

**Act No. 215/2004**

**amending certain relationships within the area of state aid, and altering the act on the  
promotion of research and development**

(the English version of this document is only for working purposes; the only authentic is the Czech version)

The Parliament has adopted the following Act of the Czech Republic:

## PART ONE

### CERTAIN RELATIONSHIPS WITHIN THE ARE OF STATE AID

#### Article 1

##### Scope of Amendments

(1) This Act amends the execution of state administration powers by the Office for the Protection of Economic Competition ("Office") in the are of state aid<sup>1)</sup>, the rights and obligations of agencies granting state aid and state aid beneficiaries towards the Office, as well as some other relationships in the area of state aid.

(2) This Act also regulates certain aspects of cooperation between the Czech Republic and the European Communities Commission ("Commission") in actions according to the directly binding legislation of the European Communities that lays down rules for the application of Article 88 of the Treaty establishing the European Community<sup>2)</sup> ("Regulation").

(3) This Act shall not apply to state aid to agriculture and fisheries.

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#### Article 2

##### Definitions

For the purpose of this Act:

- a) "Provider" shall mean the entity that decides about the granting of state aid; in case of state aid awarded by a decision of the government of the Czech Republic, the provider shall be the ministry or some other central administrative body that submitted the proposal for the granting of state aid or for a programme of state aid<sup>3)</sup> to the government of the Czech Republic,
- b) "Beneficiary" shall be a natural or legal person for the benefit of whom the decision to grant state aid has been made.

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<sup>1)</sup> Article 1 a) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>2)</sup> Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>3)</sup> Article 1 d) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

### Article 3

#### **Activities of the Office in the Area of State Aid**

The Office shall

- a) cooperate with the Provider prior to the notification of state aid to the Commission,
- b) cooperate with the Commission and with the Provider during the examination procedures by the Commission.
- c) maintain a register of state aid awarded in the Czech Republic, and it shall submit its annual report to the Commission<sup>4)</sup>.
- d) supervise<sup>5)</sup> the compliance with the final decisions on state aid issued by the Office pursuant to relevant legislation<sup>6)</sup>, and
- e) it shall decide about the imposition of fines in accordance with this Act.

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### Article 4

#### **Procedures before the Commission**

Providers shall negotiate with the Commission in the case of procedures concerning notified state aid<sup>7)</sup>, unlawful state aid<sup>8)</sup>, abuse of state aid<sup>9)</sup>, existing schemes of state aid<sup>10)</sup>, on-site monitoring<sup>11)</sup>, and when the decision is announced<sup>12)</sup>.

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### Article 5

#### **Provision of information on state aid**

(1) The Provider shall submit the following information and documents to the Office:

- a) information on state aid awarded in the previous calendar year and on state aid schemes in operation shall be submitted by 30 April of the calendar year; detailed information on the performance of this obligation shall be stipulated in statutory instrument.
- b) counterparts or copies of all petitions submitted in proceedings in accordance with Article 4, within 10 days of submitting them; and counterparts or copies of petitions and

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<sup>4)</sup> Article 21) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>5)</sup> State Control Act 552/1991 Sb., as amended by later legislation

<sup>6)</sup> State Aid Act 59/2000 Sb., as amended by Act 130/2002 Sb.

<sup>7)</sup> Article 2) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>8)</sup> Article 10 and subsequent ones of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>9)</sup> Article 16 of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>10)</sup> Article 17 and subsequent ones ) of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>11)</sup> Article 22 of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>12)</sup> Article 25 of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

decisions in proceedings in accordance with Article 4 that were delivered to him, within 10 days of their delivery, and

- c) all other information and documents required by the Office pertaining to state aid or state aid schemes within time limits stipulated by the Office. The time limits shall be stipulated by the Office with respect to the scope and accessibility of the information and documents requested.

(2) At the request of the Office and within the period specified, the Beneficiary shall submit all documents and other information referring to state aid; for identification purposes, the Office may request that the Beneficiary – natural person gives his first name and surname, date of birth and the address of permanent residence to the Office. In specifying the time period, the Office shall apply Article 1 c).

(3) The Provider and the Beneficiary shall be responsible for the veracity and accuracy of information and data submitted to the Office pursuant to Article 1 or 2.

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#### Article 6

#### **On-site monitoring by the Commission**

When the Commission is making on-site monitoring visits on the territory of the Czech Republic<sup>14)</sup>, the Providers and the Beneficiaries shall cooperate with the Commission and persons authorized by the Commission to the extent necessary.

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#### Article 7

#### **Recovery of state aid**

(1) Where the Commission decides that state aid should be recovered<sup>13)</sup> or provisionally recovered<sup>14)</sup>, the Recipient shall refund the state aid awarded, including interest at a rate fixed by the Commission.

(2) The Provider shall immediately call upon the Beneficiary to comply with his obligation stipulated in Par. 1; where the time period for the recovery<sup>13)</sup> of state aid or provisional recovery<sup>14)</sup> of state aid is not specified in the decision by the Commission, the Provider shall also stipulate such a time period in his call. If the call is ignored, after the lapse of time for the recovery<sup>13)</sup> or provisional recovery<sup>14)</sup> of state aid, the Provider shall bring an action against the Beneficiary.

(3) Where the Recipient is subject to control or to control pursuant to special legislation<sup>15)</sup>, the Provider shall also inform the authority exercising control or supervision over the Recipient about the party's obligation to refund state aid granted.

<sup>13)</sup> Article 14 of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>14)</sup> Article 11 of Council Regulation (EC) No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

<sup>15)</sup> For instance Banking Act 21/1992 Sb., Act 363/1999 Sb., on insurance companies and on amendments to certain related statutes (Insurance Companies Act), Act 87/1995 Sb., on savings and credit cooperatives and certain measures relating to them, and on the extension of the Czech National Council Income Tax Act 586/1992 Sb., as amended.

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## Article 8

### Penalties

(1) The Office may impose a fine of up to 1 per cent of state aid granted to a party that does not provide the Office with information and documents stipulated in Article 5 Par. 1 or 2, or if the information provided is untrue or distorted, or if the party does not meet the obligations stipulated in Article 6.

(2) The fine imposed pursuant to Par. 1 may be imposed repeatedly. When imposing fines, the Office shall take into account the severity, repetition (if any) or length of non-compliance with statutory obligations.

(3) The Office shall impose no fine if the party stipulated in Par. 1 can prove that it made every effort that might be requested of it to prevent the breach of obligations.

(4) A fine pursuant to Par. 1 may be imposed within 1 year from when the breach of obligations was ascertained, but not later than 3 years from when the breach of obligations occurred.

(5) The imposition of a fine shall be governed by rules of administrative procedure.

(6) The fines imposed shall be collected and recovered by the Office in accordance with special legislation defining rules for the administration of taxes and charges.<sup>16)</sup> Proceeds of fines shall be for the state budget.

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## Article 9

### **Implementing provision**

The Office shall issue implementing guidelines concerning the form and content of obligatory information to be submitted by the Providers pursuant to Article 5 Par. 1a).

## Article 10

### **Provisional measures**

(1) The Office shall issue a decision to stop procedures on the award of state aid that have not been completed by the day of this Act coming into effect.

(2) The decisions issued by the Office pursuant to State Aid Act 59/2000 Sb., as amended by Act 130/2002 Sb., on the promotion for research and development from public funds and on alterations to some related statutes (Promotion for Research and Development Act) prior to the day when this Act comes into effect shall remain in force. The compliance with terms and conditions stipulated by these decisions, as well as imposition of penalties for non-compliance, shall be governed by existing legislation.

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<sup>16)</sup> Act 337/1992 Sb., on the administration of taxes and charges as amended by later legislation.

Article 11

**Repealing clause**

The following shall be repealed:

1. State Aid Act 59/2000 Sb.
2. Decree 435/2000 Sb., which stipulates the elements of obligatory information on state aid awarded.

PART TWO

ALTERATIONS TO THE PROMOTION FOR RESEARCH AND DEVELOPMENT ACT

Article 12

Part Three of the Act 130/2002 Sb., on the promotion for research and development from public funds and on alterations to some related statutes (Promotion for Research and Development Act) is hereby repealed.

PART THREE

Entry into force

Article 13

This Act shall enter into force on the day when the Treaty of Accession of the Czech Republic to the European Union comes into force.