

## COMMISSION REPORT ON THE APPLICATION OF THE 1995 GUIDELINES ON AID TO EMPLOYMENT

### UNICE COMMENTS

#### 1. INTRODUCTION

UNICE has noted the Commission's report on the application of the 1995 guidelines on aid to employment and welcomes the Commission's initiative to consult widely on the issue. UNICE appreciates being given the opportunity to exchange views with the Commission and hopes that close consultation and cooperation between Commission officials and UNICE on this important subject will continue to take place in the upcoming period.

UNICE has consistently held that strict control of state aid, on the basis of clearly defined criteria, is necessary to prevent distortions of competition in the internal market and has repeatedly called on the Commission to define these criteria through guidelines and block exemption regulations, while at the same time urging the Commission to ensure that any new specific block exemption regulations do not undermine the efficiency of state aid controls. Decentralisation of state aid control by means of block exemption regulations, which rely heavily on self-assessment by companies and monitoring by the Member States themselves, should not detract from the uniform application of Community law.

As a general point, although UNICE realises that application of the current guidelines has not generally been problematic and that the number of cases has been relatively low, UNICE regrets that the Commission's report does not provide a more thorough analysis of how the guidelines were applied in practice. Considering the small number of cases, UNICE wonders whether political considerations have sometimes interfered with the Commission's assessment of employment aid measures.

Having said this, UNICE welcomes the Commission's suggestions to improve existing rules, although it has some reservations regarding elements of the proposals. These reservations and suggestions for further development are set out below.

#### 2. THE PROVISIONS OF THE GUIDELINES

##### *Aid to maintain jobs in exceptional circumstances*

The Commission will be favourably disposed towards aid to maintain jobs only in exceptional circumstances, following natural disasters and in regions qualifying for regional aid.

UNICE considers that as regards aid to maintain jobs in areas of serious underemployment (*i.e.* other than as a result of natural disasters) the Commission must ensure that the company in question has not threatened job reductions as a means of obtaining direct operating aid. Such aid should also be subject to explicit ceilings and limited in duration.

### 3. ISSUES TO BE ADDRESSED IN ANY NEW TEXT CONCERNING STATE AID TO EMPLOYMENT

#### *The scope*

The guidelines apply to aid to employment which is aid not linked to investment. The Commission suggests that in this context the relationship between investment aid and employment aid may need to be clarified, in the light of experience of national state aid notifications and management of the structural funds.

UNICE agrees that revision of the guidelines should specifically apply only to operating aid, with investment aid that creates jobs being dealt with in the relevant other guidelines (*e.g.* regional investment aid).

#### *Quantification of conditions and allowable levels of aid*

The Commission suggests that a clear aim of any new text will be to ensure a coherent approach between state aid to employment and employment aid linked to investment.

UNICE agrees that a coherent approach should be ensured and that the same principles as apply to regional investment aid should apply to other aid measures. Operating aid to create jobs will only occur when aid is given to companies to take on extra workers so that they can expand output (having unused spare capacity). This will be a direct operating aid and therefore distortive.

#### *Definition of the special categories of workers entitled to more favourable treatment*

The Commission's intention is to include a clearer definition in a new text, drawing on experience in other activities, including the current draft training aid exemption regulation.

UNICE agrees that "special categories" of workers experiencing difficulties entering or re-entering the labour market need very precise definition. The guidelines at present are very lenient in this respect. Clear target groups have to be defined and it should be ensured that national features of the labour market are taken into consideration.

#### *Application of employment aid schemes in the "sensitive sectors"*

According to the Commission, aid for employment must not undermine other state aid rules, in particular in those sectors where there are particular issues, notably overcapacity, which have led to specific rules being adopted on state aid.

UNICE considers that, in principle, employment aid should not be allowed in sectors where there are particular issues which have led to specific rules being adopted on state aid.

### 4. OPTIONS FOR A FUTURE TEXT

The Commission proposes either to adopt a block exemption regulation for employment aid or to adopt revised guidelines.

As stated above, UNICE has always argued that decentralisation of state aid control by means of block exemption regulations, which rely heavily on self-assessment by companies and monitoring

by the Member States themselves, should not detract from the uniform application of Community law. Decentralisation clearly amplifies the risk of inconsistencies within the system.

Consequently, and considering the complexity of employment aid schemes, UNICE believes that the Member States should continue being compelled to notify their employment aid measures to the Commission, unless, of course, these schemes can be considered as general measures because they make no distinction between sectors, companies or geographical areas, and the Member States do not enjoy discretion in granting them. Considering that in addition the number of cases in this field has been relatively low, UNICE believes that there are insufficient reasons to adopt a block exemption regulation for employment aid.

If nevertheless the Commission would opt for adoption of a block exemption, it could consider a dual approach: in the interests of efficiency, a block exemption regulation could be issued to cover very well defined and straightforward cases, with the Commission continuing to assess more difficult cases on the basis of revised guidelines.

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