COMMISSION REGULATION (EC) No 363/2004

of 25 February 2004

amending Regulation (EC) No 68/2001 on the application of Articles 87 and 88 of the EC Treaty to training aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid [1] and in particular point (a)(iv) of Article 1(1) thereof,

Having published a draft of this Regulation [2],

Having consulted the Advisory Committee on State Aid,

Whereas:

(1) Commission Regulation (EC) No 68/2001 [3] provides for special conditions in respect of aid to be granted for small and medium-sized enterprises. The definition of small and medium-sized enterprises in Regulation (EC) No 68/2001 is that used in Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises [4]. That Recommendation has been replaced by Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises [5] with effect from 1 January 2005. In the interests of legal certainty, the definition used in Regulation (EC) No 68/2001 should be the same as that used in Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises [6].

(2) Experience has shown that it is desirable to have a unified and simplified reporting system of annual reports adopted pursuant to Article 27 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [7]. The specific reporting provisions laid down in Annex III to Regulation (EC) No 68/2001 should therefore only apply until such time as a general reporting system has been adopted.

(3) It is necessary to lay down provisions for the assessment of the compatibility with the common market of any training aid granted without prior authorisation of the Commission before the entry into force of Regulation (EC) No 68/2001.

(4) Regulation (EC) No 68/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 68/2001 is amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

Scope

This Regulation applies to training aid in all sectors, including the activities relating to the production, processing and marketing of products listed in Annex I of the Treaty, with the exception of aid falling within the scope of Council Regulation (EC) No 1407/2002 (*).

(*) OJ L 205, 2.8.2002, p. 1.';

2. In Article 2 points, (b) and (c) are replaced by the following:

'(b) "small and medium-sized enterprises" shall mean enterprises as defined in Annex I to Commission Regulation (EC) No 70/2001 (*);

(c) "large enterprises" shall mean enterprises not coming under the definition of small and medium-sized enterprises;

(*) OJ L 10, 13.1.2002, p. 33.';

3. In Article 7, paragraph 3 is replaced by the following:

'3. Member States shall compile an annual report on the application of this Regulation in accordance with the implementing provisions concerning the form and content of annual reports which are laid down pursuant to Article 27 of Council Regulation (EC) No 659/1999 (*).

Until such provisions enter into force, Member States shall compile an annual report on the application of this Regulation in respect of the whole or part of each calendar year during which this Regulation applies, in the form laid down in Annex III, also in computerised form. Member States shall provide the Commission with such report no later than three months after the expiry of the period to which the report relates.

(*) OJ L 83, 27.3.1999, p. 1.'

[1] OJ L 142, 14.5.1998, p. 1.
[2] OJ C 190, 12.8.2003, p. 2.
[3] OJ L 10, 13.1.2001, p. 20.
[4] OJ L 107, 30.4.1996, p. 4.
[5] OJ L 124, 20.5.2003, p. 36.
[6] OJ L 10, 13.1.2001, p. 33.
[7] OJ L 83, 27.3.1999, p. 1, Regulation as amended by the 2003 Act of Accession.

4. The following Article 7a is inserted:

'*Article 7a*

Transitional provisions

Aid schemes implemented before the date of entry into force of this Regulation, and aid granted under such schemes, in the absence of a Commission authorisation and in breach of the notification requirement of Article 88(3) of the Treaty, shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt if they fulfil the conditions laid down in Article 3(2)(a) and Article 3(3) of this Regulation.

Individual aid outside any scheme granted before the date of entry into force of this Regulation, in the absence of a Commission authorisation and in breach of the notification requirement of Article 88(3) of the Treaty, shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt if it fulfils all the conditions of this Regulation, except the requirement in Article 3(1) that express reference be made to this Regulation.

Any aid which does not fulfil these conditions shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.'

5. Annex I is deleted.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25 February 2004.

For the Commission

Mario MONTI

Member of the Commission