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⁽¹⁾ Text with EEA relevance

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN DATA PROTECTION SUPERVISOR

Opinion of the European Data Protection Supervisor on the proposal for a Council Directive on administrative cooperation in the field of taxation

(2010/C 101/01)

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union, and in particular its Article 16,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular its Article 8,

Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾,

Having regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, and in particular its Article 41 ⁽²⁾,

HAS ADOPTED THE FOLLOWING OPINION:

I. INTRODUCTION

1. On 2 February 2009, the Commission adopted a proposal for a Council Directive on administrative cooperation in the field of taxation ⁽³⁾. The proposed Council Directive is intended to replace Council Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation. ⁽⁴⁾
2. After the entry into force of the Treaty of Lisbon on 1 December 2009, the legal bases of the proposal are

Articles 113 and 115 of the TFEU ⁽⁵⁾. Decisions on these legal bases are adopted in accordance with a special legislative procedure. This implies that the Council decides by unanimity on a proposal of the Commission and after the European Parliament and the European Economic and Social Committee have been consulted.

3. The EDPS has not been consulted as required by Article 28(2) of Regulation (EC) No 45/2001. The current opinion is therefore based on Article 41(2) of the same Regulation. The EDPS recommends that a reference to this opinion is included in the preamble of the proposal.
4. Improving the exchange of information, which in most cases constitutes information (also) relating to natural persons, is one of the main purposes of the proposal. The EDPS is aware of the importance of enhancing the effectiveness of administrative cooperation between Member States in the field of taxation. The EDPS furthermore sees the advantages and need to share information, but wishes to underline that the processing of such data must be in conformity with the EU rules on data protection.
5. Situations which involve the trans-border exchange of personal data within the EU deserve special attention since they imply an increase in scale of the data processing which necessarily leads to bigger risks for the rights and interests of natural persons involved, since — in any event — the same personal data are processed in more than one jurisdiction. It implies greater efforts to ensure compliance with the requirements stemming from EU legislation on data protection. It furthermore leads to legal uncertainty for the data subjects: actors from all other Member States may be involved, national laws of these other Member States might be applicable and might differ slightly from the laws data subjects are used to, or apply in a legal

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

⁽³⁾ COM(2009) 29 final of 2 February 2009.

⁽⁴⁾ Council Directive 77/799/EEC of 19 December 1977 (OJ L 336, 27.12.1977, p. 15).

⁽⁵⁾ See COM(2009) 665 final of 11 December 2009, Annex IV, p. 45.

system which is unfamiliar to the data subject. In a cross border context, the responsibilities of the different actors must be clearly addressed, also to facilitate supervision by the competent authorities, as well as judicial control, in different contexts.

6. Unfortunately, the EDPS has only recently become aware of the current proposal. This can be explained by the fact that awareness of data protection requirements in relation to taxation matters is still in its initial phase. The EDPS sees signs that this awareness is increasing, but emphasises that much more can and must be achieved in this respect.
7. The current proposal is a clear example of a lack of data protection awareness since the issue of data protection has almost completely been ignored. Consequently, the proposal contains several elements which do not comply with the applicable data protection requirements.
8. The EDPS is aware of the fact that the procedure in the European Parliament has nearly reached its final stage at Committee level. However, because of the failure to properly address the data protection impact of the proposed cooperation, the EDPS still considers it necessary to present his view on the matter. The EDPS expresses the wish that the comments set out in this opinion will still be taken into account and will foster the system of administrative cooperation to be developed in a way which respects the right to data protection of the European citizens ⁽¹⁾.

II. EU COOPERATION IN THE FIELD OF TAXATION

II.1. Context and scope of the proposal

9. As said, the current proposal intends to replace Directive 77/799/EEC. This Directive, adopted on 19 December 1977, deals with exchange of information about taxes on income and capital.
10. Initially, administrative cooperation relating to VAT and excise duties were part of the scope of Directive

⁽¹⁾ See also Article 8 of the EU Charter of Fundamental Rights and Article 16(1) TFEU, both of which are binding for the EU institutions and for the Member States when they are implementing Union law.

77/799/EEC. However, since 7 October 2003 and 16 November 2004 respectively, these subjects are dealt with in separate legal instruments, namely Regulation (EC) No 1798/2003 and Regulation (EC) No 2073/2004 ⁽²⁾. A proposal to recast Regulation (EC) No 1798/2003 was published by the Commission on 18 August 2009 ⁽³⁾. The EDPS presented an opinion on this proposal on 30 October 2009 ⁽⁴⁾.

11. The Commission proposes to broaden the scope of the new Directive from taxes on income and capital to all indirect taxes. VAT and excise duties remain excluded from the scope. The proposal yet intends to align cooperation on the basis of the new Directive with the cooperation in these two specific areas. Part of the comments set out in part III of this opinion will therefore resemble the ones made in the opinion of 30 October 2009.

II.2. Substance of the proposal

12. After a first chapter containing several general provisions, Chapter II of the proposal deals with the exchange of information between Member States. This is done through liaison offices of competent authorities which are designated by each Member State for the application of the Directive. Information can be exchanged upon request, automatically or spontaneously.
13. Chapter III of the proposal contains provisions on other forms of administrative cooperation than exchange of information, such as simultaneous controls, administrative notification and sharing of best practices and experience. Chapter IV sets out the conditions which govern administrative cooperation. It contains provisions on disclosure of information and documents to other authorities, on requirements for good cooperation, on standard forms and computerised formats and on the use of the common communication network/common system interface (CCN network).
14. Chapter V contains a provision on the evaluation of the administrative cooperation and Chapter VI deals with the exchange of information with third countries. The final Chapter VII introduces a Comitology procedure for the adoption of more detailed rules.

⁽²⁾ See Council Regulation (EC) No 1798/2003 of 7 October 2003 (OJ L 264, 15.10.2003, p. 1) and Council Regulation (EC) No 2073/2004 of 16 November 2004 (OJ L 359, 4.12.2004, p. 1).

⁽³⁾ COM(2009) 427 final of 18 August 2009.

⁽⁴⁾ See the EDPS opinion of 30 October 2009, which is available at: http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2009/09-10-30_tax_fraud_EN.pdf

III. DETAILED ANALYSIS OF THE PROPOSAL

III.1. Applicable data protection rules

15. In the data protection legislation, 'personal data' is broadly defined as 'any information relating to an identified or identifiable natural person' ⁽¹⁾. It is clear that under the proposed Directive personal data will be processed and exchanged by the competent authorities of the different Member States. In such a situation, the national rules implementing Directive 95/46/EC are applicable and should be complied with. Although this goes without saying, for the sake of clarity, the EDPS urges the legislator to include a reference to Directive 95/46/EC at least in the recitals of the current proposal and preferably in a substantive provision as well, stating that the provisions of the Directive are without prejudice to the national rules which implement Directive 95/46/EC.
16. Although the Commission is not directly involved in the data exchange between the competent authorities, the proposed Directive shows that the Commission will in certain circumstances process personal data on the basis of the Directive. According to Article 20(2) of the proposal, the Commission is responsible for 'whatever development of the CCN network necessary to permit the exchange of this information between Member States'. As becomes clear from Article 20(3) this responsibility may under certain conditions involve access to the information which is exchanged through the system.
17. It is not excluded that other provisions imply the processing of personal data by the Commission as well. Article 22, for instance, states that the Commission will receive 'any relevant information' necessary for the evaluation of the effectiveness of administrative cooperation in accordance with the Directive. The Commission will furthermore receive 'statistical data', a list of which shall be adopted following the comitology procedure laid down in Article 24 of the proposal.
18. In case the Commission is processing personal data, it is bound by the data protection rules applicable to EU institutions and bodies which are laid down in Regulation (EC) No 45/2001 and subject to the supervision of the EDPS ⁽²⁾. For the sake of clarity and in order to prevent any doubt

⁽¹⁾ See Article 2(a) of Directive 95/46/EC and Article 2(a) of Regulation (EC) No 45/2001. See Opinion 4/2007 of 20 June 2007 of the Article 29 Working Party for an explanation of the concept of 'personal data' (available at: http://ec.europa.eu/justice_home/fsj/privacy/docs/wpdocs/2007/wp136_en.pdf).

⁽²⁾ See with regard to the processing of statistical data the EDPS opinion of 20 May 2008 (OJ C 308, 3.12.2008, p. 1).

on the applicability of Regulation (EC) No 45/2001, the EDPS urges the legislator to include a reference to the Regulation at least in the recitals of the proposed Directive and preferably in a substantive provision as well stating that the Commission, when it processes personal data on the basis of the Directive, is bound by the provisions of Regulation (EC) No 45/2001.

19. If personal data are processed, Article 16 and 17 of Directive 95/46/EC and Article 21 and 22 of Regulation (EC) No 45/2001 require that the confidentiality and security of the data processing is ensured. It is not stated in so many words in the just cited Article 20 whether the Commission is responsible for the maintenance and security of the CCN network ⁽³⁾. In order to avoid doubts about the responsibility for ensuring such confidentiality and security, the EDPS urges the legislator to define more clearly the responsibility of the Commission in this respect, to emphasise the obligations of the Member States and to put this all in the light of requirements stemming from Directive 95/46/EC and Regulation (EC) No 45/2001.

III.2. Purpose limitation, necessity and data quality

20. A basic requirement of data protection law is that information must be processed for specified, explicit and legitimate purposes and that it may not be further processed in a way incompatible with those purposes ⁽⁴⁾. The data used to achieve the purposes should furthermore be necessary and should be adequate, relevant and not excessive in relation to the purpose ⁽⁵⁾. After an analysis of the proposed Directive, the EDPS draws the conclusion that the system of exchange of information set out in the Directive, taken as a whole, does not meet these requirements.
21. As regards the purpose limitation, Article 5(1) of the proposal, which deals with the exchange of information upon request, refers to exchange of information which may be relevant for the 'correct assessment of taxes' referred to in Article 2. Article 2 sets out the scope of the Directive by stating to which taxes the Directive applies. The EDPS takes the view that the correct assessment of the taxes referred to is not sufficiently precise. On top of that, the Article does not indicate the need to assess the necessity of the exchange of information.

⁽³⁾ See for relevant comments also the EDPS opinion of 16 September 2008 on the proposal for a Council Decision on the establishment of the European Criminal Records Information System (ECRIS) (OJ C 42, 20.2.2009, p. 1), point 23 and further.

⁽⁴⁾ See Article 6(b) of Directive 95/46/EC and Article 4(1)(b) of Regulation (EC) No 45/2001.

⁽⁵⁾ The notion of 'necessity' can be found throughout Directive 95/46/EC and Regulation (EC) No 45/2001. See notably Article 7 of Directive 95/46/EC and Article 5 of Regulation (EC) No 45/2001. The data quality requirements are contained in Article 6(d) of Directive 95/46/EC and Article 4(c) of Regulation (EC) No 45/2001.

22. Article 5(1) furthermore fails to specify or put a limit to the kind of data that can be exchanged. It refers, as just quoted, to 'information which may be relevant' for the correct assessment of the taxes mentioned. According to Article 5(1), this information includes 'any information relating to a specific case or cases'. Article 17(1) of the proposal emphasises that such information also includes information the requested Member State does not need for its own tax purposes. Article 5(2) furthermore obliges the requested authority to communicate to the requesting authority any relevant information it has in its possession or it obtains as a result of administrative enquiries. Also Article 9 of the proposal, which deals with the spontaneous exchange of information, speaks about the exchange of 'any information' to which is added 'as referred to in Article 1'. Article 1, however, does not provide any relevant clarification. The use of broad notions in Articles 5, 9 and 17 seems to encourage an exchange of data which is excessive in relation to the purposes and therefore contrary to the data quality principle.
23. Article 8 of the proposal makes it possible to fulfil the standards set out in point 20 above but only with regard to the automatic obligatory exchange of information without a previous request. The Article states that the type of information to be exchanged will be determined through the comitology procedure. This enables the Commission to limit and specify the data to be exchanged, which should indeed be done in accordance with data protection requirements. The Article furthermore makes reference to the necessity of the exchange of information for the correct assessment of taxes referred to in Article 2 and lists several specific situations. However, as said, Article 8 only concerns the obligatory automatic exchange of information, and does not put limitations to the exchange of information upon request or spontaneously. The criticism expressed above with regard to Articles 5, 9 and 17 of the proposal is therefore still valid.
24. On the basis of the foregoing, the EDPS urges the legislator, as regards the data exchange between competent authorities upon request or spontaneously, to specify the kind of personal information that can be exchanged, to better define the purposes for which personal data can be exchanged and assess the necessity of the transfer, or at least assure that the necessity principle is respected.
25. The purpose limitation principle is further put under pressure in Article 15(1) of the proposal. According to this Article, information and documents obtained by a competent authority pursuant to the Directive may be disclosed to other authorities within the same Member State, in so far as this is allowed under the legislation of

that Member State, 'even if that information could be used for other purposes than those referred to in Article 2'. The EDPS wishes to underline that the last part of that provision is completely opposite to the purpose limitation principle. Processing of personal information for other purposes than the original one is only allowed under strict conditions. The purpose limitation principle can be set aside only when it is laid down by law and when it is necessary for important reasons which are exhaustively listed in Article 13 of Directive 95/46/EC. The reference to the legislation of the Member State involved in Article 15(1) could imply such a requirement but is not sufficiently clear. The EDPS therefore urges the legislator to add to Article 15(1) of the proposal that processing of the information for other purposes than those referred to in Article 2 'is subject to the conditions set out in Article 13 of Directive 95/46/EC'.

III.3. Transparency and rights of the data subject

26. Articles 10 and 11 of Directive 95/46/EC contain the obligation for the person or entity responsible for the data processing — in data protection terminology referred to as the 'controller' ⁽¹⁾ — to inform the data subject before the data are collected or, in case the data are not obtained from the data subject, at the time of undertaking the recording of the data. The data subject has to be informed about the identity of the controller, the purpose of the data processing and further information such as the recipients of the data and the existence of the right of access to and the right to rectify the data concerning her or him. Articles 10 and 11 of Directive 95/46/EC can be considered as elaborations of the general principle of transparency which is part of the fairness of processing as required in Article 6(1)(a) of Directive 95/46/EC.
27. The EDPS has noted that the proposal contains no provisions which deal with the transparency principle, for instance on how the exchange of information is communicated to the public at large or how data subjects will be informed about the data processing. The EDPS therefore urges the legislator to adopt a provision in which the transparency of the information exchange is addressed.

III.4. Transfer of information to a third country

28. Article 23 foresees the possibility of information exchange with third countries. It states that 'competent authorities may communicate, in accordance with their domestic provisions on the communication of personal data to third countries, information obtained in accordance with this Directive'. The EDPS is pleased to see that the Commission has been aware of the specific data protection rules which apply to the exchange of personal data to

⁽¹⁾ See Article 2(d) of Directive 95/46/EC and Article 2(d) of Regulation (EC) No 45/2001. Both provisions envisage the possibility of single and joint control ('... alone or jointly with others ...').

countries outside the EU. The EDPS wishes to emphasise, however, that such information must, in the first place, be exchanged between the Member States in conformity with data protection rules, before a data protection analysis can take place whether such data can be transferred to a third country.

29. For the sake of clarity, an explicit reference to Directive 95/46/EC could be included in the text, stating that such a transfer should be in conformity with the domestic rules implementing the provisions of Chapter IV of Directive 95/46/EC which deals with the transfer of personal data to third countries.

III.5. Comitology

30. There are several issues with data protection relevance which will be further elaborated in rules adopted following the Comitology procedure as laid down in Article 24 of the proposal. Although the EDPS understands the practical need for using such a procedure, he wishes to underline that the main data protection rules and guarantees should be laid down in the basic law.

31. The EDPS wishes to emphasise that if further rules are discussed through Comitology, this should be done with the data protection requirements stemming from Directive 95/46/EC and Regulation (EC) No 45/2001 in mind. The EDPS furthermore urges the Commission to involve the EDPS and request his advice if further rules with data protection relevance are indeed discussed.

32. In order to ensure the involvement of the EDPS when further rules are adopted on the basis of the Comitology procedure which have data protection relevance, the EDPS recommends the legislator to include in Article 24 a fourth paragraph stating that 'where implementing measures relate to the processing of personal data, the European Data Protection Supervisor shall be consulted'.

IV. CONCLUSION AND RECOMMENDATIONS

33. In the current Opinion the EDPS has advised the legislator:

— to include a reference to Directive 95/46/EC at least in the recitals of the proposed Directive and preferably in a substantive provision as well, stating that the provisions of the Directive are without prejudice to the national rules which implement Directive 95/46/EC,

— to include a reference to Regulation (EC) No 45/2001 at least in the recitals of the proposed Directive and preferably in a substantive provision as well, stating that the Commission, when it processes personal data on the basis of the Directive, is bound by the provisions of Regulation (EC) No 45/2001,

— to define more clearly the responsibility of the Commission for the maintenance and security of the CCN network and to emphasise the obligations of the Member States in this respect and to put this all in the light of requirements stemming from Directive 95/46/EC and Regulation (EC) No 45/2001,

— as regards the data exchange between competent authorities upon request or spontaneously, to specify the kind of personal information that can be exchanged, to better define the purposes for which personal data can be exchanged and assess the necessity of the transfer, or at least assure that the necessity principle is respected,

— to add to Article 15(1) of the proposal that processing of the information for other purposes than those referred to in Article 2 'is subject to the conditions set out in Article 13 of Directive 95/46/EC',

— to adopt a provision in which the transparency of the information exchange is addressed,

— to make explicit in Article 23(2) that a transfer of personal data to a third country should be in conformity with the domestic rules implementing the provisions of Chapter IV of Directive 95/46/EC,

— to include in Article 24 a fourth paragraph stating that 'where implementing measures relate to the processing of personal data, the European Data Protection Supervisor shall be consulted'.

Done at Brussels, 6 January 2010.

Peter HUSTINX
European Data Protection Supervisor

II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty**Cases where the Commission raises no objections***(Text with EEA relevance)*

(2010/C 101/02)

Date of adoption of the decision	17.11.2009
Reference number of State Aid	N 627/09
Member State	Netherlands
Region	—
Title (and/or name of the beneficiary)	ING Group N.V.
Legal basis	—
Type of measure	Individual aid
Objective	Aid to remedy serious disturbances in the economy
Form of aid	Guarantee
Budget	—
Intensity	—
Duration (period)	—
Economic sectors	Financial intermediation
Name and address of the granting authority	Koninkrijk der Nederlanden
Other information	Revocation of the extension of opening of the procedure from 15 September 2009 on impaired assets measure and prolongation of temporary approval

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Authorisation for State aid pursuant to Articles 107 and 108 TFEU

Cases where the Commission raises no objections

(Text with EEA relevance)

(2010/C 101/03)

Date of adoption of the decision	24.2.2010
Reference number of State Aid	N 622/08
Member State	Spain
Region	Islas Canarias
Title (and/or name of the beneficiary)	Ayuda para compensar los daños causados por el incendio en «Palmitos Park»
Legal basis	Proyecto de Orden por el que se concede una subvención nominada, por importe de 1 000 000 EUR a la entidad Aspro Parks Canarias, S.L., con destino a la reparación de los daños producidos en las instalaciones del Parque zoológico y botánico Palmitos Park, como consecuencia de los incendios acaecidos en la isla de Gran Canaria en el verano de 2007. Decreto 337/199, de 19 de diciembre, por el que se establece el régimen general de subvención de la región de Canarias
Type of measure	Individual aid
Objective	Compensation for damage caused by natural disasters or exceptional occurrences
Form of aid	Direct grant
Budget	Overall budget: EUR 1 million
Intensity	—
Duration (period)	—
Economic sectors	Recreational, cultural sporting activities
Name and address of the granting authority	Gobierno de Canarias Edificio de sos Múltiples III C/ León y Castillo, 200 planta baja 35004 Las Palmas de Gran Canaria ESPAÑA
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	25.1.2010
Reference number of State Aid	NN 19/09

Member State	United Kingdom
Region	Scotland
Title (and/or name of the beneficiary)	Rescue and restructuring of Dunfermline Building Society
Legal basis	Ad-hoc, Bank of England Acts 1694-1998
Type of measure	Individual aid
Objective	Aid to remedy serious disturbances in the economy
Form of aid	Direct grant, Soft loan
Budget	Overall budget: GBP 1 600 million
Intensity	—
Duration (period)	—
Economic sectors	Financial intermediation
Name and address of the granting authority	HM Treasury, the Governor and Company of the Bank of England
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	23.12.2009
Reference number of State Aid	NN 63/09
Member State	Slovakia
Region	—
Title (and/or name of the beneficiary)	Daňové zvýhodnenie uplatnene na elektrinu, uhlie a zemný plyn
Legal basis	Zákon č. 609/2007 Z.z. o spotrebnej dani z elektriny, uhlia a zemného plynu
Type of measure	Aid scheme
Objective	Environmental protection
Form of aid	Tax advantage
Budget	Annual budget: EUR 50,4 million
Intensity	—
Duration (period)	1.7.2008-30.6.2018

Economic sectors	Energy
Name and address of the granting authority	Ministerstvo financií SR Štefanovičova 5 817 82 Bratislava SLOVENSKO/SLOVAKIA
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	15.3.2010
Reference number of State Aid	N 594/09
Member State	Poland
Region	—
Title (and/or name of the beneficiary)	Dotacja na inwestycje w układy przesyłowe gazu ziemnego dla OGP Gaz-System S.A.
Legal basis	Ustawa z dnia 10 kwietnia 1997 r. Prawo energetyczne
Type of measure	Individual aid
Objective	Sectoral development, Regional development
Form of aid	Direct grant
Budget	Overall budget: PLN 1 207,71 million
Intensity	57 %
Duration (period)	until 31.12.2013
Economic sectors	Electricity, gas and water supply
Name and address of the granting authority	Instytut Nafty i Gazu ul. Lubicz 25A 31-503 Kraków POLSKA/POLAND
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	30.3.2010
Reference number of State Aid	N 68/10
Member State	Spain
Region	—
Title (and/or name of the beneficiary)	Régimen de garantías con arreglo al Marco Temporal
Legal basis	Acuerdo de la Comisión Delegada del Gobierno para Asuntos Económicos sobre el Marco nacional transitorio de concesión de garantías públicas para facilitar el acceso a la financiación en el actual contexto de crisis económica y financiera.
Type of measure	Aid scheme
Objective	Compensation for damage caused by natural disasters or exceptional occurrences
Form of aid	Guarantee
Budget	Overall budget: EUR 800 million
Intensity	—
Duration (period)	30.3.2010-31.12.2010
Economic sectors	All sectors
Name and address of the granting authority	Todas las autoridades competentes en España
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

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Non-opposition to a notified concentration**(Case COMP/M.5697 — Alstom Holdings/Alstom Hydro Holding)****(Text with EEA relevance)**

(2010/C 101/04)

On 13 January 2010, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32010M5697. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration**(Case COMP/M.5824 — BC Partners/Spotless)****(Text with EEA relevance)**

(2010/C 101/05)

On 14 April 2010, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32010M5824. EUR-Lex is the on-line access to the European law.
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

19 April 2010

(2010/C 101/06)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3432	AUD	Australian dollar	1,4625
JPY	Japanese yen	123,50	CAD	Canadian dollar	1,3680
DKK	Danish krone	7,4427	HKD	Hong Kong dollar	10,4270
GBP	Pound sterling	0,88050	NZD	New Zealand dollar	1,8965
SEK	Swedish krona	9,6980	SGD	Singapore dollar	1,8554
CHF	Swiss franc	1,4345	KRW	South Korean won	1 501,86
ISK	Iceland króna		ZAR	South African rand	10,0317
NOK	Norwegian krone	7,9830	CNY	Chinese yuan renminbi	9,1698
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,2610
CZK	Czech koruna	25,250	IDR	Indonesian rupiah	12 155,27
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,3224
HUF	Hungarian forint	265,38	PHP	Philippine peso	59,941
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	39,2675
LVL	Latvian lats	0,7080	THB	Thai baht	43,379
PLN	Polish zloty	3,9031	BRL	Brazilian real	2,3738
RON	Romanian leu	4,1578	MXN	Mexican peso	16,5490
TRY	Turkish lira	2,0093	INR	Indian rupee	60,0880

⁽¹⁾ Source: reference exchange rate published by the ECB.

NOTICES FROM MEMBER STATES

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 1857/2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

(2010/C 101/07)

Aid No: XA 271/09**Member State:** Cyprus**Region:** Cyprus

Title of aid scheme or name of company receiving an individual aid: Πρόγραμμα Ελέγχου της σαλμονέλας στα σμήνη γαλοπούλων κρεοπαραγωγής

Legal basis:

1. Άρθρο 03525 του Προϋπολογισμού για το 2010 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Οι περί της Υγείας των Ζώων Νόμοι του 2001 έως 2009.
3. Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents.
4. Commission Regulation (EC) No 584/2008 of 20 June 2008 implementing Regulation (EC) No 2160/2003 of the European Parliament and of the Council as regards a Community target for the reduction of the prevalence of *Salmonella enteritidis* and *Salmonella typhimurium* in turkeys.
5. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 305 και ημερομηνία 31 Δεκεμβρίου 2008 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4339 και ημερομηνία 16 Ιανουαρίου 2009 σ. 156).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,0003 million

Maximum aid intensity: 100 %

Date of implementation: The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.

Duration of scheme or individual aid award: 31 December 2010

Objective of aid: Zoonoses (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation (EC) No 1857/2006).

Sector(s) concerned:

NACE code

A10407 — Raising of poultry

Name and address of the granting authority:

Veterinary Services Department
Ministry of Agriculture
Natural Resources and Environment
1417 Athalassa
Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/vs04_gr/vs04_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information: The objective of the aid is to implement a programme for controlling salmonella in meat production flocks of turkeys, in accordance with the provisions of Community legislation (Regulation (EC) No 584/2008). The disease is included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases that can receive cofinancing). The measure covers expenditure on laboratory tests. Samples will be collected and tested by the Veterinary Services.

Aid No: XA 273/09**Member State:** Cyprus**Region:** Cyprus

Title of aid scheme or name of company receiving an individual aid: Πρόγραμμα Ελέγχου της σαλμονέλας στα σμήνη αβογοπαραγωγής

Legal basis:

1. Άρθρο 03525 του Προϋπολογισμού για το 2010 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Οι περί της Υγείας των Ζώων Νόμοι του 2001 έως 2009.

3. Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents.
4. Commission Regulation (EC) No 1168/2006 of 31 July 2006 implementing Regulation (EC) No 2160/2003 as regards a Community target for the reduction of the prevalence of certain salmonella serotypes in laying hens of *Gallus gallus* and amending Regulation (EC) No 1003/2005.
5. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 314 και ημερομηνία 16 Νοεμβρίου 2009 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4414 και ημερομηνία 20 Νοεμβρίου 2009 σ. 5506).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,3 million

Maximum aid intensity: 100 %

Date of implementation: The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.

Duration of scheme or individual aid award: 31 December 2010

Objective of aid: Zoonoses (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns: (i) aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation EC No 1857/2006) and (ii) aid to compensate farmers for losses caused by animal diseases (Article 10(2) of Regulation (EC) No 1857/2006).

Sector(s) concerned:

NACE code

A10407 — Raising of poultry

Name and address of the granting authority:

Veterinary Services Department
Ministry of Agriculture
Natural Resources and Environment
1417 Athalassa
Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/vs04_gr/vs04_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information:

The objective of the aid is to implement a programme for controlling salmonella in laying flocks, in accordance with the provisions of Community legislation (Regulation (EC) No 1168/2006). The disease is included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases that can receive cofinancing).

The expenditure planned for 2010 for the programme for controlling salmonella in laying flocks was notified to the European Commission under the cofinancing programmes.

The beneficiaries of aid under this measure are poultry breeders in the areas controlled by the Republic of Cyprus on whose farms *Salmonella enteritidis* or *Salmonella typhimurium* are found to be present.

Aid No: XA 274/09

Member State: Cyprus

Region: Cyprus

Title of aid scheme or name of company receiving an individual aid: Προγράμματα εκρίζωσης και επιτήρησης Βρουκέλωσης Βοοειδών και Αιγοπροβάτων.

Legal basis:

1. Άρθρο 03525 του Προϋπολογισμού για το 2009 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Ο περί της Εφαρμογής Κοινοτικών Κανονισμών στον Τομέα της Κτηνιατρικής Νόμος του 2004 [N 149(I)/2004]
3. Νόμος που προνοεί για την Υγεία των Ζώων [N.109(I)2001]
4. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 314 και ημερομηνία 16 Νοεμβρίου 2009 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4414 και ημερομηνία 20 Νοεμβρίου 2009 σ. 5506)

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,46 million

Maximum aid intensity: 100 %

Date of implementation: The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.

Duration of scheme or individual aid award: 31 December 2010

Objective of aid: Zoonoses (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns: (i) aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation (EC) No 1857/2006) and (ii) aid to compensate farmers for losses caused by animal diseases (Article 10(2) of Regulation EC No 1857/2006).

Sector(s) concerned:

NACE code

A10401 — Raising of dairy cattle

A10405 — Raising of sheep and goats

A10407 — Raising of poultry

Name and address of the granting authority:

Veterinary Services
Ministry of Agriculture
Natural Resources and Environment
1417 Athalassa
Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/vs04_gr/vs04_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information:

The objective of the aid is to implement the bovine, ovine and caprine brucellosis eradication and monitoring programmes, in accordance with the provisions of Community legislation (Directive 64/432/EEC — bovine animals, Directive 91/68/EEC — sheep and goats). The diseases are included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases that can receive cofinancing). The expenditure planned for 2010 for the bovine, ovine and caprine eradication and monitoring programmes was notified to the European Commission under the cofinancing programmes.

The beneficiaries of aid under this measure are cattle, sheep and goat farmers in the areas controlled by the Republic of Cyprus. Under the brucellosis eradication programme aid will be paid to livestock farmers on whose holdings the presence of the disease is suspected or confirmed. The brucellosis monitoring programme will include the collection and laboratory testing of samples from all cattle, sheep and goat stock farms.

Aid No: XA 275/09

Member State: Cyprus

Region: Cyprus

Title of aid scheme or name of company receiving an individual aid: Πρόγραμμα Ελέγχου της σαλμονέλας στα σμήνη κρεο-παραγωγής

Legal basis:

1. Άρθρο 03525 του Προϋπολογισμού για το 2010 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Οι περί της Υγείας των Ζώων Νόμοι του 2001 έως 2009.
3. Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents.
4. Commission Regulation (EC) No 646/2007 of 12 June 2007 implementing Regulation (EC) No 2160/2003 of the European Parliament and of the Council as regards a Community target for the reduction of the prevalence of *Salmonella enteritidis* and *Salmonella typhimurium* in broilers and repealing Regulation (EC) No 1091/2005.
5. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 314 και ημερομηνία 16 Νοεμβρίου 2009 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4414 και ημερομηνία 20 Νοεμβρίου 2009 σ. 5506).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,003 million

Maximum aid intensity: 100 %

Date of implementation: The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.

Duration of scheme or individual aid award: 31 December 2010

Objective of aid: Zoonoses (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation (EC) No 1857/2006).

Sector(s) concerned:

NACE code

A10407 — Raising of poultry

Name and address of the granting authority:

Veterinary Services Department
Ministry of Agriculture
Natural Resources and Environment
1417 Athalassa
Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/vs04_gr/vs04_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information: The objective of the aid is to implement a programme for controlling salmonella in meat production flocks, in accordance with the provisions of Community legislation (Regulation (EC) No 1168/2006). The disease is included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases that can receive cofinancing). The expenditure planned for 2010 for the programme for controlling salmonella in meat production flocks was notified to the European Commission under the cofinancing programmes. The measure covers expenditure on laboratory tests. Samples will be collected and tested by the Veterinary Services.

Aid No: XA 276/09

Member State: Cyprus

Region: Cyprus

Title of aid scheme or name of company receiving an individual aid: Πρόγραμμα Ελέγχου της σαλμονέλας στα σμήνη αναπαραγωγής

Legal basis:

1. Άρθρο 03525 του Προϋπολογισμού για το 2010 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Οι περί της Υγείας των Ζώων Νόμοι του 2001 έως 2009.
3. Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents.
4. Regulation (EC) No [...] of the Commission on the application of Regulation (EC) No 2160/2003 of the European Parliament and of the Council as regards a Community target for the reduction of certain salmonella serotypes in laying hens of *Gallus gallus* (document reference number SANCO/5971/2009r5, adopted at the meeting of the Standing Committee on the Food Chain and Animal Health of 20.10.2009).
5. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 314 και ημερομηνία 16 Νοεμβρίου 2009 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4414 και ημερομηνία 20 Νοεμβρίου 2009 σ. 5506).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,089 million

Maximum aid intensity: 100 %

Date of implementation: The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.

Duration of scheme or individual aid award: 31 December 2010

Objective of aid: Animal diseases (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns: aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation EC No 1857/2006) and (ii) aid to compensate farmers for losses caused by animal diseases (Article 10(2) of Regulation EC No 1857/2006).

Sector(s) concerned:

NACE Code

A10407 — Raising of poultry

Name and address of the granting authority:

Veterinary Services Department
Ministry of Agriculture
Natural Resources and Environment
1417 Athalassa
Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/DMLinfo_gr/DMLinfo_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information: The objective of the aid is to implement the programme for controlling salmonella in breeding flocks, in accordance with the provisions of Community legislation (Regulation EC No 1003/2005). The disease is included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases eligible for co-financing). The beneficiaries of aid under this measure are poultry breeders in the areas monitored by the Republic of Cyprus on whose farms *Salmonella enteritidis* or *Salmonella typhimurium* are found to be present. The expenditure planned for 2010 for the programme for controlling salmonella in breeding flocks was notified to the European Commission under the co-financing programmes.

Aid No: XA 277/09

Member State: Cyprus

Region: Cyprus

Title of aid scheme or name of company receiving an individual aid: Πρόγραμμα επιτήρησης της γρίπης των πτηνών σε πτηνά της οργανωμένης πτηνοτροφίας και άγρια πτηνά.

Legal basis:

1. Άρθρο 03525 του Προϋπολογισμού για το 2010 — Συμμετοχή σε Προγράμματα της Ευρωπαϊκής Ένωσης.
2. Οι περί της Υγείας των Ζώων Νόμοι του 2001 έως 2009.
3. Commission Decision 2007/268/EC of 13 April 2007 on the implementation of surveillance programmes for avian influenza in poultry and wild birds to be carried out in the Member States and amending Decision 2004/450/EC.
4. Απόφαση Εφόρου Ελέγχου Κρατικών Ενισχύσεων με αριθμό 314 και ημερομηνία 16 Νοεμβρίου 2009 (Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας με αριθμό 4414 και ημερομηνία 20 Νοεμβρίου 2009 σ. 5506).

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company: EUR 0,03 million

Maximum aid intensity: 100 %

Date of implementation: The programme will be implemented only after it has been published by the European Commission in accordance with Regulation (EC) No 1857/2006.

Duration of scheme or individual aid award: 31 December 2010.

Objective of aid: Animal diseases (Article 10 of Regulation (EC) No 1857/2006). The scheme concerns: (i) aid to compensate farmers for the costs of prevention and eradication of animal diseases (Article 10(1) of Regulation EC No 1957/2006) and (ii) aid to compensate farmers for losses caused by animal diseases (Article 10(2) of Regulation (EC) No 1857/2006).

Sector(s) concerned:

NACE code

A10407 — Raising of poultry

Name and address of the granting authority:

Veterinary Services Department
Ministry of Agriculture
Natural Resources and Environment
1417 Athalassa
Nicosia
CYPRUS

Website:

http://www.moa.gov.cy/moa/vs/vs.nsf/vs04_gr/vs04_gr?OpenDocument

[http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/\\$file/Απόφαση%20Αρ.%20305.pdf](http://www.publicaid.gov.cy/publicaid/publicaid.nsf/All/8C33E1F6FE7EC4C0C2257545002A533E/$file/Απόφαση%20Αρ.%20305.pdf)

Other information: The objective of the aid is to implement the surveillance programme for avian influenza in poultry on poultry farms and in wild birds, in accordance with the provisions of Community legislation (Commission Decision 2007/268/EC). The disease is included in the list of the World Organisation for Animal Health (OIE) and in the Annex to Council Decision 90/424/EEC (list of diseases eligible for co-financing). The expenditure planned for 2010 for the avian influenza surveillance programme was notified to the European Commission under the co-financing programmes. Aid beneficiaries under this measure are all poultry farmers in the areas monitored by the Republic of Cyprus on whose farms avian influenza is found to be present.

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.5832 — Avelar/Enovos/Aveleos)

Candidate case for simplified procedure

(Text with EEA relevance)

(2010/C 101/08)

1. On 12 April 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which Enovos Luxembourg SA ('Enovos', Luxembourg) and Avelar Energy Ltd ('Avelar', Switzerland) controlled by Renova Holdings Ltd ('Renova Group', Russia) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of Aveleos SA ('Aveleos', Luxembourg), a newly created company constituting a joint venture, by way of purchase of shares.
2. The business activities of the undertakings concerned are:
 - for Enovos: supply of gas and electricity mainly in Luxembourg and Germany,
 - for Avelar: trading, generation, and retail sales of conventional and renewable energy,
 - for Aveleos: will be active in the photovoltaic energy markets in several EU countries.
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.5832 — Avelar/Enovos/Aveleos, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Prior notification of a concentration**(Case COMP/M.5834 — Coca-Cola Enterprises/Coca-Cola Drycker Sverige AB/Coca-Cola Drikker AS)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2010/C 101/09)

1. On 13 April 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004⁽¹⁾ by which Coca-Cola Enterprises Inc. ('CCE', USA) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Coca-Cola Drycker Sverige AB ('CCDS', Sweden) and Coca-Cola Drikker AS ('CCD', Norway) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for CCE: preparation, packaging and distribution of beverages,
- for CCDS: preparation, packaging and distribution of beverages,
- for CCD: preparation, packaging and distribution of beverages.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.5834 — Coca-Cola Enterprises/Coca-Cola Drycker Sverige AB/Coca-Cola Drikker AS, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

OTHER ACTS

EUROPEAN COMMISSION

Publication of an amendment application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(2010/C 101/10)

This publication confers the right to object to the amendment application pursuant to Article 7 of Council Regulation (EC) No 510/2006 ⁽¹⁾. Statements of objection must reach the Commission within six months of the date of this publication.

AMENDMENT APPLICATION

COUNCIL REGULATION (EC) No 510/2006**Amendment application in accordance with article 9****'RICOTTA ROMANA'****EC No: IT-PDO-0105-0298-16.07.2008****PGI () PDO (X)****1. Heading in the product specification affected by the amendment:**

- Name of product
- Description of product
- Geographical area
- Proof of origin
- Method of production
- Link
- Labelling
- National requirements
- Other [to be specified]

2. Type of amendment(s):

- Amendment to single document or summary sheet
- Amendment to specification of registered PDO or PGI for which neither the single document nor summary has been published

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

- Amendment to specification that requires no amendment to the published single document (Article 9(3) of Regulation (EC) No 510/2006)
- Temporary amendment to specification resulting from imposition of obligatory sanitary or phytosanitary measures by public authorities (Article 9(4) of Regulation (EC) No 510/2006)

3. Amendment(s):

3.1. Description of product:

The figure for minimum fat content as a percentage of dry matter has been changed in point 2. This change was necessary because it had become clear that the figure given in the registered specification was not an accurate reflection of the reality. 'Ricotta Romana' was registered as a PDO by Regulation (EC) No 737/2005 of 13 May 2005. When implementing the control plan, the control body found that significant quantities of the product could not be certified. From careful checks and analyses on a suitable number of samples taken at various times of year, it was found that the fat content was much higher. The specification gave a range of 17 % to 29 %, whereas real levels are at least 40 % of dry matter.

3.2. Method of production:

The values given for whey from sheep's milk were also found to be unrealistic.

The values established through analysis were as follows:

- non-fat dry matter: 5,37 % or more,
- protein: 1,09 % or more,
- fat: 0,35 % or more,
- lactose: 3,55 % or more,
- ash: 0,4 % or more.

The discrepancies stemmed from a lack of rigour at the analytical laboratory used by the producers when the specification was being drawn up. The previous levels were clearly based on an insufficient number of samples which, in addition, covered only a limited part of the year. All this meant that the values produced were not accurate.

The new levels established by the analyses by the Certifying Body correspond to the actual characteristics of the product.

SINGLE DOCUMENT

COUNCIL REGULATION (EC) No 510/2006

'RICOTTA ROMANA'

EC No: IT-PDO-0105-0298-16.07.2008

PGI () PDO (X)

1. Name:

'Ricotta Romana'

2. Member State or third country:

Italy

3. Description of the agricultural product or foodstuff:

3.1. Type of product (Annex III):

Class 1.4. Other animal products. Ricotta

3.2. *Description of the product to which the name in (1) applies:*

The use of the protected designation of origin (PDO) 'Ricotta Romana' is reserved exclusively for the dairy product made from the whey of the whole milk of ewes of the following breeds: Sarda, Comisana, Sopravvissana, Massese and their crosses. On release for consumption, it has the following characteristics:

- product: fresh,
- paste: white, with a lumpy texture,
- flavour: sweetish, milky taste,
- weight: up to 2 kg,
- fat content: minimum 40 % of dry matter.

3.3. *Raw materials (for processed products only):*

The whole milk whey, a liquid product of the coagulation of the milk, is obtained by separating it from the curds intended for the production of sheep's cheeses from the milk of ewes in the Lazio Region.

The whey from the whole sheep's milk is pale yellow in colour and contains the following:

- non-fat dry matter: 5,37 % or more,
- protein: 1,09 % or more,
- fat: 0,35 % or more,
- lactose: 3,55 % or more,
- ash: 0,4 % or more.

To make 'Ricotta Romana' it is allowed, as the whey is being heated to 50-60 °C, to add whole milk of sheep of the above breeds that have been bred in the geographical area referred to in point 4, in quantities not exceeding 15 % of the total volume of the whey.

3.4. *Feed (for products of animal origin only):*

The sheep feed on the natural and sown pasture and meadow land typical of the production area (point 4). Supplementary dried fodder and concentrates may be used, but synthetic substances and genetically modified organisms may not. Milk ewes must not be subjected to forced feeding, environmental stress and/or hormonal alterations designed to increase production.

3.5. *Specific steps in production that must take place in the defined geographical area:*

The farms rearing the sheep whose milk is to be processed into 'Ricotta Romana' are located within the defined geographical area.

The milk must be produced and processed within the defined geographical area.

A key factor in the quality of the product is the separation of the curd, which depends on the operating skills of the cheese-makers, themselves the result of centuries of competence and experience throughout the area covered by the PDO.

3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

When the whey is almost fully separated, the 'Ricotta Romana' is packaged directly and put up for sale a few hours after production.

This is a fresh product that does not mature or season and quickly becomes rancid or perishes.

As it should be consumed whilst very fresh, it therefore has to be packaged in the geographical area referred to in point 4, in order not to impair its freshness, purity and quality, as well as to ensure traceability and allow for controls.

The cheese is packed in truncated conical wicker, plastic or metal baskets with a maximum capacity of 2 kg, the upper part of which is covered in a plastic sheet. The following other kinds of packaging are also allowed:

- parchment wrapping, and
- plastic and/or vacuum containers.

3.7. *Specific rules on labelling:*

In addition to the Community symbol, the relevant references and the information required by law, the packaging must display the following in clearly printed, legible letters:

- the term 'Ricotta Romana' must be printed in clear and indelible type, significantly larger and quite separate from any other wording, and must be followed by the words 'Denominazione Origine Protetta (D.O.P.)',
- the name, company name and address of the producing and packaging company,
- the product logo.

Any other description not expressly allowed, including the adjectives 'fine' (fine), 'scelto' (choice), 'selezionato' (selected), 'superiore' (superior) and 'genuino' (genuine), or otherwise praising the product is prohibited. Brand names may be used, however, provided these have no laudatory purport and are not such as to mislead the consumer, as may the name of the enterprise from the holdings of which the product comes, and other truthful and documentable indications that are permitted under Community, national or regional law and do not conflict with the purposes and content of the present specification.

The name 'Ricotta Romana' must appear in Italian.

4. **Concise definition of the geographical area:**

The whey must be obtained from the whole milk of sheep from the Lazio Region. The whey must be processed into 'Ricotta Romana' and packaged within the region.

5. **Link with the geographical area:**

5.1. *Specificity of the geographical area:*

The soil and weather conditions in the Lazio Region are characterised by various types of relief (limestone and volcanic mountains, hills, alluvial plains), annual average temperatures varying from 13 to 16 °C, and annual minimum rainfalls of 650 mm along the coastal strip, 1 000-1 500 mm on the inland plains and up to 1 800-2 000 mm on Mount Terminillo and in the Simbruini range.

Given such conditions, the territory provides the best possible conditions for rearing sheep without them suffering any stress.

These natural factors make it possible to exploit the natural and sown pasture land as a food source for the sheep, so imbuing the milk used for cheese-making with particular qualities and establishing an exceptionally favourable synergy in terms of the product's quality and the homogeneous nature of its characteristics.

It is worth noting that the Lazio Region has a sheep population of over 440 000, with the ewes producing around 600 000 hl of milk a year.

5.2. *Specificity of the product:*

'Ricotta Romana' has the following characteristics:

- very fine paste, with a lumpy texture,
- a more distinctive colour than the equivalent cheese made from the whey of cow's milk, and
- a sweetish, milky taste.

These quality characteristics are linked to:

- the lactose content of 3,55 % or more in the whey of whole sheep's milk, giving it the sweetness deriving from the ewes' feed, which comes from the natural and sown pasture and meadow land typical of the Lazio Region, and
- the fact that no acidity adjusters are added to the whey during processing.

The resulting product, 'Ricotta Romana', has a characteristic sweetish taste distinguishing it from any other type of ricotta.

5.3. *Causal link between the geographical area and the quality or characteristics of the product (for PDO) or a specific quality, the reputation or other characteristic of the product (for PGI):*

The sheep's diet, together with the favourable environmental conditions in which they are reared — including the traditional practice of mountain-grazing, which allows them to escape from the summer heat and thus from the possible environmental and nutritional stresses they would be subject to in the lowlands — mean that the milk is of the highest quality and the resulting ricotta is very distinctive.

The historical presence of 'Ricotta Romana' on markets throughout the Lazio Region is illustrated by data from the market reports of the CCIAAs (Chambers of Commerce, Industry, Crafts and Agriculture) in Rome (1922-65), Viterbo (1949-73), Frosinone (1955-99) and Latina (1951-77). Also, from the Rome CCIAA commodities market it is possible to see the variations in the price of the product between 1952 and 1998, showing its importance for the economy of the geographical area. There are many social and economic references, such as the presence of producers engaged in this type of production for years. Also, according to information supplied by its director, in 1969 Castel di Guido farm produced about 3 500 litres of sheep's milk, some of which was sold fresh and some used to produce 'Ricotta Romana', as shown in the farm accounts for 1958, 1960 and 1965, initialled by the shepherd and the director. The accounts of the Gasparri farm indicate the price per kilo and the total number of kilograms of 'Ricotta Romana' produced during the farming seasons between 1907 (70 *centesimi*/kg until 15 March and 45 *centesimi*/kg thereafter, total production being 850 kg) and 1924 (total production of 932,5 kg).

In addition, many historical references and traditional customs demonstrate the link between this product and the geographical area. Among the historical references is the description of the techniques for producing 'Ricotta Romana' in Trinchieri's *Vita di pastori nella Campagna Romana* (1953). As for traditional customs, one example is the country festival for 'attozzata' (sheep's ricotta) that has been celebrated for about 30 years in the municipality of Barbarano Romano (VT).

As well as being eaten as a dish in itself, 'Ricotta Romana' is widely used as an ingredient in traditional dishes from Lazio.

Reference to publication of the specification:

(Article 5(7) of Regulation (EC) No 510/2006)

The Ministry launched the national objection procedure with the publication of the proposed amendments to 'Ricotta Romana' PDO in *Official Gazette of the Italian Republic* No 26 of 31 January 2008. The full text of the product specification is available on the Ministry's website:

— via the following link

http://www.politicheagricole.it/DocumentiPubblicazioni/Search_Documenti_Elenco.htm?txtTipoDocumento=Disciplinare%20in%20esame%20UE&txtDocArgomento=Prodotti%20di%20Qualit%E0>Prodotti%20Dop,%20Igp%20e%20Stg

or

— by going directly to the home page of the Ministry (<http://www.politicheagricole.it>) and clicking on 'Prodotti di Qualità' (on the left of the display) and then on 'Disciplinari di Produzione all'esame dell'UE [regolamento (CE) n. 510/2006]'.

CORRIGENDA

Corrigendum to the publication of an application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(Official Journal of the European Union C 157 of 10 July 2009)

(2010/C 101/11)

On page 14, under 3.2, third paragraph:

for: 'The flour colour must be 75 or higher, colour being measured on a scale of 0 to 100 (the lower the L value, the stronger the colour of the flour). "Farine de blé noir de Bretagne" has a strong colour',

read: 'The flour colour is not less than 75 but not more than 90, colour being measured on a scale of 0 to 100 (the lower the L (1) value, the stronger the colour of the flour). "Farine de blé noir de Bretagne" has a strong colour compared with other regions of production'.

On page 16, under 5.2, last paragraph:

for: 'This product forms the basis of the diet of the population in the area since "farine de blé noir de Bretagne" was intended to be eaten in *crêpes* (thin, generally sweet pancakes) and *galettes* (thicker, mainly savoury pancakes)',

read: 'This product has formed the basis of the diet of the population in the area since "farine de blé noir de Bretagne" was intended to be eaten in *crêpes* (thin, generally sweet pancakes) and *galettes* (thicker, mainly savoury pancakes);

On page 17, under 'Reference to publication of the specification':

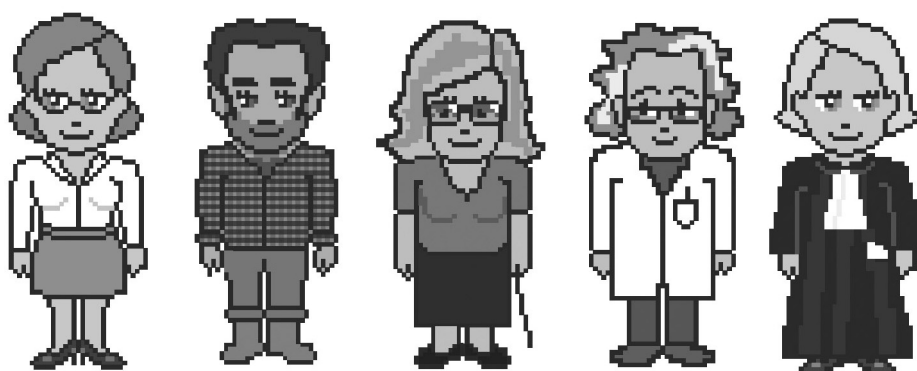
for: '<http://www.inao.gouv.fr/repository/editeur/pdf/IGP2008/cdchFarinedeBleNoirdeBretagnesept2008.pdf>,

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⁽¹⁾ Text with EEA relevance

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