

THE CROATIAN PARLIAMENT

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION
PROMULGATING THE STATE AID ACT

I hereby promulgate the State Aid Act enacted by the Croatian Parliament at its session of 13 March 2003.

No.: 01-081-03-967/2
Zagreb, 20 March 2003

President of the Republic of Croatia
Stjepan Mesic

STATE AID ACT
I GENERAL PROVISIONS
Scope of the Act
Article 1

- (1) This Act shall set out general conditions and rules of the authorisation, monitoring and recovery of state aid for the purpose of preserving entrepreneurial and market freedom, ensuring equal legal position to all market participants, fostering economic prosperity, social welfare of citizens and concern for economic development and environmental protection of all regions in the Republic of Croatia, and the application of international obligations of the Republic of Croatia..
- (2) State aid to agriculture and fisheries shall not be covered by this Act.

Addressees of the Act
Article 2

- (1) Within the meaning of this Act, the providers of state aid shall be the Republic of Croatia through authorised legal entities and bodies of the central government, local self-government, regional self-government, and every legal entity granting or administering state aid within the meaning of this Act.
- (2) The recipients of state aid within the meaning of this Act shall be legal and natural persons that participate in the trade of goods and services by performing their economic activity and that receive some form of state aid.

II STATE AID
Definition of State Aid
Article 3

- (1) Within the meaning of this Act, state aid shall be all actual and potential expenses or decreased revenue of the state granted in any form whatsoever by the provider of state aid,

which distorts or threatens to distort competition by providing a benefit in the market to the recipient of state aid.

- (2) State aid under paragraph (1) of this Article shall be divided into general, defined by programmes and regulations addressed to *ex ante* unknown recipients, and individual, for specific recipients.
- (3) The procedure set out in this Act shall also apply to amendments to regulations stipulating general and individual state aid.

General Prohibition and Exemptions to General Prohibition
Article 4

- (1) Save as otherwise provided in this Act, state aid in any form whatsoever which distorts or threatens to distort competition by providing benefit in the market to the recipient of state aid, and in particular insofar as it may affect the international obligations of the Republic of Croatia, shall not be compatible with this Act.
- (2) Without prejudice to paragraph (1) of this Article, the state aid to make good the damage caused by natural disasters or exceptional or war occurrences shall be compatible with this Act.
- (3) Without prejudice to paragraph (1) of this Article, the following state aid may be considered to be compatible with this Act:
 - a. state aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment,
 - b. state aid to promote culture and protect heritage,
 - c. state aid to promote the execution of an important project or to remedy a serious disturbance in the economy,
 - d. state aid to facilitate the development of certain economic activities or of certain economic areas,
 - e. state aid to legal and natural persons entrusted by special provisions with service of general economic interest or granted exclusive rights for certain economic activities, without which these persons would be obstructed in performance of the particular tasks assigned to them,
 - f. state aid as may be specified by special regulations of the Government of the Republic of Croatia, not contrary to the purpose of this Act.
- (4) The Government of the Republic of Croatia shall determine the substance and essential elements of the compatibility of state aid considered under paragraph (3) of this Article.

Authority of the Agency
Article 5

The Competition Agency established under the Competition Act (Official Gazette No. 48/95 and 89/98), hereinafter: the Agency, shall have the authority to authorise, monitor and order recovery of general and individual state aid.

Scope of the Agency with Regards to State Aid
Article 6

- (1) The Agency shall perform the following activities:
 - a) evaluate and consider the state aid proposals and state aid programs within annual and multi-annual plans for authorisation of state aid,
 - b) monitor the usage and effects of state aid granted, and order recovery of state aid granted or used contrary to the regulations,
 - c) collect, process and record the data on state aid,
 - d) collect data on the usage and effects of state aid granted,
 - e) maintain records on state aid,
 - f) prepare the annual report on its activities and submit it to the Croatian Parliament,
 - g) cooperate with the body responsible for state aid to agriculture and fisheries regarding the preparation of the annual survey on state aid,
 - h) cooperate with bodies responsible for preparation of state budget, regional self-government budgets and local self-government budgets, in accordance with a special law,
 - i) submit the annual survey on state aid to the Croatian Parliament,
 - j) cooperate with international bodies, in accordance with international obligations of the Republic of Croatia,
 - k) participate in the preparation of draft bills and other regulations concerning state aid, and provide proposals on improvement of the state aid system,
 - l) perform other activities connected to implementation of this Act.
- (2) In performing activities under paragraph (1) of this Article, the Agency shall be granted the public authority and shall cooperate with bodies responsible for supervision of financial transactions connected to state aid in the Republic of Croatia.

Expert Scope of the Council
Article 7

In addition to the activities set out in the Competition Act, the Council of the Agency shall submit to the director-general:

1. opinions on proposals of acts authorising general and individual state aid, draft bills and other regulations regarding state aid,
2. proposals on the improvement of the state aid system,
3. opinions on other matters in the field of state aid.

III PROCEDURE OF AUTHORISATION, MONITORING
AND RECOVERY OF STATE AID

Proceedings before the Agency
Article 8

- (1) The procedure of submitting opinions on draft programmes and regulations setting out general state aid shall be governed by the regulations setting out the procedure of their adoption.
- (2) Save as otherwise provided in this Act, the procedure concerning the acts authorising individual state aid shall be governed by the General Administrative Procedure Act.

Acts of the Agency
Article 9

- (1) The opinion on draft acts setting out general state aid shall be submitted by the Agency according to the procedure and within the timeframes stipulated for their adoption.
- (2) The Agency shall by way of a decision, as an administrative act:

- a) authorise a draft act granting individual state aid,
 - b) refuse to authorise a draft act granting individual state aid,
 - c) reject a request for authorising a draft act granting individual state aid,
 - d) repeal authorisation of a draft act granting individual state aid and order recovery of funds used on the basis of that authorisation,
 - e) terminate the proceedings before the Agency.
- (3) An appeal is not allowed against the decisions under paragraph (2) of this Article, but it is possible to submit an administrative dispute against them.
 - (4) The Agency shall notify the Croatian Parliament of the misapplication of acts authorising general state aid.

Serving of Data and Documents
Article 10

- (1) In performing the activities under Article 6 of this Act, the Agency shall be authorised to request in writing from the providers of state aid and/or the recipients of state aid, all data and documents it deems necessary for implementation of the provisions of this Act.
- (2) The provider of state aid and/or the recipient of state aid shall provide, in writing, all the requested data and documents under paragraph (1) of this Article, within 30 days.
- (3) If the provider of state aid and/or the recipient of state aid fails to provide the requested data and documents after a repeated request under paragraph (1) of this Article, the Agency may issue a decision under Article 13 of this Act.

Individual State Aid
Article 11

- (1) The provider of state aid shall submit to the Agency a draft act granting individual state aid expressing its intention to grant state aid in compliance with the provisions of this Act.
- (2) The Government of the Republic of Croatia shall determine the contents of the drafts and the procedure for its submittal under paragraph (1) of this Article.

General State Aid
Article 12

- (1) The procedure and deadlines of the Agency for submitting the opinions on draft acts setting out general state aid provided by the central government budget and the budgets of local and regional self-government shall be governed by the provisions of the Budget Act.
- (2) Save as otherwise provided under paragraph (1) of this Article, the procedure and deadlines for submitting draft acts granting general state aid, shall be determined by the Government of the Republic of Croatia.

Authorisation of State Aid
Article 13

- (1) The Agency shall, not later than 60 days after the day of the receipt of the draft, issue a decision authorising or refusing to authorise draft acts under paragraph (1) of Article 11 of this Act, confirming the compliance of the draft with this Act.
- (2) The Agency shall reject the request for authorisation if it finds that the draft act granting individual state aid does not relate to state aid within the meaning of this Act.
- (3) Individual state aid may not be granted without the decision under paragraph (1) of this Article, except in the instances under Article 15 of this Act.
- (4) If the request for authorisation is rejected, it may be re-submitted provided that the reasons for which it had originally been rejected have been eliminated.

Monitoring and Recovery of State Aid
Article 14

- (1) Monitoring of state aid shall be conducted on proposal of the director-general of the Agency, the recipient of state aid, the provider of state aid, or a legal or natural person having a legal interest.
- (2) If the Agency shall determine irregularities while performing the supervision of state aid application under Article 6, paragraph (1), item b) of this Act, the Agency shall decide to order the provider of state aid and/or the recipient of state aid to remedy the irregularities within no longer than 3 months.
- (3) If the provider of state aid shall not remedy the irregularities within the timeframe under paragraph (2) of this Article, the Agency shall decide to order recovery of granted state aid in part where the irregularities had occurred, increased for the amount of legal interest on arrears from the date, determined by the decision, on which the irregularities started.

Ex Post Approval and Recovery of State Aid
Article 15

- (1) If individual state aid has been granted without the authorisation of the Agency because the provider of state aid has, for justifiable reasons, failed to submit the draft act under Article 11 of this Act, the Agency may, *ex post*, issue the decision authorising the act granting state aid, if it determines that state aid is compatible with the provisions of this Act.
- (2) If, in case of state aid under paragraph (1) of this Article, the Agency determines that state aid is not compatible with the provisions of this Act, it shall issue a decision repealing the act granting state aid and order that the amount of state aid used, be recovered, increased for the amount of legal interest on arrears from the day on which the usage of state aid began.

*Rules of Procedure on Authorisation, Monitoring,
Ex Post Authorisation and Recovery of State Aid*
Article 16

The director-general of the Agency shall determine the form and contents, and the method of collection of data and maintaining records on state aid.

Publication
Article 17

Administrative acts of the Agency under Article 9, paragraph (1) items a), b) and d) and rulings of the Administrative Court of the Republic of Croatia based on these administrative acts shall be published in the Official Gazette.

Data Confidentiality
Article 18

- (1) Data and documents collected in the process of authorisation, monitoring and recovery of state aid shall be considered confidential.
- (2) The director-general of the Agency, the employees of the Agency and the chairperson and members of the Council shall be obliged to protect the confidential nature of data and documentation under paragraph (1) of this Article, even after the expiry of their term of office or their employment therewith.

Annual Reports
Article 19

- (1) The director-general of the Agency shall submit to the Croatian Parliament the annual report on the activities of the Agency in the field of state aid for the previous year, and the annual survey on state aid, by 30 April of every year.
- (2) The competent ministry and authorised legal entities shall be required to cooperate with the Agency in the preparation of the annual survey on state aid to agriculture and fisheries.

IV FINAL PROVISIONS

Article 20

Within one year from the date of enforcement of this Act, the Agency shall establish a comprehensive inventory of current state aid programs and other acts granting state aid instituted before the enforcement of this Act, and shall submit draft conclusions to the Croatian Parliament, in order to align these with this Act by 1 January 2006.

Article 21

- (1) The regulations under Article 4, paragraph (4), Article 11, paragraph (2), and Article 12, paragraph (2) of this Act shall be enacted by the Government of the Republic of Croatia within a period of 30 days from the date of enforcement of this Act.
- (2) The director-general of the Agency shall harmonise the Statute and other By-Laws of the Agency with the provisions of this Act, within a period of 3 months from the date of enforcement of this Act..
- (3) The director-general of the Agency shall submit the first annual reports under Article 19, paragraph (1) of this Act by 30 April 2004.

Article 22

Funds necessary for operation of the Agency pursuant to the provisions of this Act shall be provided for in the state budget.

Article 23

This Act shall enter into force on the eighth day following its publication in the Official Gazette.

Class. No. 421-01/02-01/01
Zagreb, 13 March 2003

THE CROATIAN PARLIAMENT
President
of the Croatian Parliament
Zlatko Tomcic