



NEWSLETTER - *Latest legal updates*

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ENVIRONMENTAL LAW

Commission takes legal action over waste landfill problems in XYTA Fylis

The European Commission decided to take legal action over two cases where Greece is violating the EC legislation for the protection of human health and the environment against pollution from water waste and solid waste. In the first case the Commission has issued a reasoned opinion according to Article 226 EC warning Greece over problems regarding the operation of the new landfill in Fyli, Western Attica, that constitute a violation of the EU waste legislation. The legal representatives of the Prefecture of Western Attica, Law Firms PAPPAS & ASSOCIATES and METAXAS & ASSOCIATES, have drafted and filed a complaint with the European Commission that initiated the legal procedure that led to the issuance of the aforementioned reasoned opinion.

Furthermore, the Commission is launching an infringement procedure against Greece for not putting in place the required infrastructure for collecting and treating waste water in 12 towns and cities despite having already been condemned by the European Court of Justice for such failure.

For further information see:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1825&format=HTML&aged=0&language=EL&guiLanguage=en>

STATE AID

Commission approves support package for Greek credit institutions

On the 19th of November 2008, the European Commission announced that it has decided to approve, under Article 87(3) (b) of the EC Treaty, a Greek package of measures to support Greek credit institutions. The Commission decided that such measures can provide the adequate means to remedy any serious disturbance in the Greek economy that might result from the current financial crisis, without causing undue distortions of competition. The measures are in line with the principles set out in the Commission's

Communication on how the State aid rules apply to measures taken in relation to financial institutions in the context of the current global financial crisis.

For further information see:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1742>

Commission consults on draft guidance for state aid enforcement by national courts

On the 22nd of September 2008, the European Commission has launched public consultations on a set of guidelines to assist Member States on the application of EC state aid rules by the national courts. The guidelines aim the support of national courts and potential claimants in relation to domestic state aid infringements. In addition national judges will be able to seek complementary information from the Commission on the application of the state aid rules.

National Courts have a vital role in the enforcement of ECstate aid rules. Individuals or companies affected by the granting of unlawful aid can obtain effective remedies by challenging such measures before national courts. The Commission's State Aid Action Plan envisages a 1995 review notice on the cooperation of national courts and the Commission in the field of state aid.

The new draft notice has two key aims:

- 1) To provide a more detailed guidance for national courts and potential claimants about the European Courts' jurisprudence on the role of national courts in the state aid field. This includes guidance on issues such as the protection of individual rights, the recovery of illegal aid, interim relief and damages actions.
- 2) To provide national courts with a more practical and user friendly guidance in their daily work through support mechanisms based on existing practices in the antitrust area. Therefore, national judges

would be able to ask the Commission for complementary information on the application of the state aid rules.

Furthermore, the draft notice draws on a 2006 detailed study on the enforcement of state aid law at national level. This study provided that, although the overall number of state aid cases before the national courts had increased the actions that aimed the challenging of granting illegal aid were still relatively rare.

For further information see:

http://ec.europa.eu/comm/competition/state_aid/reform/reform.cfm.

Commission publishes draft communication on the future framework for state funding of public service broadcasting

On the 4th of November 2008, the European Commission published for consultation a draft text of a revised Communication on the application of state aid rules to public service broadcasting. Consequently, Member States and stakeholders have now the opportunity to submit their views on the proposed text. Comments should be submitted by 15 January 2009. Key issues for discussion include the increase of flexibility for public broadcasters to assist them in meeting the challenges from the new media environment, the principles underpinning the definition of the public service remit by the Member States as well as the supervision of public service activities at national level. As a result of receiving these comments, the Commission would be able adopt a modernized Broadcasting Communication system in the first half of 2009. At first, consultation on the general principles of the review took place between January and March 2008.

The review built on the fundamental principles applicable to the financing of public service broadcasting especially on those provided by the Amsterdam Protocol. The review included the recognition of member states' wide discretion of powers in defining the mission of public service broadcasters and the Commission's task to preserve fair competition in the market.

Additionally, the text submitted for consultation aims on the application of these principles for the control of state aid in the broadcasting sector in accordance to the new media environment following the Commission's practices. It affirms that it is primarily for states to assess through a transparent and accountable process the needs of their societies, the value for the public for new services, as well as their impact on the market.

The draft also suggests increased flexibility for the public service mission to withstand cost fluctuations. Member states and stakeholders are now invited to comment on the specific provisions that are suggested by the Commission and they have to apply for the state funding of public service broadcasting.

For further information see:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1626&format>

Commission approves German aid to improve broadband availability in rural areas

The European Commission has endorsed under the EC Treaty state aid rules a sum of €45 million aid to foster the availability of widespread and affordable broadband services in the three German Länder of Sachsen, Niedersachsen and Bayern. The support target areas where such services are currently unavailable, complements a €141 million federal scheme approved in July 2008 to enable the transfer of broadband to the rural areas of Germany. The regional aid schemes are expected to provide additional impetus to increase broadband coverage in these regions. The Commission found the schemes to be used compatible with the state aid rules, because the state support is allowed only where the market cannot provide broadband coverage and the distortions of competition brought by the aid are limited by adequate safeguards.

Specifically, the schemes ensure that public funding will only be used if no electronic communication operator is able to bring affordable broadband services to local citizens on market terms. The Commission's examination

confirmed that state aid would be used only to the extent that is absolutely necessary and the distortions of competition would be limited by a thorough market research to identify the problematic areas and grant the aid through open tenders. The Commission has therefore concluded that the aid was in line with the EU state aid rules allowing the development of certain economic areas of activity, provided it does not unduly affect trade between Member States.

For further information see:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1662&format=HTML>

COMPETITION LAW

Antitrust: Commission confirms unannounced inspections in the cement sector

The European Commission can confirm that on the 4th and the 5th of November 2008, its officials, accompanied by their counterparts from the relevant national competition authorities, carried out unannounced inspections at the premises of companies operating in the cement and related products industry in several member states. The Commission had reasons to believe that the companies concerned could have engaged in illegal distorting competition practices, in violation of the EC Treaty antitrust rules that prohibit cartels and restrictive business practices, and /or might have abused their dominant market position in breach of Article 82 of the EC Treaty. This inspection, which was conducted under Article 20 of Regulation 1/2003, is a preliminary stage in the Commission's investigation into the possible infringements. The fact that the European Commission carries out such inspections does not mean that the companies are guilty for anti-competitive behavior nor does it prejudice the outcome of the investigation itself. The European Commission respects the companies' rights for defense, in particular the right to be heard before the Commission.

There is no strict deadline to complete any inquiries into anticompetitive conduct. The duration of such inquiries depends on a number of factors, including the complexity of each case, the extent to which the undertaking concerned is willing to co-operate with the Commission and how its undertaking exercises its rights of defense.

For further information see:

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/676>

For further information you can contact:



80 Ippokratous Street

106 80 Athens

Tel: +30 210 33 90 748

Fax: +30 210 33 90 749

e-mail: info@metaxaslaw.gr

www.metaxaslaw.gr

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