

Abstract

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The procedure followed in the notification of state aids to the Commission under Articles 87-89 of the Treaty establishing the European Community

According to the Treaty establishing the European Community, "any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market."

State aid is defined as payments or subsidies from public authorities or other measures on the part of public authorities which promote recipients' financial position. This also includes aid provided by local authorities.

The European Commission is responsible for monitoring aid systems together with the member states. There is a reporting system for new aids or changes in existing aids: the member states must notify the Commission of plans to grant or change aids. The Commission decides whether aid is compatible with the common market on the basis of notifications. The member states may not grant aid before they have obtained the Commission's approval.

On the initiative of the audit offices in the EU member states, the decision was made to conduct a joint audit to find out if the member states obtain approval from the Commission before granting state aids and if they follow the conditions stipulated for approved aids. The intention is to approve a joint audit report in 2002. This will be based on the answers to a questionnaire. Only four member states will participate in the actual audit.

In Finland the Ministry of Trade and Industry is responsible for notifying the European Commission of planned aids and for the monitoring of the cumulation of aid. All authorities and organizations which grant state aid or public aid are required by law to notify the Ministry of Trade and Industry of plans for aid programmes or individual aid decisions. The ministry's task is to forward this information to the Commission.

The cumulation of aids means the granting of more than one aid to the same project. Aid to a single recipient which remains below €100,000 during a three-year period is regarded as de minimis aid. A decision issued by the Ministry of Trade and Industry contains more detailed provisions on the cumulation of aid and the de minimis exception. Any authority or organization which grants state aid must notify all aid decisions to the Business Department of the Employment and Economic Development Centre for the region in which the project is to take place. This applies to all grants of aid.

After Finland joined the European Economic Area (EEA), the Ministry of Trade and Industry notified the Commission of state aids granted at that time. Since Finland's accession to the European Union, notifications have been made according to the procedure in the EU's establishing treaties. These have been supplemented as necessary. Nowadays only a few notifications are made each year to the Commission.

The problem in monitoring planned aids, which are usually in the form of individual grants, mainly involves local authorities. A Government decision specifically mentions local authorities as being responsible for notifying state aids if they prepare an aid programme or individual grant which they intend to finance with public funds. In spite of this, local authorities have supplied only a few notifications of plans to grant aid during the entire period in question. Collected official information on whether or not local authorities have granted public aids does not exist. It is generally believed that local authorities at least to some extent still grant what can be regarded as state aids to local enterprises. On the other hand it is believed that these fit within the framework of the de minimis exception in terms of the effect of aid. In this case they do not actually break Community regulations prohibiting the granting of state aid but only the administrative obligation to notify aids.

Since the Commission is responsible for deciding on the compatibility of aid with the common market, the Ministry of Trade and Industry stated in the audit that it does not take a stand on the compatibility of planned and notified aid. On the basis of the EU's establishing treaties, responsibility for monitoring state aids granted by the member states is also in the hands of the Commission alone, according to the ministry's interpretation. The ministry does not consider the actual monitoring of notifications to be its task. It has reminded local authorities of their responsibility in this respect, however. The Ministry of Trade and Industry has assigned itself a coordinating and consulting role in matters regarding state aid; it does not play a role in monitoring the legality of aid programmes provided by different national actors.

The Ministry of Trade and Industry's stand appears to be in harmony with that taken by corresponding units at least in the member states in the joint audit.

The audit did not find any significant problems in the ministry's management of the task as defined in this way. Nor were any significant deficiencies observed with regard to cumulation and de minimis monitoring in the Employment and Economic Development Centres covered by the audit.

In order to strengthen prevailing knowledge of Finland's credibility in the EU, the Ministry of Trade and Industry should focus more attention on informing local authorities of their responsibility to notify aids.