

Comments of the Czech Republic to the draft amendments to State aid Implementing Regulation and State aid Best Practices Code as regards access to justice in environmental matters

Best Practices Code

1. From the drafted documents it is not clear whether the start of the internal review based on the obligations of the Aarhus Convention will have a suspensive effect or if it could have any other impact on an already adopted EC decision. The same is unclear for the case of a finding of an EU environmental law violation. Information about the possible impacts of the start and/or positive finding of the review should be clearly described at least in the preamble of the Best Practices Code (BPC).
2. From the language point of view there is an abundance of the word “should” (in Czech „měl/y by“”) in the BPC which suggests an option not an obligation. We suggest “should” is replaced with “must” for situations that describes an obligation.
3. Paragraph 81(e) stipulates, that if documents *cannot be provided for reasons not attributable to the non-governmental organisation, that organisation may provide evidence in the form of any other equivalent document*. The BPC should include examples of the reasons and equivalent documents mentioned in this point to prevent its abuse.
4. Paragraphs 93 – 95 refer to time limits in paragraphs 107 and 108. This is clearly an error. The time limits are actually set in paragraphs 97 and 98.
5. We would also like to add a comment beyond the scope of the proposed amendment of the BPC. Paragraph 78. stipulates *“The Commission services will systematically keep Member States and complainants informed of the processing or closure of complaints”*. It is our experience that we are not systematically informed. We believe that the outcome of the closure procedure, along with the EC's statement on the matter, should be forwarded to the Member State. This would ensure transparency of the procedure, particularly in relation to the provider. Additionally, it would help to maintain a continuous overview of the EC's interpretation of the SA rules.

Implementing Regulation

6. **Art. 1(4)(b) of the draft** Implementing Regulation: In the second sentence, ‘existing aid scheme’ is replaced by ‘authorised aid scheme’. We suggest it should be ‘authorised aid scheme or ad hoc aid’. It should also clearly state that this applies to GBER (Regulation (EU) No 651/2014) schemes and ad hoc aids as well. We refer here to the replies of the EC available in the platform eWIKI.

General Notification Form

7. It is unclear why there are new agricultural objectives in point 6.1. that used to be included in “Agriculture; Forestry; Rural areas”. Namely the new objectives are:
 - Aid for co-operation in forestry sector.
 - Aid for co-operation in rural areas.
 - Aid for knowledge transfer and information actions in the agricultural sector.
 - Aid for promotion measures in favour of agricultural products.

We believe that these new objectives should be removed from point 6.1. of the General Notification Form as they should be treated in the same way as other agricultural aids as described in footnote 10 of the form.

8. Footnote 18 of the General Notification Form should be updated, as it currently refers to the no longer valid Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid. This regulation has been replaced by Commission Regulation (EU) 2023/2831 of 13 December 2023.

Czech translation of the General Notification Form

9. Section 14. Supplementary Information Sheet, letter f): English version uses the abbreviation CEEAG, e.g. “under Chapter 4.1. of CEEAG”, while Czech translation uses the full name of the Guidelines “podle kapitoly 4.1. Pokynů pro státní podporu v oblasti klimatu, životního prostředí a energetiky”. We suggest that the Czech version also includes the abbreviation CEEAG.
10. In point 6.1. there was a modification of Czech translation.

Current: Náprava vážné poruchy v hospodářství

Draft: Náprava vážného narušení hospodářství

We suggest keeping the current translation “Náprava vážné poruchy v hospodářství” as it is in line with the current translation of Article 107(3) TFEU.

11. The electronic version of the notification form in SANI contains in section 5 items to confirm whether the aid is granted under: Temporary Framework for COVID-19; Recovery and Resilience Facility; Just Transition Fund or Temporary Crisis and Transition Framework (5.6-5.9). These points are missing in the Information Sheets for notifications published online. The sheets should be updated to include them.

ANNEX III A STANDARDISED REPORTING FORMAT FOR EXISTING STATE AID

12. The EC wrote that the amendment only implies that Annex III.A will apply to all sectors (including agriculture which is currently excluded). But the document that was send to us is a modification of a no longer valid version of the Annex III.A which was since modified. Can the EC confirm that this was a clerical error and the modification will be made in the up-to-date version of the annex III A?