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Comments of CECOP to the Draft regulation on the application of Articles 87 and 88 of the EC Treaty declaring certain categories of aid compatible with the common market

(Draft General Block exemption Regulation)

CECOP – CICOPA Europe (European Confederation of Worker Cooperatives, Social Cooperatives and Social and Participative Enterprises) groups over 65 000 cooperative and participative enterprises, mainly in industry and services, employing 1.3 million workers across Europe, most of whom are worker-members of their own enterprise. Out of them, an estimated 1800 cooperatives of social integration provide employment to over 25 000 socially and occupationally disadvantaged (socially marginalised persons, migrants, ex prisoners, addicts etc), This social cooperative model has been recognized in the Commission *Communication on the Promotion of Cooperative Societies in Europe* (Com(2004)18, section 2.3.2 p 11) and in the European Communities Paper "*Thematic Study on Policy Measures concerning Disadvantaged Youth of Disadvantaged Youths*" (Community Action Programme on Social Exclusion, Policy Studies Findings – 6).

CECOP welcomes the simplification initiative in progress and would like to make the following comments, based on the entrepreneurial experience of our own members.

Aid for SME participating in fairs

Cooperatives Europe supports this new type of aid, which is particularly important for SMEs who increasingly need to contact international partners in order to compete in the internal market and under globalisation. It would be appropriate to extent this type of aid also to the virtual equivalent of fairs, namely the cost of establishing and running internet instruments aimed at contacting potential business partners.

Aid under the form of risk capital:

Cooperatives Europe welcomes this type of aid for SME's knowing how it is difficult to start a business for these companies. To guarantee the plurality of entrepreneurial forms recognized in the Treaty, cooperatives must have the adequate opportunity to set up and develop their activities. Thus, this type of aid should be accessible for cooperative enterprises as well and be adapted to them, which is not always the case.

Investment and employment Aid (Art. 11.2 and 6)

Article 11.2 of the Draft Regulation establishes that regional aid should be maintained in the recipient region for at least five years, or three years in the case of SMEs, after the whole investment has been completed. In the case of guarantees and preferential

loans, this provision does not take into consideration the possible failure of a project, which would imply the need to accelerate the loan or to repay it from the loan guarantee. As a consequence, the investment cannot be maintained during the required period of time. In this respect, we would like to suggest that this provision should not be applicable to aid under the form of guarantees or preferential loans when the business project has failed.

Article 11.6 of the Draft Regulation establishes that where the aid is calculated on the basis of tangible or intangible costs or of acquisition costs in case of takeovers, the beneficiary must provide a contribution of at least 25% of the eligible costs. Guarantees or preferential loans are mainly granted to start-up a business or to companies with a short business story. Therefore, we would also like to suggest that this provision should not be applicable to these types of grants.

Definition of disadvantaged worker, disabled worker and sheltered employment.

- Definition of disadvantaged worker (Art. 2-16)

Whereas the formulation of some of the criteria has been improved as compared to Art 2 of Regulation 2204/2002 (eg 6 months of lack of regular paid employment for any person instead of 12 months of unemployment or 6 months for the people under 25, any person over the age of 50 years, or any person living as a single adult with one or more dependents, whereas the previous formulation was more restrictive), CECOP regrets that the new definition does not include all the criteria from the article 2 of the regulation 2204/2002 on State aid: categories such as addicts, migrants, ex prisoners, youth without a job two years after the completion of their studies, and persons who have had to leave the job market for the difficulty of combining professional and family life, would now no longer be considered as disadvantaged workers. This significant restriction of the definition of "disadvantaged worker" contrasts with the reality on the ground, where the eliminated categories are instead becoming more significant in most of the EU. There is no indication that those persons are no longer disadvantaged and need state aid less than before.

Cooperatives Europe also considers that the category of "disadvantaged workers" should also include in art 2:

- All other persons in a situation of social exclusion (eg houseless, beggars, beaten women, persons abandoned by their families etc);
- Workers of enterprises in crisis or of enterprises without heirs, who face unemployment and who purchase or are granted the management of their own enterprise collectively in order to avoid unemployment through a business transfer, until the first positive balance sheet has been attained after the transfer.

- Definition of disabled worker (Art. 2-17-b)

It is added that the level of disability "must be specified "compared to a particular job position". We consider that this interpretation is too restrictive.

- Definition of sheltered employment (Art. 2-18)

In regulation CE nr 2204/2002 on state aid for employment, sheltered employment is defined as employment in an enterprise where at least 50% of the employees are disabled workers. The degree of disability is not specified. This text is in contradiction with directive 2004/18/CE on so called reserved public procurement (article 19) and directive 2004/17/CE on so called reserved public procurement (article 28) which both say that:

"Member states can either award the public procurement attribution procedure to a protected workshop or to award the execution within the framework of a sheltered employment programme, when the majority of concerned workers are disabled workers who, because of the nature or the severity of their deficiencies, cannot have a professional activity in normal conditions."

The percentage required moves from 50% to 75%. We witness a clear step behind in comparison with the existing situation. Furthermore, this requirement is unrealistic: the percentage of 25% of "valid" persons in an enterprise is not sufficient in order to provide support to 75% of disabled people.

CECOP disagrees with the restrictive character of those new definitions as compared to the previous one, especially at a moment in which the Commission advocates the inclusion of disadvantaged and disabled people into the labour market.

Many social cooperatives employ disadvantaged and or disabled workers and would not fulfill the conditions required, some of the workers not being included anymore in the framework of the regulation.

Specific exemption for insertion enterprises

As stated in its comment on the consultation on "State aid action plan" Sept 2005, "Cooperatives Europe" would support the extension of the Commission Regulation (EC) No 2204/2002, to the aid for the employment of disadvantaged and disabled workers as defined above (including those in a situation of social exclusion) who work in so called Insertion Enterprises. By Insertion Enterprises we mean enterprises characterized by the fact that the social and professional integration and the on the job training of disadvantaged and disabled workers as defined above is their main objective, such objective being enshrined in their statutes and, in many cases, regulated by existing national legislation. Many of them are cooperatives societies.

Due to the particular situation of their employees, Insertion Enterprises, while being full-fledged enterprises competing on the market, have to manage the reduced productivity of their disadvantaged and disabled workers, as well as the need for specific training and technical assistance staff.

Having to face substantial additional costs compared with conventional companies due to their social characteristics, Insertion Enterprises need specific aid from the state in order to survive on the market.

The extension implies that aid fulfilling the conditions of this Regulation will be considered as compatible with articles 87 and 88 of the Treaty.