9 This 2018 code of best practices makes no claim to being exhaustive and establishes no new law. It describes and gives guidance on the procedures and stipulates that it is to be read together with all other documents adopted earlier.
- 3.10 Its fundamental aim is to encourage cooperation between interested parties and the Commission in monitoring and to make the procedure more intelligible for businesses and countries.
- 3.11 It also improves the procedure for dealing with State aid complaints by requiring complainants to show affected interest from the moment of submitting the complaint form and by setting indicative timeframes for the investigation of complaints.

Brussels, 12 December 2018

Luca JAHIER

The president of the European Economic and Social Committee

¹⁴ Communication from the Commission C(2018) 4412 final, 16.7.2018.

¹⁵ [OJ C 136, 16.6.2009, p. 13.](#)