



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 21 March 2012**

**7783/12**

**COMPET 157  
IND 61  
FIN 215  
MI 184  
RC 7**

**NOTE**

---

From: the Presidency  
To: Delegations  
No. previous doc. 5533/12 COMPET 26 IND 7 FIN 32 MI 35 RC 5

---

Subject: Draft Council conclusions on Special Report No 15/2011 by the European Court of Auditors: Do the Commission's procedures ensure effective management of State aid control?

---

Delegations will find attached revised draft Council conclusions on Special Report No 15/2011 (see doc. 18936/11 FIN 1096 MI 682 RC 20) by the European Court of Auditors: Do the Commission's procedures ensure effective management of State aid control?

Changes to the previous document have been highlighted in the usual way.

**DRAFT COUNCIL CONCLUSIONS ON  
SPECIAL REPORT NO 15/2011 BY THE EUROPEAN COURT OF AUDITORS:  
DO THE COMMISSION'S PROCEDURES ENSURE EFFECTIVE MANAGEMENT OF  
STATE AID CONTROL?**

THE COUNCIL OF THE EUROPEAN UNION,

HAVING REGARD TO the Council conclusions on improving the examination of special reports drawn up by the Court of Auditors (hereafter: the Court) in the context of the discharge procedure<sup>1</sup>;

HAVING REGARD TO the Court's Special Report No 15/2011: Do the Commission's procedures ensure effective management of State aid control?<sup>2</sup>;

HAVING REGARD TO the procedural decision by the Permanent Representatives Committee (Part 2) in accordance with Article 19(7) of the Council's Rules of Procedure to instruct the Working Party on Competitiveness and Growth to examine the Court's Report in accordance with the rules laid down in the Council conclusions on improving the examination of special reports drawn up by the Court of Auditors in the context of the discharge procedure<sup>3</sup>;

RECALLING that the objective of the Court's audit was to assess whether the Commission's procedures ensure effective management of State aid control, in particular whether (1) the system of notifications, complaints and ex-officio enquiries ensures that the Commission handles all relevant State aid cases, (2) the Commission has adequate management structures and procedures in place for effective handling of the State aid cases within the deadlines, and (3) the Commission monitors the impact of its State aid control;

---

<sup>1</sup> Doc. 7515/00 + COR 1 of 3 April 2000, respectively 12 April 2000.

<sup>2</sup> Doc. 18936/11 of 21 December 2011.

<sup>3</sup> Doc. 18937/11 of 21 December 2011.

NOTES the following assessments and recommendations of the Court:

- The Commission has reacted promptly and effectively to the financial crisis;
- The Commission should review the allocation and use of the resources devoted to its management of State aid in order to be more proactive in raising Member States' awareness of State Aid rules by spreading best practices and giving more practical guidance, to step up its monitoring activities and to organize its ex officio enquiries<sup>4</sup> in a more systematic and targeted way to detect illegal aid;
- The Commission should (1) increase the transparency and speed up its case-handling procedures ~~by closing the preliminary investigation within one year after having received the initial notification;~~ (2) deal swiftly with unfounded complaints for the sake of legal certainty; (3) inform ~~stakeholders~~ **interested parties** more periodically about the progress of their case; (4) minimise the number of requests for information **relating to any given State aid file** sent to Member States **and limit such requests to those strictly needed for the Commission's decision-making;** and (5) consider lessons learnt from handling cases dealt with during the financial crisis **in order to improve its working methods;**
- The Commission should improve the efficiency and reliability of its data gathering process in order to improve the monitoring of State aid control.

TAKES NOTE OF the replies by the Commission to the findings and recommendations of the Court's Special Report and of the Commission's intention to further improve State aid control in close cooperation with the Member States.

INVITES the Commission to take into account the Court's recommendations and assessments in improving its control mechanism to ensure the legality of State aid.

---

<sup>4</sup> The term ex officio enquiries refers to own-initiative investigations, when DG Competition takes the initiative to examine and/or decide to launch an investigation of an alleged unlawful aid.