



CECOP
CICOPA Europe

A sectoral member of



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2nd 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)

Comments of CECOP-CICOPA Europe

CECOP - CICOPA Europe is an international non profit association according to Belgian law and based in Brussels. Its members include 29 national federations of co-operative and employee-owned enterprises representing around 65'000 enterprises, mainly in industry and services, employing 1,3 million workers, plus 7 organisations promoting this type of enterprises.

Among the main sectors of activity of our enterprises, we find metal industries, mechanical industries, construction and public work, wood industry and furniture, white goods, textiles and garments, transport, media-related activities, social services, education and culture, environmental activities, etc. Most of them are characterised by the fact that the employees in their majority are members-owners; some of them are second-degree enterprises for SMEs.

Furthermore, a substantial part of those enterprises (around 3'500 of them across Europe) are specialised in the reintegration of disadvantaged and marginalised workers (disabled, long-term unemployed, ex prisoners, addicts, etc). Another part of those enterprises are the result of employee buy-outs: in this case, the enterprise staff purchase an enterprise (because it can be in crisis or without heir) and successfully restructure it into a cooperative enterprise.

1. Improvements already made on the text as requested by CECOP

CECOP welcomes the fact that some of the remarks made on the 1st version of the draft regulation, have been taken into consideration. See CECOP comments sent on 2nd June 2007, available on:

http://www.cecop.coop/IMG/pdf/CECOP_Position_Block_exemption_consultation-3.pdf

1. Definition of "disabled worker" (art.2-18-b):
The new text does not require any more that a competent authority of a Member States indicates the precise level of disability "as compared to a particular job position".
2. Definition of "sheltered employment" (art.2-19):
The new text modifies the required percentage of disabled workers (from 75% to 50%) and the reference to the degree of disability (at least 50 %) is removed.
3. Definition of "disadvantaged worker":
CECOP considers that the definitions at art.2-17-a (any person who has not been in regular paid employment for the previous 6 months) and art.2-17-c (any person over the age of 50 years), simplify the existing definition under art.2 f of regulation 2204/2002 on State aid.

2. Requests by CECOP

2.1. Complete the definition of "disadvantaged workers"

CECOP underlines that that the above-mentioned category of "disadvantaged workers" should clearly include:

1. All other persons in a situation of serious social exclusion as defined in the legislation of the various Member States (e.g. houseless, beggars, beaten women, persons abandoned by their families, ex-prisoners, alcoholics, drug addicts etc);
2. 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.

2.2. Worker buy-outs should be a special case in aid to undertakings in difficulty

Art.1-6-c, which establishes that the regulation does not apply to "aid to undertakings in difficulty".

This article is in contradiction with a previous position of the Commission (Ms Neelie Kroes)¹ concerning tax credit for companies created in the case of a employee buy-out. The Commission decided that this tax credit was state aid but was compatible with the common market. CECOP considers that art.1-6- c should be reviewed taking into consideration this earlier position of the Commission, by not excluding aid to undertakings in difficulty in the case of employee buy-outs in which the entrepreneurial project is sustainable.

2.3. Ambiguity in the definition of "supported employment"

Under art.2-20, the difference between "sheltered employment" (more than 50% of disabled workers) and "supported employment" (employment of disabled workers...that is not 'sheltered employment') is ambiguous. It does mean that 1 disabled worker may determine the amount of the aid.

¹ European Commission, C(2006)3217 final, Brussels, 19 July 2006

2.4. Aid for the employment of disabled workers in the form of wage subsidies (Art.32-5)

The new version introduces the possibility for Member States to limit the minimum period of employment (12 months), according to their national legislation governing employment contracts. The formulation of the text can cause misunderstandings in its interpretation. For this reason CECOP requests a clarification.

2.5. Specific exemption for enterprises specialised in the inclusion of disadvantaged and disabled workers

CECOP supports specific exemption for enterprises having as their mission the employment and inclusion of disadvantaged and disabled workers

As stated in its comment on the consultation "Draft General Block exemption Regulation" (June 2007) and the former consultation "State aid action plan" (September 2005), CECOP would support the extension of the Commission Regulation (EC) Nr 2204/202, to the aid for the employment of people in a situation of social exclusion and working for enterprises having as their mission the employment and inclusion of disadvantaged and disabled workers. Many of them are cooperatives societies.

Due to the particular situation of their employees, those enterprises have to manage the reduced productivity of their workers, the need of technical assistance staff and the training of the workers. Having to face substantial additional costs compared with mainstream companies due to their social dimension, they need aid from public administration, to survive in the market and therefore to achieve their social mission.

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

This extension should include a reference to the "workers in a situation of serious social exclusion" in the article which regulates the extension of aid to cover the additional costs of disabled workers, and a definition of enterprises having as their mission the employment and inclusion of disadvantaged and disabled workers.

It is also important that the duration of compatible aid for employment of disadvantaged workers, limited to one year for ordinary enterprises in article 31.3, be extended to the whole period of employment in the case enterprises having as their mission the employment and inclusion of disadvantaged and disabled workers. Indeed, disadvantaged workers stay normally longer than a year in such enterprises before they are ready to find a job on the open market.

*** End ***