

Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification) (Text with EEA relevance)

CHAPTER II

**PROCEDURE REGARDING NOTIFIED AID**

*Article 9*

**Decisions of the Commission to close the formal investigation procedure**

1 Without prejudice to Article 10, the formal investigation procedure shall be closed by means of a decision as provided for in paragraphs 2 to 5 of this Article.

2 Where the Commission finds that, where appropriate following modification by the Member State concerned, the notified measure does not constitute aid, it shall record that finding by way of a decision.

3 Where the Commission finds that, where appropriate following modification by the Member State concerned, the doubts as to the compatibility of the notified measure with the internal market have been removed, it shall decide that the aid is compatible with the internal market ('positive decision'). That decision shall specify which exception under the TFEU has been applied.

4 The Commission may attach to a positive decision conditions subject to which aid may be considered compatible with the internal market and may lay down obligations to enable compliance with the decision to be monitored ('conditional decision').

5 Where the Commission finds that the notified aid is not compatible with the internal market, it shall decide that the aid shall not be put into effect ('negative decision').

6 Decisions taken pursuant to paragraphs 2 to 5 shall be taken as soon as the doubts referred to in Article 4(4) have been removed. The Commission shall as far as possible endeavour to adopt a decision within a period of 18 months from the opening of the procedure. This time limit may be extended by common agreement between the Commission and the Member State concerned.

7 Once the time limit referred to in paragraph 6 of this Article has expired, and should the Member State concerned so request, the Commission shall, within 2 months, take a decision on the basis of the information available to it. If appropriate, where the information provided is not sufficient to establish compatibility, the Commission shall take a negative decision.

8 Before adopting any decision in accordance with paragraphs 2 to 5, the Commission shall give the Member State concerned the opportunity of making known its views, within a time-limit that shall not normally exceed 1 month, on the information received by the Commission and provided to the Member State concerned pursuant to Article 7(3).

9 The Commission shall not use confidential information provided by respondents, which cannot be aggregated or otherwise be anonymised, in any decision taken in accordance with paragraphs 2 to 5 of this Article, unless it has obtained their agreement to disclose that information to the Member State concerned. The Commission may take a reasoned decision,

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*Status: This is the original version (as it was originally adopted).*

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which shall be notified to the undertaking or association of undertakings concerned, finding that information provided by a respondent and marked as confidential is not protected, and setting a date after which the information will be disclosed. That period shall not be less than 1 month.

10 The Commission shall take due account of the legitimate interests of undertakings in the protection of their business secrets and other confidential information. An undertaking or an association of undertakings providing information pursuant to Article 7, and which is not a beneficiary of the State aid measure in question, may request, on grounds of potential damage, that its identity be withheld from the Member State concerned.