ISSN 1725-5198

Il-Ġurnal Uffiċjali tal-Unjoni Ewropea

C 236

Edizzjoni bil-Malti

Volum 52

1 ta' Ottubru 2009

Informazzjoni u Avviżi

MT

[1] Test b'relevanza għaż-ŻEE

(Ikompli fil-paġna ta' wara)

MT

[1] Test b'relevanza għaż-ŻEE

(Ikompli fuq il-qoxra ta' wara minn ġewwa)

II

(Komunikazzjonijiet)

KOMUNIKAZZJONIJIET MINN ISTITUZZJONIJIET U KORPI TAL-UNJONI EWROPEA

IL-KUMMISSJONI

Ebda oppożizzjoni għal konċentrazzjoni notifikata

(Każ COMP/M.5613 – Piraeus Bank/BNP Paribas/Greek JV/Swiss JV)

(Test b'relevanza għaż-ŻEE)

(2009/C 236/01)

Fl-24 ta' Settembru 2009, il-Kummissjoni ddeċidiet li ma topponix il-konċentrazzjoni notifikata msemmija hawn fuq u li tiddikjaraha kompatibbli mas-suq komuni. Din id-deċiżjoni hi bbażata fuq l-Artikolu 6(1)b tar-Regolament tal-Kunsill (KE) Nru 139/2004. It-test sħiħ tad-deċiżjoni hu disponibbli biss fl-Ingliż u ser isir pubbliku wara li jitneħħa kwalunkwe sigriet tan-negozju li jista' jkun fih. Dan it-test jinstab:

— Fit-taqsima tal-amalgamazzjoni tal-websajt tal-Kummissjoni dwar il-Kompetizzjoni (http://ec.europa.eu/competition/mergers/cases/). Din il-websajt tipprovdi diversi faċilitajiet li jgħinu sabiex jinstabu d-deċiżjonijiet individwali ta' amalgamazzjoni, inklużi l-kumpanija, in-numru tal-każ, id-data u l-indiċi settorjali,

— f'forma elettronika fil-websajt EUR-Lex (http://eur-lex.europa.eu/en/index.htm) fid-dokument li jġib in-numru 32009M5613. Il-EUR-Lex hu l-aċċess fuq l-internet għal-liġi Ewropea.

IV

(Informazzjoni)

INFORMAZZJONI MINN ISTITUZZJONIJIET U KORPI TAL-UNJONI EWROPEA

IL-KUMMISSJONI

Rata tal-kambju tal-euro [1]

It-30 ta' Settembru 2009

(2009/C 236/02)

1 euro =

	Munita	Rata tal-kambju		Munita	Rata tal-kambju
USD	Dollaru Amerikan	1,4643	AUD	Dollaru Awstraljan	1,6596
JPY	Yen Ġappuniż	131,07	CAD	Dollaru Kanadiż	1,5709
DKK	Krona Daniża	7,4443	HKD	Dollaru ta' Hong Kong	11,3485
GBP	Lira Sterlina	0,90930	NZD	Dollaru tan-New Zealand	2,0287
SEK	Krona Żvediża	10,2320	SGD	Dollaru tas-Singapor	2,0654
CHF	Frank Żvizzeru	1,5078	KRW	Won tal-Korea t'Isfel	1 723,95
ISK	Krona Iżlandiża		ZAR	Rand ta' l-Afrika t'Isfel	10,8984
NOK	Krona Norveġiża	8,4600	CNY	Yuan ren-min-bi Ċiniż	9,9958
BGN	Lev Bulgaru	1,9558	HRK	Kuna Kroata	7,2580
CZK	Krona Ċeka	25,164	IDR	Rupiah Indoneżjan	14 130,03
EEK	Krona Estona	15,6466	MYR	Ringgit Malażjan	5,0679
HUF	Forint Ungeriż	269,70	PHP	Peso Filippin	69,318
LTL	Litas Litwan	3,4528	RUB	Rouble Russu	43,9800
LVL	Lats Latvjan	0,7079	THB	Baht Tajlandiż	48,988
PLN	Zloty Pollakk	4,2295	BRL	Real Brażiljan	2,6050
RON	Leu Rumen	4,2180	MXN	Peso Messikan	19,7454
TRY	Lira Turka	2,1734	INR	Rupi Indjan	70,0010

[1] *Sors*: rata tal-kambju ta' referenza ppubblikata mill-Bank Ċentrali Ewropew.

Notifika tal-Kummissjoi dwar ir-rati ta' interessi ta' rkupru preżenti għall-Għajnuna mill-Istat u rati ta' referenza/tnaqqis għas-27 Stat Membru applikabbli mill-1 ta' Settembru 2009

(Ippublikat skont l-Artikolu 10 tar-Regolament tal-Kummissjoni (KE) Nru 794/2004 tal-21 ta' April 2004 (ĠU L 140, 30.4.2004, p. 1))

(2009/C 236/03)

Rati bażi kkalkulati skont il-Komunikazzjoni tal-Kummissjoni dwar ir-reviżjoni tal-metodu biex tkun stabbilita r-rata ta' riferenza u ta' tnaqqis (ĠU C 14, 19.1.2008, p. 6). Skond l-użu tar-rata ta' referenza, il-marġini xierqa għad għandhom ikunu ddefiniti f'din il-komunikazzjoni. Għar-rata ta' tnaqqis, dan ifisser li għandu jiżdied marġini ta' 100 punti bażi. Ir-Regolament tal-Kummissjoni (KE) Nru 271/2008 tat-30 ta' Jannar 2008 li jemenda r-regolament ta' implimentazzjoni (KE) Nru 764/2004 jipprevedi li, jekk mhux speċifikat diversament f'deċiżjoni speċifika, ir-rata ta' rkupru għandha tkun ikkalulata wkoll billi jkunu miżjuda 100 punti bażi fuq ir-rata bażi.

Minn	sa	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
1.9.2009		1,77	1,77	6,41	1,77	2,96	1,77	2,78	7,34	1,77	1,77	1,77	1,77	10,01	1,77	1,77	9,53	1,77	15,54	1,77	1,77	4,53	1,77	10,75	1,49	1,77	1,77	1,85
1.8.2009	31.8.2009	1,77	1,77	6,41	1,77	2,96	1,77	2,78	7,34	1,77	1,77	1,77	1,77	10,01	1,77	1,77	9,53	1,77	15,54	1,77	1,77	4,53	1,77	13,20	1,49	1,77	1,77	1,85
1.7.2009	31.7.2009	1,77	1,77	6,41	1,77	2,96	1,77	3,44	7,34	1,77	1,77	1,77	1,77	10,01	1,77	1,77	9,53	1,77	13,20	1,77	1,77	4,53	1,77	13,20	1,49	1,77	1,77	2,20
1.6.2009	30.6.2009	2,22	2,22	6,41	2,22	2,96	2,22	3,44	7,34	2,22	2,22	2,22	2,22	10,01	2,22	2,22	9,53	2,22	13,20	2,22	2,22	4,53	2,22	17,29	1,49	2,22	2,22	2,20
1.5.2009	31.5.2009	2,22	2,22	7,63	2,22	2,96	2,22	4,57	7,34	2,22	2,22	2,22	2,22	10,01	2,22	2,22	9,53	2,22	13,20	2,22	2,22	5,62	2,22	17,29	1,81	2,22	2,22	2,84
1.4.2009	30.4.2009	2,74	2,74	7,63	2,74	2,96	2,74	4,57	7,34	2,74	2,74	2,74	2,74	10,01	2,74	2,74	9,53	2,74	13,20	2,74	2,74	5,62	2,74	17,29	2,30	2,74	2,74	2,84
1.3.2009	31.3.2009	3,47	3,47	7,63	3,47	3,74	3,47	6,00	7,34	3,47	3,47	3,47	3,47	10,01	3,47	3,47	9,53	3,47	13,20	3,47	3,47	6,78	3,47	17,29	3,31	3,47	3,47	3,58
1.2.2009	28.2.2009	4,99	4,99	7,63	4,99	4,53	4,99	6,00	7,34	4,99	4,99	4,99	4,99	10,01	4,99	4,99	7,81	4,99	13,20	4,99	4,99	6,78	4,99	17,29	4,31	4,99	4,99	4,81
1.1.2009	31.1.2009	4,99	4,99	7,63	4,99	4,53	4,99	6,00	7,34	4,99	4,99	4,99	4,99	10,01	4,99	4,99	7,81	4,99	11,05	4,99	4,99	6,78	4,99	17,29	5,18	4,99	4,99	5,70
1.12.2008	31.12.2008	5,36	5,36	6,70	5,36	4,20	5,36	5,55	6,43	5,36	5,36	5,36	5,36	8,58	5,36	5,36	7,10	5,36	9,44	5,36	5,36	6,42	5,36	15,87	5,49	5,36	5,00	5,66
1.11.2008	30.11.2008	5,36	5,36	6,70	5,36	4,20	5,36	5,55	6,43	5,36	5,36	5,36	5,36	8,58	5,36	5,36	6,10	5,36	9,44	5,36	5,36	6,42	5,36	11,02	5,49	5,36	5,00	5,66
1.10.2008	31.10.2008	5,36	5,36	6,70	5,36	4,20	5,36	5,55	6,43	5,36	5,36	5,36	5,36	8,58	5,36	5,36	6,10	5,36	9,44	5,36	5,36	6,42	5,36	11,02	5,49	5,36	4,34	5,66
1.9.2008	30.9.2008	4,59	4,59	6,70	4,59	4,20	4,59	5,55	6,43	4,59	4,59	4,59	4,59	8,58	4,59	4,59	6,10	4,59	9,44	4,59	4,59	6,42	4,59	11,02	5,49	4,59	4,34	5,66
1.7.2008	31.8.2008	4,59	4,59	6,70	4,59	4,20	4,59	4,81	6,43	4,59	4,59	4,59	4,59	8,58	4,59	4,59	6,10	4,59	9,44	4,59	4,59	6,42	4,59	11,02	4,75	4,59	4,34	5,66

Notifika tal-Kummissjoi dwar ir-rati ta' interessi ta' rkupru preżenti għall-Għajnuna mill-Istat u rati ta' referenza/tnaqqis għas-27 Stat Membru applikabbli mill-1 ta' Ottubru 2009

(Ippublikat skond l-Artikolu 10 tar-Regolament tal-Kummissjoni (KE) Nru 794/2004 tal-21 ta' April 2004 (ĠU L 140, 30.4.2004, p. 1))

(2009/C 236/04)

Rati bażi kkalkulati skond il-Komunikazzjoni tal-Kummissjoni dwar ir-reviżjoni tal-metodu biex tkun stabbilita r-rata ta' riferenza u ta' tnaqqis (ĠU C 14, 19.1.2008, p. 6). Skont l-użu tar-rata ta' referenza, il-marġini xierqa għad għandhom ikunu ddefiniti f'din il-komunikazzjoni. Għar-rata ta' tnaqqis, dan ifisser li għandu jiżdied marġini ta' 100 punti bażi. Ir-Regolament tal-Kummissjoni (KE) Nru 271/2008 tat-30 ta' Jannar 2008 li jemenda r-regolament ta' implimentazzjoni (KE) Nru 764/2004 jipprevedi li, jekk mhux speċifikat diversament f'deċiżjoni speċifika, ir-rata ta' rkupru għandha tkun ikkalulata wkoll billi jkunu miżjuda 100 punti bażi fuq ir-rata bażi.

Minn	sa	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
1.10.2009	…	1,45	1,45	6,41	1,45	2,49	1,45	2,31	7,34	1,45	1,45	1,45	1,45	10,01	1,45	1,45	9,53	1,45	18,77	1,45	1,45	4,53	1,45	10,75	1,49	1,45	1,45	1,53
1.9.2009	30.9.2009	1,77	1,77	6,41	1,77	2,96	1,77	2,78	7,34	1,77	1,77	1,77	1,77	10,01	1,77	1,77	9,53	1,77	15,54	1,77	1,77	4,53	1,77	10,75	1,49	1,77	1,77	1,85
1.8.2009	31.8.2009	1,77	1,77	6,41	1,77	2,96	1,77	2,78	7,34	1,77	1,77	1,77	1,77	10,01	1,77	1,77	9,53	1,77	15,54	1,77	1,77	4,53	1,77	13,20	1,49	1,77	1,77	1,85
1.7.2009	31.7.2009	1,77	1,77	6,41	1,77	2,96	1,77	3,44	7,34	1,77	1,77	1,77	1,77	10,01	1,77	1,77	9,53	1,77	13,20	1,77	1,77	4,53	1,77	13,20	1,49	1,77	1,77	2,20
1.6.2009	30.6.2009	2,22	2,22	6,41	2,22	2,96	2,22	3,44	7,34	2,22	2,22	2,22	2,22	10,01	2,22	2,22	9,53	2,22	13,20	2,22	2,22	4,53	2,22	17,29	1,49	2,22	2,22	2,20
1.5.2009	31.5.2009	2,22	2,22	7,63	2,22	2,96	2,22	4,57	7,34	2,22	2,22	2,22	2,22	10,01	2,22	2,22	9,53	2,22	13,20	2,22	2,22	5,62	2,22	17,29	1,81	2,22	2,22	2,84
1.4.2009	30.4.2009	2,74	2,74	7,63	2,74	2,96	2,74	4,57	7,34	2,74	2,74	2,74	2,74	10,01	2,74	2,74	9,53	2,74	13,20	2,74	2,74	5,62	2,74	17,29	2,30	2,74	2,74	2,84
1.3.2009	31.3.2009	3,47	3,47	7,63	3,47	3,74	3,47	6,00	7,34	3,47	3,47	3,47	3,47	10,01	3,47	3,47	9,53	3,47	13,20	3,47	3,47	6,78	3,47	17,29	3,31	3,47	3,47	3,58
1.2.2009	28.2.2009	4,99	4,99	7,63	4,99	4,53	4,99	6,00	7,34	4,99	4,99	4,99	4,99	10,01	4,99	4,99	7,81	4,99	13,20	4,99	4,99	6,78	4,99	17,29	4,31	4,99	4,99	4,81
1.1.2009	31.1.2009	4,99	4,99	7,63	4,99	4,53	4,99	6,00	7,34	4,99	4,99	4,99	4,99	10,01	4,99	4,99	7,81	4,99	11,05	4,99	4,99	6,78	4,99	17,29	5,18	4,99	4,99	5,70
1.12.2008	31.12.2008	5,36	5,36	6,70	5,36	4,20	5,36	5,55	6,43	5,36	5,36	5,36	5,36	8,58	5,36	5,36	7,10	5,36	9,44	5,36	5,36	6,42	5,36	15,87	5,49	5,36	5,00	5,66
1.11.2008	30.11.2008	5,36	5,36	6,70	5,36	4,20	5,36	5,55	6,43	5,36	5,36	5,36	5,36	8,58	5,36	5,36	6,10	5,36	9,44	5,36	5,36	6,42	5,36	11,02	5,49	5,36	5,00	5,66
1.10.2008	31.10.2008	5,36	5,36	6,70	5,36	4,20	5,36	5,55	6,43	5,36	5,36	5,36	5,36	8,58	5,36	5,36	6,10	5,36	9,44	5,36	5,36	6,42	5,36	11,02	5,49	5,36	4,34	5,66
1.9.2008	30.9.2008	4,59	4,59	6,70	4,59	4,20	4,59	5,55	6,43	4,59	4,59	4,59	4,59	8,58	4,59	4,59	6,10	4,59	9,44	4,59	4,59	6,42	4,59	11,02	5,49	4,59	4,34	5,66
1.7.2008	31.8.2008	4,59	4,59	6,70	4,59	4,20	4,59	4,81	6,43	4,59	4,59	4,59	4,59	8,58	4,59	4,59	6,10	4,59	9,44	4,59	4,59	6,42	4,59	11,02	4,75	4,59	4,34	5,66

INFORMAZZJONI DWAR IŻ ŻONA EKONOMIKA EWROPEA

IL-KUMMISSJONI

Awtorizzazzjoni għall-Għajnuna mill-Istat skont l-Artikolu 61 tal-Ftehim taż-ŻEE u l-Artikolu 1(3) fil-Parti I tal-Protokoll 3 tal-Ftehim dwar is-Sorveljanza u l-Qorti

(2009/C 236/05)

L-Awtorità ta' Sorveljanza tal-EFTA ma tqajjem l-ebda oġġezzjoni għall-miżura ta' għajnuna sussegwenti:

Data tal-adozzjoni tad-deċiżjoni:	31.3.2009
Numru tal-każ:	65120
Stat EFTA:	In-Norveġja
Titlu (u/jew isem tal-benefiċjarju):	Skemi ta' għajnuna għal produzzjonijiet awdjoviżivi u Żvilupp ta' screenplays u miżuri edukattivi
Bażi legali:	Regolament għal appoġġ għal produzzjonijiet awdjoviżivi Regolament għal appoġġ għal żvilupp ta' screenplays u miżuri edukattivi Baġit tal-Istat 2009 (Kapitolu 0334 rigward films u midja)
Tip ta' miżura:	Skema
Għan:	Il-kultura
Forma tal-għajnuna:	Għotjiet diretti
Baġit:	NOK 321 miljun għas-sena 2008.
Tul ta' żmien:	Sal-31 ta' Diċembru 2014
Setturi ekonomiċi:	Kulturali

It-test awtentiku tad-deċiżjoni, li minnu tneħħiet kull informazzjoni kunfidenzjali, huwa disponibbli fuq il-websajt tal-Awtorità ta' Sorveljanza tal-EFTA:

http://www.eftasurv.int/fieldsofwork/fieldstateaid/stateaidregistry/

AWTORITÀ TA' SORVELJANZA EFTA

Stedina biex jitressqu kummenti skont l-Artikolu 1(2) fil-Parti I tal-Protokoll 3 tal-Ftehim bejn l-Istati tal-EFTA dwar it-Twaqqif ta' Awtorità ta' Sorveljanza u Qorti tal-Ġustizzja dwar l-għajnuna mill-Istat rigward it-tassazzjoni ta' impriżi tal-investiment skont l-Att dwar it-Taxxa tal-Liechtenstein.

(2009/C 236/06)

Permezz tad-Deċiżjoni Nru 149/09/COL tat-18 ta' Marzu 2009, riprodotta fil-lingwa awtentika fil-paġni li jsegwu dan is-sommarju, l-Awtorità tas-Sorveljanza tal-EFTA bdiet proċedimenti skont l-Artikolu 1(2) fil-Parti I tal-Protokoll 3 tal-Ftehim bejn l-Istati tal-EFTA dwar it-Twaqqif ta' Awtorità ta' Sorveljanza u ta' Qorti tal-Ġustizzja. L-awtoritajiet tal-Liechtenstein ġew infurmati permezz ta' kopja tad-deċiżjoni.

L-Awtorità ta' Sorveljanza tal-EFTA b'dan tavża lill-Istati tal-EFTA, lill-Istati Membri tal-UE u lill-partijiet interessati biex iressqu l-kummenti tagħhom dwar il-miżuri inkwistjoni fi żmien xahar mill-pubblikazzjoni ta' din in-notifika lil:

L-Awtorità ta' Sorveljanza tal-EFTA
Ir-Reġistru
Rue Belliard 35
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

Il-kummenti se jiġu kkomunikati lill-awtoritajiet tal-Liechtenstein. Il-parti interessata li tissottometti l-kummenti tista' titlob bil-miktub biex l-identità tagħha tibqa' kunfidenzjali, filwaqt li tagħti r-raġunijiet għat-talba.

SOMMARJU

Il-każ inbeda mill-Awtorità li talbet informazzjoni mill-awtoritajiet tal-Liechtenstein fl-14 ta' Marzu 2007.

Skont it-Taqsima 2 tal-Att tat-3 ta' Mejju 1996 dwar l-Impriżi għall-Investiment (*Gesetz über Investmentunternehmen*, minn issa 'il quddiem l-"IUG") l-impriżi għall-investiment huma:

> "il-beni miġbura mill-pubbliku wara reklamar pubbliku għall-iskop ta' investiment tal-kapital kollettiv li huma investiti u amministrati għall-benefiċċju kollettiv tal-investituri individwali, normalment skont il-prinċipju tat-tixrid tar-riskju"

L-impriża għall-investiment fit-tifsira tal-IUG tiddeskrivi l-kapital tal-fond kontribwit minn investituri differenti. Biex impriża għall-investiment tinnegozja b'mod kummerċjali fis-suq jeħtieġ li tissodisfa tliet rekwiżiti skont l-IUG:

— Jeħtieġ li tagħżel forma legali rikonoxxuta;

— Jeħtieġ li l-amministrazzjoni ssir minn korp li jkollu personalità legali;

— Jeħtieġ li jkollha kont ta' depożitu f'*depot bank* (ara t-Taqsima 39 IUG 1996).

Irrispettivament mill-forma tal-organizzazzjoni, il-beni trasferiti mill-investituri (il-beni amministrati) għandhom ikunu differenzjati mill-beni li jkunu proprjetà tal-kumpanija li tamministra.

Għal skopijiet tat-tassazzjoni, fil-każ tal-kumpaniji għall-investiment ma saret l-ebda distinzjoni bejn il-beni li huma proprjetà tal-kumpanija li qed tamministra u l-beni amministrati minħabba li t-tnejn li huma kienu soġġetti għar-regoli li japplikaw għall-kumpaniji domiċiljari skont it-Taqsima 85(2) tal-Att dwar it-Taxxa. Dan fisser li ma tħallset l-ebda taxxa fuq id-dħul għall-attivitajiet ta' amministrazzjoni jew għall-beni amministrati. It-taxxa fuq il-kapital ġiet iffissata għal 1 ‰ minflok 2 ‰ u tnaqqset aktar għal kull kapital li jaqbeż is-CHF 2 miljuni. Ma tħallset l-ebda taxxa ċedulari.

B'effett mill-2006, ġiet introdotta t-taqsima ġdida 35(3) fl-Att dwar l-impriżi għall-investiment. Din id-dispożizzjoni teħtieġ ukoll li l-kumpaniji għall-investiment jirreġistraw u jżommu b'mod separat il-beni li huma proprjetà tagħhom u l-beni amministrati. Barra minn hekk, l-Att dwar it-Taxxa ġie rivedut fl-2005. Ġiet imħassra t-Taqsima 85(2) tal-Att dwar it-Taxxa, li kienet tipprovdi għal tassazzjoni simili kekk kif inhu applikabbli għall-kumpaniji domiċiljari u għal taxxa fuq il-kapital imnaqqsa għal kull ammont li jaqbeż is-CHF 2 miljuni. Minflok, ġiet introdotta t-Taqsima l-ġdida 73(f), li teħtieġ li l-amministrazzjoni tal-fond ta' fond għall-investiment u ta' kumpaniji għall-investiment tħallas it-taxxa fuq id-dħul u fuq il-kapital b'relazzjoni mal-beni tagħha stess. Barra minn hekk, wara din ir-riforma, il-kumpaniji għall-investiment kienu soġġetti wkoll għall- ħlas ta' taxxa ċedulari.

Il-preżenza ta' għajnuna mill-Istat

L-Awtorità vvalutat jekk l-eżenzjonijiet mit-taxxa applikabbli għall-kumpaniji għall-investiment bejn l-1996 u 2006 jikkostitwixxux għajnuna mill-Istat skont it-tifsira tal-Artikolu 61(1) tal-Ftehim taż-ŻEE.

Impriża

Skont il-Qorti Ewropea tal-Ġustizzja, il-kunċett ta' impriża fis-sens tal-Artikolu 87 KE, li jikkorrispondi għall-Artikolu 61(1) tal-Ftehim taż-ŻEE jinkludi "*kull entità li tieħu sehem f'attività ekonomika, irrispettivament mill-istatus legali tal-entità u l-mod li permezz tiegħu hi ffinanzjata*." [1].

Il-kumpaniji għall-investiment taħt il-liġi tal-Liechtenstein għandhom forma inkorporata peress li huma organizzati bħala kumpaniji limitati bl-ishma jew Societas Europea. Dawn huma attivi fil-ġbir u fl-amministrazzjoni tal-beni ta' investituri varji bil-ħsieb li jagħmlu profitt permezz ta' bosta miżati relatati mal-kontribuzzjonijiet. Konsegwentament l-Awtorità ssib li l-kumpaniji għall-investiment, għal dik il-parti tal-kumpanija li tieħu ħsieb l-amministrazzjoni tal-beni, huma impriżi skont it-tifsira tal-Artikolu 61(1) tal-Ftehim taż-ŻEE [2].

Vantaġġ

Peress li l-kumpaniji għall-investimenti mhumiex obbligati li jħallsu taxxa fuq id-dħul jew taxxa ċedulari, iżda biss taxxa fuq il-kapital imnaqqsa fuq il-beni tagħhom stess, huma rċevew vantaġġ meta mqabbla ma' impriżi oħra, b'mod partikolari fil-każ tal-amministrazzjoni mill-fond ta' fondi tal-investiment li kienu soġġetti għal tassazzjoni ordinarja fuq id-dħul mill-attivitajiet tan-negozju tagħhom.

Il-vantaġġ hu selettiv minħabba li kien mogħti biss lil impriżi għall-investiment organizzati fil-forma ta' kumpaniji għall-investiment. Fil-fehma preliminari tal-Awtorità, l-eżenzjoni mit-taxxa fuq il-beni li huma proprjetà tal-kumpanija tal-amministrazzjoni ma tistax tkun ġustifikata min-natura u mill-iskema globali tas-sistema tat-tassazzjoni tal-Liechtenstein.

Preżenza ta' riżorsi tal-Istat

Il-vantaġġ għandu jingħata mill-Istat jew permezz ta' riżorsi tal-Istat. Telf ta' dħul mit-taxxa hu ekwivalenti għall-konsum ta' riżorsi tal-Istat fil-forma ta' nefqa fiskali [3]. L-Istat tal-Liechtenstein iċedi d-dħul fil-forma ta' dħul mit-taxxa mill-kumpaniji għall-investiment.

Distorsjoni ta' kompetizzjoni u effett fuq il-kummerċ bejn Partijiet Kontraenti

Meta miżura ta' sostenn li hi mogħtija mill-Istat issaħħaħ il-pożizzjoni ta' impriża meta mqabbla ma' impriżi oħra li jikkompetu fil-kummerċ taż-ŻEE, din tal-aħħar għandha titqies bħala milquta minn dik l-għajnuna għalhekk l-Awtorità hija tal-fehma preliminari li l-konċessjonijiet fuq it-taxxa għall-beni stess tal-kumpaniji għall-investiment mill-1996 sal-2005 saħħet il-pożizzjoni kompetittiva tal-kumpaniji għall-investiment fiż-ŻEE, minħabba li dawn il-konċessjonijiet tat-taxxa naqqsu l-ispejjeż operattivi ordinarji ta' dawn il-kumpaniji meta mqabbla ma' kumpaniji oħra taż-ŻEE li jistgħu joperaw fi swieq internazzjonali. [4].

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[1] Kawżi magħquda C-180/98 sa C-184/98 *Pavlov* [2000] Ġabra, p. I-6451, punt 75.

[2] Kawża T-445/05 Associazione Italiana del risparmio gestito, *et*. vs il-Kummissjoni, li għadha ma ġietx ippubblikata fil-Ġabra, punt 127 ff.

[3] Ara l-punt 3(3) tal-Linji Gwida tal-Awtorità dwar il-miżuri li huma relatati mat-tassazzjoni tan-negozju diretta.

[4] Ara l-Kawża T-424/05, iċċitata hawn fuq, punt 156.

Għar-raġunijiet imsemmija hawn fuq, l-Awtorità hija tal-fehma preliminari li l-eżenzjoni mit-taxxa fuq il-beni li huma proprjetà tal-kumpaniji tal-amministrazzjoni tikkostitwixxi għajnuna mill-Istat fit-tifsira tal-Artikolu 61(1) tal-Ftehim taż-ŻEE.

Kumpatibbiltà tal-għajnuna

L-Awtorità tiddubita jekk id-derogi mit-taxxa li qed jiġu evalwati humiex kompatibbli mal-Ftehim taż-ŻEE fuq il-bażi ta' kwalunkwe waħda mid-derogi previsti fl-Artikolu 61(2) u (3) tat-Trattament taż-ŻEE.

Konklużjoni

Fid-dawl tal-kunsiderazzjonijiet imsemmija, l-Awtorità ddeċidiet li tiftaħ proċedura ta' investigazzjoni formali skont l-Artikolu 1(2) tal-Ftehim taż-ŻEE. Il-partijiet interessati huma mistiedna li jressqu l-kummenti tagħhom fi żmien xahar mill-pubblikazzjoni ta' din id-Deċiżjoni fil-*Ġurnal Uffiċjali tal-Unjoni Ewropea*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 149/09/COL

of 18 March 2009

to initiate the procedure provided for in Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement with regard to the taxation of investment undertakings according to the Liechtenstein Tax Act

(Liechtenstein)

THE EFTA SURVEILLANCE AUTHORITY ([5]),

Having regard to the Agreement on the European Economic Area ([6]), in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ([7]), in particular to Article 24 thereof,

Having regard to Article 1(2) of Part I and Article 4(4) and 6 of Part II of Protocol 3 to the Surveillance and Court Agreement ([8]),

Having regard to the Authority's Guidelines ([9]) on the application and interpretation of Articles 61 and 62 of the EEA Agreement, and in particular the chapter dealing with the application of State aid rules to measures relating to direct business taxation,

Having regard to the Authority's Decision of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 ([10]),

Whereas:

I. FACTS

1. Procedure

By letter dated 14 March 2007 (Event No 393563), the Authority sent a request for information to the Liechtenstein authorities, inquiring about various tax derogations for certain company types under the Liechtenstein Tax Act. The Liechtenstein authorities provided information by letter dated 30 May 2007 (Event No 423398).

([5]) Hereinafter referred to as the Authority.
([6]) Hereinafter referred to as 'the EEA Agreement'.
([7]) Hereinafter referred to as 'the Surveillance and Court Agreement'.
([8]) Hereinafter referred to as 'Protocol 3'.
([9]) Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published in the *Official Journal of the European Union* (hereinafter referred to as OJ) L 231, 3.9.1994, p. 1 and the EEA Supplement No 32, 3.9.1994, p. 1. Hereinafter referred to as the State Aid Guidelines, which can be found on http://www.eftasurv.int/fieldsofwork/fieldstateaid/state_aid_guidelines/
([10]) Decision No 195/04/COL of 14 July 2004 (published in OJ L 139, 25.5.2006, p. 37 and the EEA Supplement No 26, 25.5.2006, p. 1), as amended. A consolidated version of the decision can be found on www.eftasurv.int

By letter dated 12 July 2007 (Event No 428102), the Authority requested more information. The Liechtenstein authorities provided a response by letter dated 29 August 2007 (Event No 437041). On 31 October 2007, the case was discussed by the Authority and the Liechtenstein authorities. The Liechtenstein authorities submitted further information by letter dated 3 December 2007 (Event No 456325). The Liechtenstein authorities presented the case in another meeting with the Authority on 18 December. The Authority requested further information on 20 December 2007 (Event No 458438). The Liechtenstein authorities responded by letter dated 1 February 2008 (Event No 463410). Further clarifications were submitted by the Liechtenstein authorities by email. By letter dated 6 October 2008, the Liechtenstein authorities submitted an expert study on the legal forms of investment undertakings and the respective taxation they were subject to (Event No 493967) ([11]). By email dated 19 January 2009, the Liechtenstein authorities submitted further information. The case was further discussed with the Liechtenstein authorities in a meeting in Vaduz on 27 January 2009.

2. **Scope of this decision**

The current investigation concerns the treatment of investment undertakings under the Liechtenstein Tax Act (*Gesetz über die Landes-und Gemeindesteuern*, hereinafter: 'the Tax Act') ([12]) between 1996 and 2006.

3. **General description of investment undertakings**

3.1. *Definition of investment undertakings*

In 1996, Act of 3 May 1996 on Investment Undertakings (*Gesetz über Investmentunternehmen*, hereafter the 'IUG') was adopted. Section 2 ([13]) contained a definition of investment undertaking as:

> 'assets raised from the public following public advertising for the purpose of a collective capital investment which are invested and managed for the collective account of the individual investors usually according to the principle of risk-spreading'

Investment undertaking within the meaning of the IUG describes the fund capital placed by different investors. To deal commercially on the market, an investment undertaking needs to fulfil three requirements in terms of the IUG:

— it needs to choose a recognised legal form,

— the management needs to be carried out by a body which has legal personality,

— it needs to have a deposit account in a depot bank.

First condition: Recognised legal form

Regarding the first requirement, the choice of a recognised legal form, two options are available under Liechtenstein law. The investment undertaking may choose the form of a collective trust ([14]) in which case it is called investment fund (*Anlagefonds*). Alternatively, it may opt for the legal form of an investment company (*Anlagegesellschaft*).

Second condition: The management company

The management of both types of investment undertaking is carried out by a management company which is called the fund direction in the case of an investment fund ([15]). The investment undertaking (the fund capital) and the management company (the fund direction) constitute two separate parts.

In the case of an investment company, the management is taken care of by the investment company itself. That company may be organised either as a company limited by shares or a *Societas Europea*. The investment company acts via the board of directors or its management. As opposed to an investment fund, the investment company constitutes one single entity.

([11]) The Liechtenstein authorities clarified that the expert opinion constitutes part of the submission of the Liechtenstein government and is part of their reasoning in this case.
([12]) Liechtensteinisches Landesgesetzblatt 1961, Nr. 7, with subsequent amendments.
([13]) Cf. Section 2(1)(a) IUG.
([14]) See section 4(1) lit a IUG.
([15]) See section 64 IUG. The fund direction has the legal form of either a company limited by shares, a private establishment or a Societas Europea, see section 65 IUG.

In both cases, the entities which are carrying out management functions (management companies) are undertakings operating business activities and carrying out services for a fee.

Third condition: The depot bank

The fund capital, that is the managed assets of both investment companies and investment funds, is held in custody by a depot bank ([16]). The depot bank can be any bank having a licence according to the Act on Banks.

3.2. *Distinction between managed and own assets of investment undertakings*

Regardless of the organisational form, the assets transferred by the investors (the managed assets) must be differentiated from the own assets of the management company (see sections 4.1 and 4.2 below respectively).

3.2.1. The assets placed by investors and managed by the management company

For the establishment of an investment undertaking, the investors transfer their assets to the fund direction of the investment fund or to the management side of the investment company.

The assets raised constitute capital which the original investors have entrusted the management companies to administer for the account and risk of the investors. The fund capital is as such a property object which is subject to taxation.

The management company manages these assets as a separate fund in its own name but on behalf and for the account of the investors. Section 66(4) IUG stipulates that the managed assets of an investment undertaking do not form part of the management company's own assets. According to Liechtenstein bankruptcy law (bankruptcy code of 1973), assets which do not belong to the debtor are subject to the right of separation, i.e. they are transferred to the owner according to the normal principles of civil law.

3.2.2. Own assets of the management company

The notion of 'own' assets (*Eigenmittel*) is used to describe assets owned by the management company (i.e. the assets owned by the fund direction or by the investment company). These assets are used to cover daily expenses (rent, payment of salaries, infrastructure, etc.). They cover the capital stock, the legal and voluntary reserves and the accumulated profit/deficit.

In return for the management, the management company gets a management fee, which becomes part of its own assets. In addition, other fees (performance fees) might be levied ([17]). The Liechtenstein authorities have confirmed that all fees remaining with the management company fall under the notion of 'own assets'. The same applies to all revenues stemming from the management activities.

3.2.3. Separation of managed and own assets within investment undertakings

3.2.3.1. *Investment fund*

According to section 4(1)(a) IUG investment funds are classified as collective trusts, which represent a trust relationship between an appointed trustee and an indefinite number of trustors. According to section 897 of the Persons- and Company Act (PGR), a trust is defined as a transfer of assets from the trustor to the trustee with the obligation that the latter holds, manages and disposes of the assets of, for the benefit of one or more beneficiaries with effect for all other persons. The trustee consequently takes care of the assets in his own name, but on behalf and on the account of the investors.

([16]) Section 31 IUG.

([17]) The Liechtenstein authorities have stated that it is impossible to list these fees exhaustively as a fund direction (or the management side of the investment company) is free to levy fees as its own discretion.

Upon establishment of this trust relationship, the transferred assets form a special fund, the so-called trust property, which is held separately from the trustee's own assets., For investment funds the trusted assets are physically placed in a depot bank ([18]). In bankruptcy proceedings, these assets do not form part of the own assets of the management company, i.e. creditors cannot satisfy their claims against the management from the investors placements ([19]). There is a right of separation under Liechtenstein insolvency law for the trustor, who can claim back his entire investment in the insolvency proceedings. According to section 915 of the PGR, trust property is to be considered as distinct/foreign property ('*Fremdvermögen*') and the creditors of the trustee do not have access to it.

3.2.3.2. *Investment company*

In the setting of an investment company, managed and own assets share one entity (i.e. the investment company). Nevertheless, as for investment funds, there is a strict distinction between the investment company entrusted with the management of the assets and the assets themselves. The latter is not a commercially active entity. As for investment funds, the managed assets are physically held at the depot bank, which keeps them in custody. The managed assets are kept separate from the investment company's own assets ([20]). As for investment funds, the managed assets can profit from a right of separation of the investor in bankruptcy proceedings ([21]). Thus, the managed assets do not belong to the insolvency capital in case of a bankruptcy of the investment company.

The Liechtenstein authorities have explained that the managed assets do not become part of the company's own assets and that the investors do not become shareholders in the investment company. The placement of the investor consequently does not raise the capital of the investment company. The investor who transfers his assets to an investment company acquires a claim against the investment company in relation to the entire assets placed by him.

4. **Tax provisions applicable to investment undertakings in Liechtenstein**

4.1. *General description of the Liechtenstein company taxation*

4.1.1. Income and capital tax

Sections 73 to 81 in Part 4, heading A, The company taxes ('*Die Gesellschaftssteuern*') of the Tax Act comprise two taxes relating to companies ([22]):

— A business **income tax** (*Ertragssteuer*). According to section 77 of the Tax Act this tax is assessed on the entire annual net income. Taxable net income is the entire revenues minus company expenditures (including write-offs and other provisions). The income tax rate depends on the ratio of net income to taxable capital and lies between 7,5 % and 15 % ([23]). This tax rate may be increased by 1 percentage point to, at most, 5 percentage points depending on the relation between dividends and taxable capital. The maximum income tax is therefore 20 %.

— A **capital tax** (*Kapitalsteuer*). According to section 76 of the Tax Act, the basis for this tax is the paid-up capital stock, joint stock, share capital, or initial capital as well as the reserves of the company constituting company equity. Taxes are assessed at the end of the company's business year (generally on 31 December). The tax rate for the capital tax is 2 ‰.

According to section 73 of the Tax Act, legal persons operating commercial businesses in Liechtenstein pay income and capital tax. The same applies to foreign companies operating a branch in Liechtenstein in accordance with section 73(e) of the Tax Act.

([18]) Cf. section 31 IUG.
([19]) Section 24 in conjunction with section 41 of the Liechtenstein Bankruptcy Act.
([20]) Section 35(3) IUG.
([21]) Section 37 IUG.
([22]) Private persons are subject to income tax (Erwerbssteuer) and property tax (Vermögenssteuer), which are not relevant for this investigation.
([23]) The net profit is set in relation to the taxable capital. The tax rate is then set at half the percentage which the net profit constitutes of the taxable capital. However, there is a minimum level of 7,5 % and a maximum ceiling of 15 %, see section 79(2) of the Tax Act.

4.1.2. Coupon tax

Part 5 of the Tax Act concerns the so-called **coupon tax**. According to section 88(a)(1) of the Tax Act, Liechtenstein levies a tax on coupons. The coupon tax is levied on the coupons of securities (or documents equal to securities) issued by 'a national'. This notion covers any person who has the place of residence, domicile or statutory seat in Liechtenstein. It also covers undertakings that are registered in the public register of Liechtenstein.

The coupon tax applies to companies the capital of which is divided into shares, as for example companies limited by shares and companies with limited liability ([24]). It is levied at the rate of 4 % on any distribution of dividends or profit shares (including distributions in the form of shares).

The coupon tax is a withholding tax, which falls on the investor as the ultimate tax payer (Steuerträger), but is withheld on the level of the company (debtor of the tax) ([25]).

4.2. *The taxation of investment undertakings between 1996 and 2006*

In 1996 the rules regarding taxation of investment undertakings were revised ([26]).

4.2.1. The taxation of the assets managed by investment undertakings

In 1996, with the introduction of Section 84(5), investment undertakings — in the meaning of collective capital — were formally put on the same footing as domiciliary companies (*'Sitzgesellschaften'*) ([27]).

As domiciliary companies would not pay any *income tax*, the assets managed by investment undertakings would not pay income tax. According to section 84(1) of the Tax Act, only a reduced *capital tax* of 1 ‰ (instead of 2 ‰) was applicable ([28]). This rate was further reduced to 0,4 ‰ for the capital of investment undertakings exceeding 2 million CHF in accordance with Section 85(2) of the Tax Act ([29]).

Moreover, in 1996, the coupon tax on the distribution of profits generated from the fund capital was abolished ([30]).

4.2.2. The taxation of the own assets of investment funds

4.2.2.1. *The taxation of the management side of investment funds*

As any company operating business in Liechtenstein, the fund direction of investment funds (the management side of the fund) would be fully liable to pay income, capital as well as coupon tax for the own income and capital.

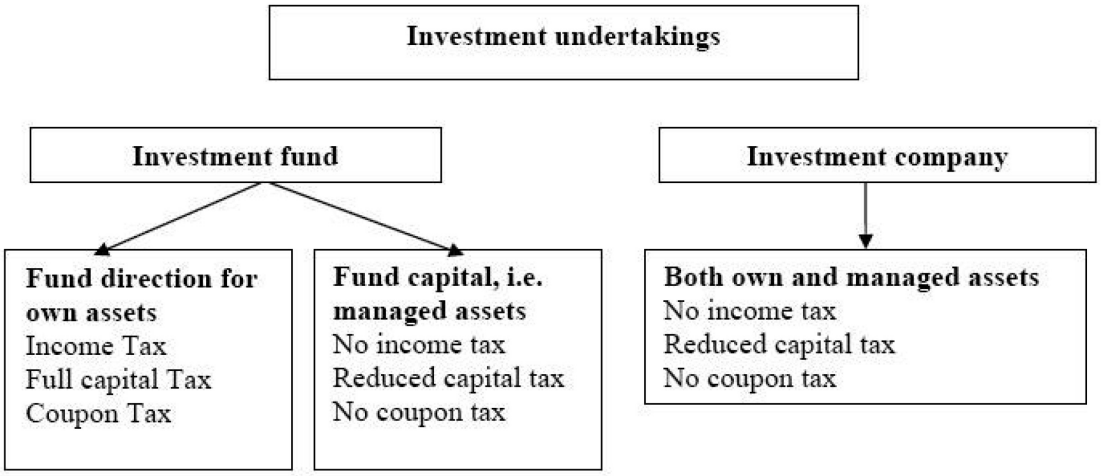
The fund direction had also been fully taxed prior to 1996 in accordance with Section 84(2) of the Tax Act 1961.

4.2.2.2. *The taxation of the management side of investment companies*

In the case of investment companies, no distinction was made between the management company's own assets and the managed assets. The investment companies own assets were therefore subject to the rules applying to domiciliary companies, as such, in accordance with Section 84(2) of the Tax Act. That meant that no income tax was levied for the management activities or for the managed assets. The capital tax was fixed at 1 ‰ instead of 2 ‰ and reduced further for any capital exceeding CHF 2 million in accordance with Section 85(2) of the Tax Act. No coupon tax was levied.

([24]) Section 88(d) of the Tax Act.
([25]) Section 88(i) of the Tax Act reads: *'(s)teuerpflichtig ist der Schuldner des Coupons oder der steuerbaren Leistung'*.
([26]) LGBL 1996, Nr. 88.
([27]) Cf. the former section 84(5) of the Tax Act. Domiciliary companies are still tax regulated in section 84 of the Tax Act. They are legal entities registered in the public register, which only have their seat or an office in Liechtenstein, but do not exercise any commercial or business activity in Liechtenstein.
([28]) The tax derogation in favour of domiciliary companies pre-dates the entry of Liechtenstein to the EEA Agreement and is therefore not part of this decision, which only deals with tax derogations introduced after 1 May 1995, the date of Liechtenstein's entry to the EEA.
([29]) Cf. section 85(2) of the Tax Act in the form of the 1996 amendment, LGBL 1996 Nr. 88.
([30]) Sections 88(f), 88(g), 88(h)(3), 88(i)(2) of the 1961 Tax Act which dealt with the coupon taxation of investment funds were repealed, see Government Bill No 69/1995, p. 10, in which it was stated that the repeal of the coupon tax on 'their' distributions was a pre-condition for the foundation of investment undertakings. Regarding the entry into force, see Gesetz vom 3. Mai 1996 über die Abänderung des Steuergesetzes, LGBl. Nr. 88 of 10 July 1996.

The tax situation from 1996 to 2006 for investment funds and investment companies can be illustrated as follows:



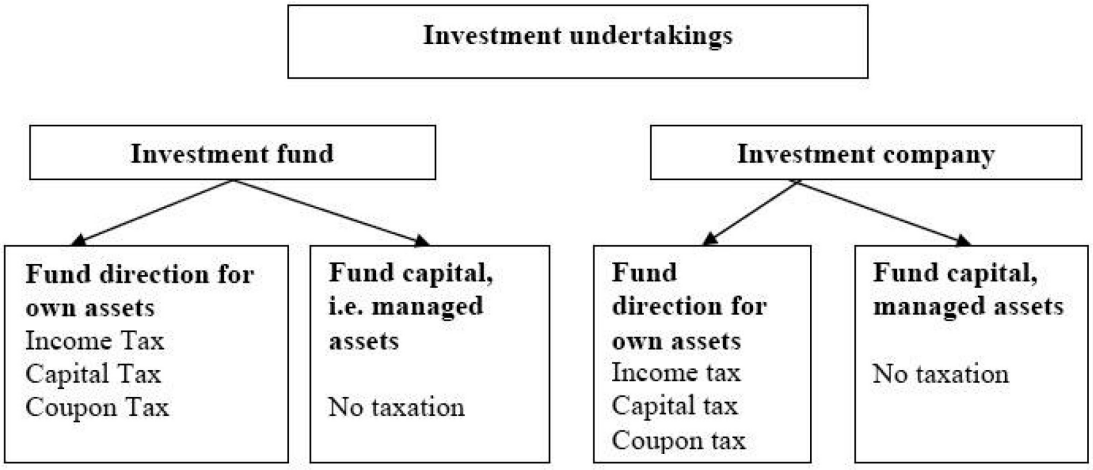
4.3. *The situation from 2006 until today*

By the Act on Investment Undertakings of 19 May 2005, a new section 35(3) was introduced in the Act on investment undertakings. This provision requires also the investment companies to record and hold separately own and managed assets.

Further, the Tax Act was also revised. The result of the revision was that section 84(5) Tax Act was abolished. In accordance with a new section 86(2), the managed assets for both types of investment undertakings, i.e. the investment fund and the investment company, were explicitly exempted from payment of a capital tax ([31]).

Section 85(2) of the Tax Act, which provided for a reduced capital tax for any amount in excess of CHF 2 million, was repealed. Instead, a new section 73(f) was inserted, which requires the fund direction of an investment fund and investment companies to pay income and capital tax in relation to its own assets.

The tax situation for investment funds and investment companies from 2006 onwards can be illustrated as follows:



([31]) See information submitted by the Liechtenstein authorities by letter dated 1 February 2008, paragraphs 48-52.

5. **Comments by the Liechtenstein authorities**

5.1. *No selective advantage*

The Liechtenstein authorities firstly argued that the tax rules applicable to investment undertakings from 1996 to 2006 did not confer any advantage to a specific form of investment undertaking. Rather, there was a uniform tax regime for both investment funds and investment companies as defined by Section 2(1)(a) IUG 1996. They were taxed according to the general level of domiciliary companies. If anything, the taxation imposed on the fund direction of the investment fund which was subject to income tax, full capital tax and coupon tax, was a disadvantage for the fund rather than a selective advantage for the investment company.

The Liechtenstein authorities have stated that, despite the difference in taxation for investment companies compared to the fund direction with regard to own assets, the first investment company was only founded in 2001. In 2006, only 16 investment companies existed in Liechtenstein. By contrast, 192 investment funds were active in Liechtenstein by 2006. According to the Liechtenstein authorities, this shows that there was no incentive for enterprises to organise themselves in the form of an investment company. Hence, there was no advantage for investment companies.

In addition, an advantage within the meaning of the EEA State aid provisions is only selective if it favours the economic activity of certain undertakings or productions of certain goods compared to others. In the present case, the economic activities of the investment funds and the investment companies are identical. The difference in taxation results exclusively from the legal form in which these economic activities are carried out.

Finally, the Liechtenstein authorities argue that all economic agents active in the business of managing funds are free to choose both forms of investment undertakings. Once the form has been chosen, the investment undertaking has to abide by Liechtenstein's corporate and tax laws. As the difference in treatment applies to all economic activities alike, there is no State aid issue.

By letter dated 6 October 2008, the Liechtenstein authorities submitted an expert study on the taxation of investment undertakings. The expert study comes to the conclusion that if investment companies had been established already prior to 1996, they would have been subject to ordinary business taxation until 1996. The study concludes that during the time from 1996 to 2006, in order to be '*consistent with the Liechtenstein tax system the unit within the Anlagegesellschaft that operates the business and therefore, the own assets of the Anlagegesellschaft, should have been subject to the regular capital and profit tax*'. ([32])

The study moreover concludes that while in 1996 section 88(f) of the Tax Act dealing with coupon taxes for investment funds was repealed, section 88(d) dealing with such taxation in respect of capital divided into shares was not removed. Therefore, as for and regarding shares representing own assets, section 88(d) of the Tax Act would still have been applicable.

The Liechtenstein authorities have made the expert opinion part of their submission and reasoning in this case.

5.2. *Comments on the 2006 tax reform*

The Liechtenstein authorities have explained that there were various reasons for the revision. Firstly, it was found that the Liechtenstein Tax Act, by international comparison, was less advantageous as the managed assets of investment undertakings were hitherto subject to capital taxation. This led to double taxation, as both the investment undertaking and the investor were taxed ([33]). Other countries, such as Switzerland, Germany and Austria, did not tax the managed assets of investment funds. In order to improve the conditions for attracting fund investments to Liechtenstein, a revision was considered necessary.

([32]) Expert opinion DII,b.ii.3. The word profit tax used by the expert refers to what is described in this decision as the income tax.

([33]) The Liechtenstein authorities explained that the investor would be tax liable for the investment in Liechtenstein or in other countries.

Further, to avoid any unintentional double taxation of invested funds, uniform accounting standards were adopted which allowed for a more balanced taxation of both forms of investment undertakings without changing the structural difference required by Liechtenstein's corporate law ([34]).

Moreover, the tax distinction between the management side of investment funds and investment companies could lead to an increase in demand for products run by investment companies. To avoid a tax-motivated shift to investment companies, investment funds and investment companies were put on the same footing. The 2005/2006 reform should result in a uniform taxation of both forms of investment undertakings despite their structural differences.

II. **ASSESSMENT**

1. **The presence of State aid**

The Authority will investigate below whether the fact that investment companies did not pay any income and coupon tax and only a reduced capital tax on their own assets until the 2006 reform constitutes State aid within the meaning of Article 61(1) of the EEA Agreement. Article 61(1) of the EEA Agreement reads as follows:

> 'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through state resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.'

1.1. *Undertaking*

According to the European Court of Justice, the notion of an undertaking in the sense of Article 87 EC, which corresponds to Article 61(1) of the EEA Agreement, encompasses '*every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed*' ([35]).

As can be seen from the structure of investment undertakings, the pooled assets of the investors are managed either by a separate management company acting as a trustee in case of an investment fund (fund direction) or by the investment company itself.

In BBL ([36]), the Court of Justice of the European Communities dealt with the activity of investment companies (SICAVs under Belgian law) which consist of the collective investment in transferable securities of capital raised from the public and which aim to produce income on a continuing basis. With the capital provided by subscribers when they purchase shares, SICAVs assemble and manage, on behalf of the subscribers and for a fee, portfolios consisting of transferable securities. The Court held that this constitutes an economic activity within the meaning of Article 4(2) of the Sixth VAT Directive.

The Authority finds, in line with the Commission's case practice in this area ([37]), that this jurisprudence can also be applied when assessing the existence of an economic activity under the State aid provisions of the EEA Agreement. Investment companies and the fund direction for an investment fund under Liechtenstein law take corporate form as they are organised as companies limited by shares or Societas Europea. They are active in assembling and managing the assets of various investors with the intention of making profits via various fees related to the placements. The Authority consequently finds that investment companies, for the part of the company carrying out the asset management, are undertakings within the meaning of Article 61(1) of the EEA Agreement ([38]).

1.2. *Advantage*

By not being obliged to pay any income or coupon tax and only a reduced capital tax on their own assets, investment companies receive an advantage in relation to other undertakings, in particular towards the fund direction of investment funds who were subject to ordinary taxation on revenues from their business activities.

([34]) The Liechtenstein authorities explained the 2005/2006 tax reform in their letter of 3 December 2007.

([35]) Joined Cases C-180/98 to C-184/98 *Pavlov* [2000] ECR I-6451, paragraph 75.

([36]) Case C-8/03, *Banque Bruxelles Lambert SA (BBL)* v *Belgian State* [2004] ECR. I-10157, paragraphs 42 and 43. The judgment was given in the area of taxation, however the Authority considers that the problem in question is the same under the State aid rules. See also Commission Decision of 6 September 2005 on the Italian scheme for collective investments in transferable securities, OJ L 268, 27.9.2006, p. 1 (hereafter Italian collective investment scheme).

([37]) See Italian collective investment scheme, paragraph 38.

([38]) Case T-445/05 *Associazione Italiana del risparmio gestito, e.a.* v *Commission,* not yet published, paragraph 127 ff.

The advantage is selective as it was granted only to investment undertakings organised in the form of investment companies. The Authority does not subscribe to the relevance of the argument forwarded by the Liechtenstein authorities that each undertaking in Liechtenstein carrying out such an economic activity is in principle free to choose the appropriate legal form and consequently profit from the tax concessions. A state measure which is limited to a specified group of undertakings cannot be attributed a general character just because it could be used by any interested undertaking if this undertaking was organising itself in a certain manner to fulfil the specified criteria and benefit from tax concessions ([39]).

A specific tax measure can nevertheless be justified by the logic of the tax system. The specific tax rules applicable to investment companies will not be selective in the sense of Article 61(1) of the EEA Agreement if the rule is justified by the nature and general scheme of the Liechtenstein tax system ([40]).

In the Authority's preliminary view, the tax relief on the management company's own assets cannot be justified by the nature and overall scheme of the Liechtenstein taxation system.

The general scheme for taxing companies engaged in commercial business activities is laid down in sections 76 and 77 of the Liechtenstein Tax Act. Moreover, Section 73 of the Liechtenstein Tax Act ([41]) stipulates that legal entities that operate a business in Liechtenstein should pay income taxes on their entire revenues and a capital tax on the capital held as the company's own equity.

In the case of a company divided into shares, a coupon tax on the dividends is due in accordance with section 88(d) of the Tax Act. Investment companies are legal entities incorporated under Liechtenstein law in the form of companies limited by shares which gain revenues from the management of placements by investors and dispose of capital. They should therefore be subject to payment of coupon tax whenever their capital is divided into shares ([42]).

The tax relief for the management's own assets falls neither within the logic of the general tax system in Liechtenstein, nor within the logic of the taxation of investment undertakings as such. The Liechtenstein taxation rules and taxation practice shows that the logic behind the special taxation of investment undertakings applies to the fund capital, but not to the management companies own assets. Indeed, the fund direction of the investment funds has always been subject to ordinary business taxation for its own revenues and own capital.

In the view of the Authority, there is nothing in the organisational form of investment companies which would justify a special tax derogation in favour of the management activities of an investment company compared to the management activities of an investment fund. Both types of investment undertakings must keep the company's own assets separated from the managed assets of the investors, put at the custody of the depot bank. In bankruptcy proceedings, the own assets are at the disposal of the creditors for both investment funds and investment companies.

In 2006, the legislation was changed and investment companies were subject thereafter to ordinary business taxation as the fund direction of investment funds and any other legal entity operating a business in Liechtenstein. In view of the Liechtenstein authorities this eliminated the '*inconsistency*' ([43]) of not levying any taxes on the own assets before.

For these reasons, the Authority takes the preliminary view that investment companies were granted a selective advantage.

([39]) The Court of First Instance has e.g. recognised that a fiscal measure does not loose its character as a being selective just because it is based on objective criteria, see judgment of the CFI of 6 March 2002, T-127/99, T-129/99 and T-148/99, *Diputación Foral de Álava e.a.* v *Commission*, [2002] ECR II-1275.
([40]) Joined Cases E-5/04 — E-7/04 *Fesil and other* v *the Authority*, cited above, paragraphs 82 *et seq.*
([41]) According to section 73 a, companies limited by shares are obliged to pay capital and income tax.
([42]) See Section 4.1.2 above in this decision.
([43]) Expert opinion DII, b.ii.3.

1.3. *Presence of state resources*

The advantage must be granted by the State or through state resources. A loss of tax revenue is equivalent to consumption of state resources in the form of fiscal expenditure ([44]). The Liechtenstein State foregoes revenues in the form of tax income from the investment companies. Therefore, the Authority considers that there were state resources involved.

1.4. *Distortion of competition and effect on trade between Contracting Parties*

When a support measure granted by the State strengthens the position of an undertaking vis-à-vis other undertakings competing in EEA trade, the latter must be regarded as affected by that aid.

According to well established case law ([45]), the prohibition of Article 61(1) of the EEA Agreement is applicable to any aid which distorts or threatens to distort competition, irrespective of the amount, in so far as it affects trade between Member States. The Commission has also considered that investment vehicles can operate in international markets and pursue commercial and other economic activities in markets where competition is intense ([46]).

Therefore, the Authority takes the preliminary view that the tax concessions for the own assets of investment companies from 1996 to 2006 strengthened the competitive position of the investment companies within the EEA, as these tax concessions reduced the ordinary operational costs of these companies compared to other EEA companies which can operate in international markets ([47]).

Investment companies compete with other financial undertakings and operate in an open market characterised by substantial intra-EEA trade. Thus, trade between the Contracting Parties is affected. In line with the case law ([48]), the Authority does not have to demonstrate that all investment companies operate in international markets. It is sufficient in the assessment of aid schemes to assess its general characteristics without examining each individual application.

The Authority is therefore of the preliminary view that the tax concessions distort or threaten to distort competition and affect trade between the Contracting Parties.

1.5. *Conclusion*

For the above-mentioned reasons, the Authority takes the preliminary view that the tax relief on the management companies own assets constitutes state aid with the meaning of Article 61(1) of the EEA Agreement.

2. **Classification of the measures under assessment as new aid**

According to Article 1(c) in Part II of Protocol 3, new aid means aid that is not existing aid. Pursuant to Article 1(b) of the Protocol 3, 'existing aid' shall mean (*inter alia*):

> '(i)…, all aid which existed prior to the entry into force of the Treaty in the respective Member States, that is to say, aid schemes and individual aid which were put into effect before, and are still applicable after, the entry into force of the Treaty;…'.

Section 84(5) of the Tax Act, which provides for the tax relief of the own assets of investment companies, was introduced in 1996. Previously, no investment company existed, as the first company was only founded in 2001.

([44]) See point 3(3) of the Authority's Guidelines on measures relating to direct business taxation.
([45]) Case T-214/95 *Vlaamse Gewest* v *Commission*, ECR [1998] II-717, paragraph 46. Case T-424/05, *Italy* v *Commission*, judgement of 4 March 2009, not yet published, paragraph 154 ff.
([46]) See Italian collective investment scheme, paragraph 45. Recently upheld by the Court of First Instance in Case T-445/05 *Associazione italiana del risparmio gestito* v *Commission cited above*, and T-424/05 *Italy* v *Commission* not yet published.
([47]) See footnote 4.
([48]) See Case T-424/05, cited above, paragraph 160.

The expert opinion forwarded by Liechtenstein comes to the conclusion that the own assets of investment companies would have been subject to ordinary business taxation if such companies had existed before 1996. The Authority concurs with this view.

For these reasons, the Authority finds that the non-taxation of the investment company's own assets constitutes new aid.

3. **Procedural requirements**

Pursuant to Article 1(3) of Part I of Protocol 3, 'the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. […]. The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision'.

The Liechtenstein authorities did not notify the tax relief for the own assets of investment companies to the Authority before they were put into effect. The Authority concludes that the Liechtenstein authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3.

4. **Compatibility of the aid**

As the measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement, its compatibility with the functioning of the EEA Agreement must be assessed in the light of the derogations provided for in Article 61(2) and (3) of the EEA Agreement.

The aid in question is not linked to any investment in production capital. It reduces the costs which companies would normally have to bear in the course of pursuing their day-to-day business activities and is consequently to be classified as operating aid. Operating aid is normally not considered suitable to facilitate the development of certain economic activities or of certain regions as provided for in Article 61(3)(c) of the EEA Agreement. Operating aid is only allowed under special circumstances (e.g. for certain types of environmental or regional aid), when the Authority's Guidelines provide for such an exemption. None of these Guidelines apply to the aid in question.

The Authority therefore doubts that the tax derogations under assessment are compatible with the EEA Agreement.

5. **Conclusion**

Based on the information submitted by the Liechtenstein authorities, the Authority finds that the tax concessions granted for the own assets of the investment companies between 1996 and 2006 constitute aid within the meaning of Article 61(1) of the EEA Agreement.

The Authority finds that the tax relief on the own assets of the investment company constitutes new aid.

The Authority has doubts that these measures are compatible with 61(3)(c) of the EEA Agreement. The Authority thus doubts that the above-mentioned measures are compatible with the functioning of the EEA Agreement.

Consequently, and in accordance Article 4(4) of Part II of Protocol 3, the Authority is obliged to open the procedure provided for in Article 1(2) of Part I of Protocol 3 of the Surveillance and Court Agreement. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measures in question do not constitute state aid or that they are compatible with the functioning of the EEA Agreement. The Authority would like to point out, however, that if new aid was not found to be compatible with the functioning of the EEA Agreement, it would constitute unlawful aid within the meaning of Article 1(f) in Part II of Protocol 3. Unlawful aid and incompatible aid is normally recovered from the aid beneficiaries according to Article 14 in Part II of Protocol 3. According to the case law of the Court of Justice, a diligent trader should himself be able to verify that new aid has been put into effect in accordance with the applicable procedural rules, notably Article 88 EC, corresponding to Article 1 in Part I of Protocol 3 to the Surveillance and Court Agreement. For that reason, the beneficiary of new aid, granted in contravention of that provision, can only in exceptional circumstances claim that he had legitimate expectations barring the repayment of the aid.

In light of the foregoing considerations, the Authority, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3, requests the Liechtenstein authorities to submit their comments within one month of the date of receipt of this Decision.

Moreover, the Authority requires that, within one month of receipt of this decision, the Liechtenstein authorities provide all documents, information and data needed for assessment of the compatibility of the tax derogations in favour of investment companies. It invites the Liechtenstein authorities to forward a copy of this decision to the potential aid recipients of the aid immediately,

HAS ADOPTED THIS DECISION:

Article 1

The EFTA Surveillance Authority has decided to open the formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3 against Liechtenstein regarding the non-levy of income tax and coupon tax on the management side of investment companies (own assets) from 1996 to 2006. Likewise it opens the formal investigation on the levy of a reduced capital tax on the own assets of investment companies from 1996 to 2006. This includes the further reduction of the capital tax for investment companies whose capital exceeds 2 million CHF.

Article 2

The Liechtenstein authorities are invited, pursuant to Article 6(1) of Part II of Protocol 3, to submit their comments on the opening of the formal investigation procedure within one month from the notification of this Decision.

Article 3

The Liechtenstein authorities are requested to provide within one month from notification of this decision, all documents, information and data needed for assessment of the compatibility of the aid measure.

Article 4

This Decision is addressed to the Principality of Liechtenstein.

Article 5

Only the English version is authentic.

Done at Brussels, 18 March 2009.

For the EFTA Surveillance Authority

Per SANDERUD
President

Kurt JAEGER
College Member

V

(Avviżi)

PROĊEDURI GĦALL-IMPLIMENTAZZJONI TAL-POLITIKA KUMMERĊJALI KOMUNI

IL-KUMMISSJONI

Proposta ta' Għeluq tal-Ilment 2009/4209

(2009/C 236/07)

Is-servizzi tal-Kummissjoni lestew l-inkjesta tagħhom dwar l-ilment 2009/4209 dwar ir-rimunerazzjoni tat-tobba li segwew kors ta' speċjalizzazzjoni fl-Italja matul il-perjodu mill-1982 u l-1991.

Wara eżami tal-ilment u d-dokumentazzjoni trażmessa mill-awturi tal-ilmenti, fid-dawl tal-liġi komunitarja applikabbli fil-qasam, is-servizzi tal-Kummissjoni waslu għall-konklużjoni li f'dan l-istadju, ma jista' jinstab l-ebda ksur tad-Direttiva 93/16/KEE ([1]) f'dan il-każ partikolari.

Id-Direttiva 93/16/KEE dwar ir-rikonoxximent reċiproku tad-diplomi mogħtija lit-tobba u l-koordinazzjoni tat-taħriġ ta' dawn tal-aħħar tipprevedi effettivament li t-tobba li jsegwu taħriġ speċjalizzat għandhom jirċievu matul it-taħriġ tagħhom rimunerazzjoni xierqa. Dan l-obbligu ġej speċifikament mid-Direttiva 82/76/KEE ([2]) li kienet emendat id-Direttiva 75/363/KEE, li t-tnejn ġew kodifikati permezz tad-Direttiva 93/16/KEE, li ġiet revokata mid-Direttiva 2005/36/KE ([3]).

L-iskadenza għat-traspożizzjoni tad-Direttiva 82/76/KEE kienet l-1 ta' Jannar 1983. B'sentenza tas-7 ta' Lulju 1987, il-Qorti tal-Ġustizzja tal-KE għarfet li l-Italja kienet naqset mill-obbligi tagħha billi ttrasponiet biss id-Direttiva 82/76/KEE fiż-żmien stipulat. Permezz tad-digriet leġiżlattiv Nru 257/1991 adottat fl-1991 (dħul fis-seħħ 1 ta' Settembru 1991), l-Italja fil-fatt ittrasponiet id-Direttiva iżda llimitat id-dritt għar-rimunerazzjoni għas-snin akkademiċi 1991/92 u ta' wara. Permezz tad-deċiżjonijiet preliminarji C-131/97 *Carbonari* u C-371/97 *Gozza*, il-Qorti kkunsidrat li d-dannu li sofrew it-tobba speċjalizzati (iskritti fis-snin akkademiċi bejn 1983/84 u 1990/91) seta' jiġi kkumpensat permezz tal-applikazzjoni retroattiva tad-dispożizzjonijiet nazzjonali fir-rigward tar-rimunerazzjoni, minħabba li l-qrati nazzjonali m'għandhomx japplikaw ir-regoli nazzjonali li jmorru kontra d-Direttiva (ir-regoli li jillimitaw id-dritt għal rimunerazzjoni għas-snin 1991/92 u wara).

Barra minn hekk, bosta tobba speċjalisti li kienu rreġistraw qabel is-sena akkademika 1991/92, ressqu proċedimenti quddiem it-tribunali ċivili u amministrativi fl-Italja biex jitolbu kumpens għad-danni u l-interessi. Fis-sentenzi tal-25 ta' Frar 1994 tat-Tribinal reġjonali tal-Lazio, is-Sezzjoni 1a, it-tribunal aċċetta l-appelli: id-digriet leġiżlattiv Nru 257 tat-8 ta' Awwissu għandu jitwarrab mill-qrati nazzjonali safejn dan jirriserva l-applikazzjoni tal-liġi komunitarja biss għat-tobba li jidħlu għat-taħriġ għat-tobba speċjalisti fis-sena akkademika 1991/92, filwaqt li jħalli l-programm preċedenti ta' taħriġ għat-tobba speċjalisti fis-seħħ.

Minkejja din is-sentenza, l-Italja rrifjutat il-ħlas xieraq lil tobba f'taħriġ għal tobba speċjalisti qabel is-sena akkademika 1990/91, u ppreferiet tadotta l-Liġi Nru 370 tad-19 ta' Ottubru 1999, li tistipula fl-Artikolu 11 il-ħlas għotja ta' 13 000 000 LIT lil kull tabib li jkun segwa t-taħriġ għal tobba speċjalisti fil-perjodu 1983-1991 sakemm dawn ikunu personalment koperti mis-sentenza. Digriet ministerjali kien speċifika l-proċeduri biex issir applikazzjoni għal din l-għotja. Uħud mit-tobba kienu appellaw kontra dan id-digriet

([1]) ĠU L 165, 7.7.1993, p. 1.
([2]) ĠU L 43, 15.2.1982, p. 21.
([3]) ĠU L 255, 30.9.2005, p. 22.

ministerjali, li wassal għal sentenza li tagħraf li t-tobba li segwew taħriġ għal tobba speċjalisti u li kienu rreġistraw qabel is-sena akkademika 1991/92 kienu intitolati għal kumpens għad-danni u l-interessi.

Skont il-kwerelanti, f'dan il-mument it-tobba li segwew taħriġ għal tobba speċjalisti mill-iskadenza għat-traspożizzjoni tad-direttiva kkonċernata (31 ta' Diċembru 1982) u rreġistrati fil-programm ta' taħriġ qabel is-sena akkademika 1991/92 ġew miċħuda mid-dritt tagħhom għal kumpens għad-danni u l-interessi minħabba t-traspożizzjoni tardiva u inkompleta tad-Direttiva mill-Italja. Is-servizzi tal-Kummissjoni jifhmu li l-kwerelanti qed iċanfru lill-Italja għall-fatt li ma emendatx il-leġiżlazzjoni Taljana kkonċernata.

Is-servizzi tal-Kummissjoni, li rċevew talbiet oħra simili ta' tobba Taljani f'dan ir-rigward, ikkonstataw li mill-każistika nazzjonali jirriżulta li l-prinċipji stabbiliti mill-Qorti tal-Ġustizzja tal-KE fis-sentenzi tagħha fil-kawżi C-131/97 *Carbonari* u C-371/97 *Gozza* kienu ġew totalment rispettati mill-qrati nazzjonali. Il-qrati nazzjonali aċċettaw il-prinċipju tal-applikazzjoni retroattiva tad-dritt għar-rimunerazzjoni billi ma applikawx id-dispożizzjonijiet nazzjonali li kienu jmorru kontra d-Direttiva 82/76/KEE (l-Artikolu 8 tad-digriet leġiżlattiv Nru 257/1991 li jillimita d-dritt għar-rimunerazzjoni għas-snin akkademiċi 1991/92 u s-snin ta' wara) u għarfu d-dritt għar-rimunerazzjoni u, għalhekk, id-dritt għal kumpens għad-danni mġarrba. Minkejja dan, f'ċerti każijiet l-imħallef nazzjonali rrifjuta l-kumpens tad-danni mġarrba minħabba l-preskrizzjoni tal-azzjoni abbażi tad-dispożizzjonijiet applikabbli tal-liġi nazzjonali. Din id-deċiżjoni ma tidhirx li tmur kontra d-dritt Komunitarju, hekk kif interpretat mill-Qorti tal-Ġustizzja tal-KE, b'mod partikolari fis-sentenza tal-5 ta' Marzu 1996 fil-kawżi C-46/93 *Brasserie du pêcheur* u C-48/93 *Factortame*, li tiddikjara li, fin-nuqqas ta' dispożizzjonijiet tal-Komunità rigward il-kumpens għad-dannu mġarrab mill-individwi, hija s-sistema legali interna ta' kull Stat Membru li tistabilixxi l-kriterji applikabbli għall-kumpens tad-dannu, iżda dawn il-kriterji ma jistgħux ikunu inqas favorevoli minn dawk li jikkonċernaw ilmenti simili bbażati fuq id-dritt intern (punt 83 tas-sentenza tal-5 ta' Marzu 1996) msemmija hawn fuq. F'dan il-każ l-applikazzjoni tad-dritt intern tirrispetta dan il-prinċipju.

Għalhekk, is-servizzi kkonċernati se jipproponu lill-Kummissjoni li tagħlaq dan l-ilment.

Dan ma jipprekludix li, jekk il-Kummissjoni, anki wara l-għeluq tal-proċedura, tiġi fil-pussess ta' tagħrif ulterjuri li jista' jiġġustifika l-ftuħ ta' proċedura bl-istess għan, il-każ jerġa' jinfetaħ u jiġi investigat mill-ġdid.

PROĊEDURI GĦALL-IMPLIMENTAZZJONI TAL-POLITIKA TAL-KOMPETIZZJONI

IL-KUMMISSJONI

Notifika minn qabel ta' konċentrazzjoni

(Każ COMP/M.5632 – Pepsico/Pepsi Americas)

(Test b'relevanza għaż-ŻEE)

(2009/C 236/08)

1. Fil-21 ta' Settembru 2009, il-Kummissjoni rċeviet notifika ta' konċentrazzjoni proposta skont l-Artikolu 4 tar-Regolament tal-Kunsill (KE) Nru 139/2004 [1] li permezz tagħha l-impriża Pepsico (l-Istati Uniti tal-Amerika), fit-tifsira tal-Artikolu 3(1)(b) tar-Regolament tal-Kunsill, takkwista l-kontroll sħiħ ta' Pepsi Americas (l-Istati Uniti tal-Amerika) permezz tax-xiri ta' ishma.

2. L-attivitajiet kummerċjali tal-impriżi kkonċernati huma:

— għal Pepsico: ikel u xorb f'aktar minn 200 pajjiż,

— għal Pepsi Americas: l-ibbottiljar, l-aktar ta' xorb tal-Pepsico, b'operazzjonijiet fl-Istati Uniti tal-Amerika, fl-Ewropa Ċentrali u tal-Lvant, fil-Karibew u fl-Amerika Ċentrali.

3. Wara eżami preliminari, il-Kummissjoni ssib li l-operazzjoni nnotifikata tista' taqa' fl-ambitu tar-Regolament (KE) Nru 139/2004. Madanakollu, id-deċiżjoni finali dwar dan il-punt hija riżervata.

4. Il-Kummissjoni tistieden lill-partijiet terzi interessati biex jibagħtu kwalunkwe kumment li jista' jkollhom dwar l'operazzjoni proposta lill-Kummissjoni.

Il-kummenti jridu jaslu għand il-Kummissjoni mhux aktar tard minn għaxart ijiem wara d-data ta' din il-pubblikazzjoni. Il-kummenti jistgħu jintbagħtu lill-Kummissjoni bil-faks (+32 22964301 jew 22967244) jew bil-posta, taħt in-numru ta' referenza COMP/M.5632 – Pepsico/Pepsi Americas, fl-indirizz li ġej:

Il-Kummissjoni Ewropea
Direttorat Ġenerali għall-Kompetizzjoni
Reġistru tal-Amalgamazzjonijiet
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

[1] ĠU L 24, 29.1.2004, p. 1.

Notifika minn qabel ta' konċentrazzjoni

(Każ COMP/M.5633 – Pepsico/The Pepsico Bottling Group)

(Test b'relevanza għaż-ŻEE)

(2009/C 236/09)

1. Fil-21 ta' Settembru 2009, il-Kummissjoni rċeviet notifika ta' konċentrazzjoni proposta skont l-Artikolu 4 tar-Regolament tal-Kunsill (KE) Nru 139/2004 [1] li biha l-impriża Pepsico (l-Istati Uniti tal-Amerika) takkwista skont it-tifsira tal-Artikolu 3(1)(b) tar-Regolament tal-Kunsill kontroll sħiħ tal-impriża The Pepsico Bottling Group (l-Istati Uniti tal-Amerika) permezz ta' xiri ta' ishma.

2. L-attivitajiet kummerċjali tal-impriżi kkonċernati huma:

— għal Pepsico: ikel u xorb f'aktar minn 200 pajjiż,

— għal The Pepsico Bottling Group: ibbottiljar l-aktar ta' xorb tal-Pepsico b'operazzjonijiet fl-Istati Uniti tal-Amerika, fil-Messiku, fil-Kanada, fi Spanja, fir-Russja, fil-Greċja u fit-Turkija.

3. Wara eżami preliminari, il-Kummissjoni ssib li l-operazzjoni nnotifikata tista' taqa' fl-ambitu tar-Regolament (KE) Nru 139/2004. Madanakollu, id-deċiżjoni finali dwar dan il-punt hija riżervata.

4. Il-Kummissjoni tistieden lill-partijiet terzi interessati biex jibagħtu kwalunkwe kumment li jista' jkollhom dwar l'operazzjoni proposta lill-Kummissjoni.

Il-kummenti jridu jaslu għand il-Kummissjoni mhux aktar tard minn għaxart ijiem wara d-data ta' din il-pubblikazzjoni. Il-kummenti jistgħu jintbagħtu lill-Kummissjoni bil-faks (+32 22964301 jew 22967244) jew bil-posta, taħt in-numru ta' referenza COMP/M.5633 – Pepsico/The Pepsico Bottling Group, fl-indirizz li ġej:

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

[1] ĠU L 24, 29.1.2004, p. 1.

Notifika minn qabel ta' konċentrazzjoni

(Każ COMP/M.5565 – BAE Systems/BVT)

Każ li jista' jiġi kkunsidrat għal proċedura simplifikata

(Test b'relevanza għaż-ŻEE)

(2009/C 236/10)

1. Fl-24 ta' Settembru 2009, il-Kummissjoni rċeviet notifika ta' konċentrazzjoni proposta skont l-Artikolu 4 tar-Regolament tal-Kunsill (KE) Nru 139/2004 ([1]) li permezz tagħha l-impriża BAE Systems plc ("BAE Systems", ir-Renju Unit) takkwista skont it-tifsira tal-Artikolu 3(1)(b) tar-Regolament tal-Kunsill il-kontroll tal-intier tal-impriża BVT Surface Fleet Limited ("BVT", ir-Renju Unit) li hi attwalment kkontrollata b'mod konġunt minn BAE Systems u VT Group plc, permezz tax-xiri ta' ishma.

2. L-attivitajiet kummerċjali tal-impriżi kkonċernati huma:

— għal BAE Systems: forniment ta' sistemi u servizzi għall-forzi tal-ajru, art u navali kif ukoll ta' elettronika avvanzata, soluzzjonijiet ta' teknoloġija tal-informazzjoni u servizzi għall-appoġġ tal-klijent,

— għal BVT: forniment ta' bastimenti tal-gwerra ta' fuq il-baħar ("surface warships") u għajnuna tul il-fażijiet kollha taċ-ċiklu tal-ħajja tal-bastiment, prinċipalment bħala sħab għall-Ministeru tad-Difiża tar-Renju Unit.

3. Wara eżami preliminari, il-Kummissjoni ssib li l-operazzjoni nnotifikata tista' taqa' fl-ambitu tar-Regolament (KE) Nru 139/2004. Madankollu, id-deċiżjoni finali dwar dan il-punt hija riżervata. Skont l-Avviż tal-Kummissjoni dwar proċedura simplifikata għat-trattament ta' ċerti konċentrazzjonijiet taħt ir-Regolament tal-Kunsill (KE) Nru 139/2004 ([2]) ta' min jinnota li dan il-każ jista' jiġi kkunsidrat għat-trattament taħt il-proċedura stipulata fl-Avviż.

4. Il-Kummissjoni tistieden lill-partijiet terzi interessati biex iressqu kwalunkwe kummenti li jistgħu jkollhom dwar it-tranżizzjoni proposta.

Il-kummenti jridu jaslu għand il-Kummissjoni mhux aktar tard minn għaxart ijiem wara d-data ta' din il-pubblikazzjoni. Il-kummenti jistgħu jintbagħtu lill-Kummissjoni bil-faks (+32 22964301 jew 22967244) jew bil-posta, taħt in-numru ta' referenza COMP/M.5565 – BAE Systems/BVT, fl-indirizz li ġej:

Il-Kummissjoni Ewropea
Direttorat Ġenerali għall-Kompetizzjoni
Reġistru tal-Amalgamazzjonijiet
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

([1]) ĠU L 24, 29.1.2004, p. 1.
([2]) ĠU C 56, 5.3.2005, p. 32.

ATTI OĦRAJN

IL-KUMMISSJONI

Pubblikazzjoni ta' applikazzjoni skont l-Artikolu 6(2) tar-Regolament tal-Kunsill (KE) Nru 510/2006 dwar il-protezzjoni tal-indikazzjonijiet ġeografiċi u d-denominazzjonijiet tal-oriġini għall-prodotti agrikoli u l-oġġetti tal-ikel

(2009/C 236/11)

Din il-pubblikazzjoni tagħti dritt għal oġġezzjoni skont l-Artikolu 7 tar-Regolament (KE) Nru 510/2006. Id-dikjarazzjonijiet ta' oġġezzjoni għandhom jaslu għand il-Kummissjoni fi żmien sitt xhur mid-data ta' din il-pubblikazzjoni.

APPLIKAZZJONI GĦAL EMENDA

IR-REGOLAMENT TAL-KUNSILL (KE) Nru 510/2006

Applikazzjoni għal emenda skont l-Artikolu 9

"MONTES DE TOLEDO"

Nru tal-KE: ES-PDO-0105-0083-19.09.2007

IĠP ( ) DPO (X)

1. **Intestatura tal-ispeċifikazzjoni affettwata mill-emenda**

— ☐ Isem il-prodott

— ☒ Deskrizzjoni

— ☒ Żona ġeografika

— ☐ Prova tal-oriġini

— ☐ Metodu ta' produzzjoni

— ☐ Rabta

— ☐ Tikkettar

— ☐ Kundizzjonijiet nazzjonali

— ☐ Oħrajn

2. **Tip ta' emenda:**

— ☒ Emenda tad-dokument uniku jew tas-sinteżi

— ☐ Emenda tal-ispeċifikazzjoni ta' DPO jew l-IĠP irreġistrata, li għaliha la d-dokument uniku u lanqas is-sinteżi ma ġew ippubblikati

— ☐ Emenda tal-ispeċifikazzjoni li ma teħtieġx emendar tad-dokument uniku ppubblikat (l-Artikolu 9(3) tar-Regolament (KE) Nru 510/2006)

— ☐ Emenda temporanja tal-ispeċifikazzjoni minħabba l-adozzjoni ta' miżuri sanitarji jew fitosanitarji obbligatorji mill-awtoritajiet pubbliċi (l-Artikolu 9(4) tar-Regolament (KE) Nru 510/2006)

3. **Emendi:**

3.1. *Deskrizzjoni tal-prodott:*

Emenda tal-kontenut ta' perossidu minn 12 Meq O_2/kg għal 15 Meq O_2/kg.

L-emenda tal-kontenut ta' perossidu hija ġġustifikata mill-fatt li, għall-istabbiliment tal-limitu massimu, ma kinitx tqieset l-influwenza tal-kundizzjonijiet klimatiċi ta' kull sena fuq dan il-parametru. Minkejja li l-varjetà "Cornicabra" ġeneralment turi kontenut ta' perossidu ta' inqas minn 12 Meq O2/kg, dan il-valur jiżdied b'mod naturali jekk iż-żebbuġa tkun ġarrbet temperaturi baxxi waqt li kienet għadha fuq is-siġra.

Sostituzzjoni tal-kliem "livell organolettiku minimu: 6,5", billi diġà tissemma "valutazzjoni organolettika: extra verġni".

Fejn tiħol il-valutazzjoni organolettika minima, kulma jeħtieġ hu li l-kundizzjoni ta' qabel tiġi adattata għad-dispożizzjonijiet tar-Regolament tal-Kummissjoni (KE) Nru 796/2002, tas-6 ta' Mejju 2002 (l-Anness II).

3.2. *Żona ġeografika:*

Żieda maż-żona attwali ta' 25 muniċipju fil-viċinat.

L-applikazzjoni għall-inklużjoni ta' dawn il-25 muniċipju, konfinanti maż-żona attwali, tissejjes fuq l-omoġeneità tal-muniċipji attwali u ġodda f'dak li jirrigwarda l-varjetajiet inklużi, it-tekniki tat-tkabbir u l-produzzjoni taż-żejt, kif ukoll f'dak li għandu x'jaqsam mal-kundizzjonijiet klimatiċi, ġeoloġiċi, edafoloġiċi eċċ., b'mod li ż-żejt prodott fil-muniċipji l-ġodda juri l-istess karatteristiċi bħal dak protett mid-DPO "Montes de Toledo".

Il-25 muniċipju, kollha tal-provinċja ta' Toledo, huma: Alameda de la Sagra, Añover de Tajo, Borox, Cabañas de la Sagra, Carmena, Carranque, Cedillo del Condado, Cobeja, Esquivias, Illescas, Lominchar, Magán, Numancia de la Sagra, Palomeque, Pantoja, Recas, Seseña, Ugena, Villaluenga de la Sagra, Villaseca de la Sagra, El Viso de San Juan, Yeles, Yuncler, Yunclillos u Yuncos.

DOKUMENT UNIKU

IR-REGOLAMENT TAL-KUNSILL (KE) Nru 510/2006

"MONTES DE TOLEDO"

Nru tal-KE: ES-PDO-0105-0083-19.09.2007

IĠP ( ) DPO (X)

1. **Isem:**

"Montes de Toledo"

2. **Stat membru jew pajjiż terz:**

Spanja

3. **Deskrizzzjoni tal-prodott agrikolu jew tal-oġġett tal-ikel:**

3.1. *Tip ta' prodott (skont il-klassifikazzjoni tal-Anness II):*

Klassi 1.5. Żjut u xaħmijiet.

3.2. *Deskrizzjoni tal-prodott bl-isem mogħti fil-punt 1:*

Żejt taż-żebbuġa extra verġni li jinkiseb mill-frotta tas-siġra taż-żebbuġ (Olea Europea L.), tal-varjetà CORNICABRA, permezz ta' proċeduri mekkaniċi jew mezzi fiżiċi oħra li ma jaffettwawx il-kwalità taż-żejt, filwaqt li jinżammu t-togħma, ir-riħa u l-karatteristiċi tal-frotta li minnha jinkiseb.

Karatteristiċi fiżiċi, kimiċi u organolettiċi:

— Iż-żejt tad-Denominazzjoni Protetta tal-Oriġini "Montes de Toledo" huwa kkaratterizzat minn kontenut għoli ta' aċidu olejku u kontenut baxx ta' aċidu linolejku, b'kontenut għoli ta' polifenoli totali, li jagħtu liż-żejt stabbiltà partikulari, u għaldaqstant kwalità apprezzata u mfittxa ħafna fis-suq.

— Aċidità: massimu ta' 0,7 °

— Kontenut ta' perossidu: massimu ta' 15 Meq O_2/kg.

— Assorbenza tar-raġġ ultravjola K 270: massimu ta' 0,15

— Umdità: massimu ta' 0,1 %

— Impuritajiet: massimu ta' 0,1 %

— Il-lewn ivarja skont iż-żmien tal-ħsad u l-pożizzjoni ġeografika, mill-isfar dehbi għall-aħdar karg.

— Mil-lat organolettiku, iż-żjut tad-Denominazzjoni Protetta tal-Oriġini "Montes de Toledo" ikollhom togħma ta' frott minn medja għal intensa, u livelli medji ta' togħma morra u pikkanti.

3.3. *Materja prima (għall-prodotti pproċessati biss):*

—

3.4. *Għalf (għall-prodotti tal-annimali biss):*

—

3.5. *Stadji speċifiċi fil-produzzjoni li jridu jsiru fiż-żona ġeografika identifikata:*

—

3.6. *Regoli speċifiċi għall-qtugħ, għall-ħakk, għall-ippakkjar, eċċ.:*

— Iż-żejt għandu jinħażen fi mgħasar taż-żejt u impjanti tal-ippakkjar awtorizzati mill-*Fundación*, li jkollhom l-istallazzjonijiet xierqa biex jiggarantixxu l-aqwa konservazzjoni tagħhom.

— L-impjant tal-ippakkjar għandu jkollu sistemi li jippermettu l-ippakkjar taż-żjut tad-DPO separatament minn dak ta' żjut oħra. Bl-istess mod, għandu jkollu sistemi approvati għall-kejl taż-żejt.

— Iż-żejt għandu jiġi ippakkjat f'kontenituri tal-ħġieġ, tal-metall miksi, PET jew ċeramika vitrifikata.

3.7. *Regoli speċifiċi li jirrigwardaw l-ittikkettar:*

Fit-tikketti kollha għandu jidher il-logo tad-DPO u l-kliem: "Denominación de Origen Montes de Toledo".

Il-kontenituri li fihom iż-żejt protett jiġi ppakkjat għall-konsum għandu jkollhom siġill ta' garanzija, tikketti ta' quddiem jew ta' wara nnumerati maħruġin mill-Organu ta' Spezzjoni, b'mod li s-siġill ma jkunx jista' jerġa' jintuża.

4. **Definizzjoni fil-qosor taż-żona ġeografika:**

Iż-żona ġeografika tinsab fil-Komunità Awtonoma ta' Castilla-La Mancha, u tkopri r-reġjuni tal-Lbiċ tal-provinċja ta' Toledo u l-Majjistral tal-provinċja ta' Ciudad Real, bil-muntanji "Montes de Toledo" bħala assi ċentrali.

Iż-żona ġeografika tal-produzzjoni hija magħmula minn 128 muniċipju tal-provinċji ta' Toledo u Ciudad Real. 106 muniċipji jinsabu fil-provinċja ta' Toledo, u 22 f'dik ta' Ciudad Real.

Muniċipju tal-provinċja ta' Toledo:

Ajofrín, Alameda de la Sagra, Albarreal de Tajo, Alcaudete de la Jara, Aldeanueva de Barbarroya, Aldeanueva de San Bartolome, Almonacid de Toledo, Añover de Tajo, Arges, Bargas, Belvis de la Jara, Borox, Burguillos de Toledo, Burujón, Cabañas de la Sagra, Calera y Chozas, Campillo de la Jara, Cañumas, Carmena, Carpio de Tajo (El), Carranque, Casasbuenas, Cebolla, Cedillo del Condado, Cobeja, Chueca, Cobisa, Consuegra, Cuerva, Dosbarrios, Espinoso del Rey, Esquivias, Estrella (La), Gálvez, Guadamur, Guardia (La), Herencias (Las), Hontanar, Huerta de Valdecarábanos, Illescas, Layos, Lominchar, Madridejos, Magán, Malpica de Tajo, Manzaneque, Marjaliza, Mascaraque, Mata (La), Mazarambroz, Menasalbas, Mesegar, Mocejón, Mohedas de la Jara, Montearagón, Mora, Nambroca, Nava de Ricomalillo (La), Navahermosa, Navalmorales (Los), Navalucillos (Los), Noez, Numancia de la Sagra, Olías del Rey, Orgaz, Palomeque, Pantoja, Polán, Puebla de Montalban (La), Pueblanueva (La), Pulgar, Recas, Retamoso, Robledo de Mazo, Romeral (El), San Bartolome de las Abiertas, San Martín de Montalbán, San Martín de Pusa, San Pablo de los Montes, Santa Ana de Pusa, Seseña, Sevilleja de la Jara, Sonseca, Talavera de la Reina, Tembleque, Toledo, Torrecilla de la Jara, Totanes, Turleque, Ugena, Urda, Ventas con Peña Aguilera (Las), Villaluenga de la Sagra, Villaminaya, Villamuelas, Villanueva de Bogas, Villarejo de Montalbán, Villaseca de la Sagra, Villasequilla de Yepes, El Viso de San Juan, Yébenes (Los), Yeles, Yepes, Yuncler, Yunclillos and Yuncos.

Muniċipju tal-provinċja ta' Ciudad Real:

Alcoba, Anchuras, Arroba de los Montes, Cortijos (Los), El Robledo, Fernancaballero, Fontanarejo, Fuente el Fresno, Herencia, Horcajo de los Montes, Labores (Las), Luciana, Malagón, Navalpino, Navas de Estena, Picón, Piedrabuena, Porzuna, Puebla de Don Rodrigo, Puertolápice, Retuerta del Bullaque u Villarrubia de los Ojos.

5. **Rabta maż-żona ġeografika:**

5.1. *Karattru speċifiku taż-żona ġeografika:*

Iż-żona ta' produzzjoni taż-żebbuġ maħsub għall-produzzjoni taż-żjut protetti hija karatterizzata mill-pożizzjoni tagħha fil-katina tal-Montes de Toledo.

Il-Montes de Toledo jifformaw serbut ta' muntanji baxxi, b'żoni wiesgħa ta' pjanuri interjuri.

It-temperaturi taż-żona huma notevolment kontinentali.

Il-preċipitazzjoni medja annwali hija ta' bejn 400 u 600 mm, bix-xitwa l-iktar staġun ta' umdità.

5.2. *Karattru speċifiku tal-prodott:*

Il-karatteristiċi taż-żejt tal-varjetà "Cornicabra" tal-"Montes de Toledo" huma:

— Kontenut għoli ta' aċidu olejku u kontenut baxx ta' aċidu linolejku.

— Kontenut għoli ta' polifenoli totali, li jagħtu lill-prodott stabbiltà partikulari.

— Mil-lat organolettiku, iż-żjut ta' din il-varjetà jagħtu sensazzjoni qawwija ta' densità fil-ħaqq, b'togħma ta' frott u aromatika, filwaqt li juru valuri medji ta' togħma morra u pikkanti.

5.3. *Rabta kawżali bejn iż-żona ġeografika u l-kwalità jew il-karatteristiċi tal-prodott (għal DPO) jew il-kwalità, ir-reputazzjoni jew karatteristiċi oħra speċifiċi tal-prodott (għal IĠP):*

Il-kundizzjonijiet tal-ħamrija taż-żona, kif ukoll il-ħidma ta' għadd ta' ġenerazzjonijiet ta' kultivaturi taż-żebbuġ, wettqu s-selezzjoni naturali tal-varjetà "Cornicabra" bħala l-aktar waħda adatta għaż-żona, u l-unika varjetà mħaddma fil-produzzjoni taż-żejt "Montes de Toledo".

Rigward ir-rabta bejn il-karatteristiċi ġeoloġiċi u dawk tal-ħamrija, għandu jitqies kif il-formazzjoni tal-ħamrija ġeneralment ftit għammiela ħalliet il-marka tagħha fit-tkabbir ta' varjetà partikulari, soġġetta għal stress kontinwu. Dawn l-aspetti swew ukoll bħala mezz ta' selezzjoni naturali, li rriżulta fid-differenzjazzjoni tal-prodott.

Il-varjetà "Cornicabra" flimkien mal-kundizzjonijiet tal-klima u tal-ħamrija taż-żona jagħtu li-żejt il-karatteristiċi fiżiċi, kimiċi u organolettiċi partikolari msemmija fil-punt 4.2.

Referenza għall-pubblikazzjoni tal-ispeċifikazzjoni tal-prodott:

Resolución de 15.06.2007, de la Consejería de Agricultura, por la que se adopta decisión favorable sobre solicitud de modificación del pliego de condiciones de la Denominación de Origen Protegida Montes de Toledo.

D.O.C.M. nº 142 de 6 de julio de 2007

L-ispeċifikazzjoni tal-prodott ġiet ippubblikata bħala l-Anness għal din ir-*Resolución*.

It-test jinstab fl-indirizz:

http://docm.jccm.es/portaldocm/verDiarioAntiguo.do?ruta=2007/07/06

Resolución de 15 de junio de 2007, Consejería de Agricultura por la que se adopta decisión favorable sobre solicitud de modificacion de pliego de condiciones de la Denominación de Origen Protegida Montes de Toledo. d.o.c.m. nº 142 de 6 de julio de 2007. pág. 18173

Pubblikazzjoni ta' applikazzjoni skont l-Artikolu 6(2) tar-Regolament tal-Kunsill (KE) Nru 510/2006 dwar il-protezzjoni tal-indikazzjonijiet ġeografiċi u d-denominazzjonijiet tal-oriġini għall-prodotti agrikoli u tal-ikel

(2009/C 236/12)

Din il-pubblikazzjoni tikkonferixxi d-dritt għal oġġezzjoni għall-applikazzjoni skont l-Artikolu 7 tar-Regolament tal-Kunsill (KE) Nru 510/2006. Id-dikjarazzjonijiet ta' oġġezzjoni għandhom jaslu għand l-Kummissjoni fi żmien sitt xhur mid-data ta' din il-pubblikazzjoni

DOKUMENT UNIKU

IR-REGOLAMENT TAL-KUNSILL (KE) Nru 510/2006

"AGLIO DI VOGHIERA"

Nru tal-KE: IT-PDO-0005-0638-30.07.2007

IĠP ( ) DPO (X)

1. **L-isem:**

"Aglio di Voghiera"

2. **L-Istat Membru jew il-Pajjiż Terz:**

L-Italja

3. **Id-deskrizzjoni tal-prodott agrikolu jew tal-oġġett tal-ikel:**

3.1. *It-tip ta' prodott (l-Anness II):*

Kategorija 1.6: Frott u ħaxix u ċereali friski u pproċessati

3.2. *Id-deskrizzjoni tal-prodott li japplika għalih l-isem ta' (1):*

Id-Denominazzjoni Protetta tal-Oriġini "Aglio di Voghiera" hija riżervata għall-ekotip Aglio di Voghiera Din hija pjanta bil-basliet bojod ileqqu u uniformi, u ftit li xejn strixxat bir-roża. Il-qxur ta' madwar is-sinnniet huma bojod u ximindaqqiet bi strixxi rosa pjuttost skuri. Il-forma tal-basla ġejja fit-tond, regolari u kumpatta, kemmxejn ċatta fit-tarf fil-punt fejn tingħaqad mal-għeruq. Il-basla magħmula minn għadd varjabbli ta' sinniet magħqudin sew bejniethom bit-tondjatura karatteristika min-naħa ta' barra u mqiegħda perfettament ħdejn xulxin. Meta jinħareġ għall-konsum l-Aglio di Voghiera għandu jidher kif ġej: il-basliet iridu jkunu mingħajr sinjal ta' taħsir; mingħajr parassiti; nodfa; magħqudin; ħielsa minn ħsara mill-ġlata jew mix-xemx; mingħajr nebbieta li jkunu viżibbli minn barra; ħielsa minn indewwa esterna annormali; ħielsa minn kwalunkwe riħa u/jew togħma estranja. Għandu jiġi rikonoxxut bħala "Aglio di Voghiera" DPO biss it-tewm li jappartjeni għall-kategoriji "Extra" tad-daqs minimu ta' 45 mm u "Prima" tad-daqs minimu ta' 40 mm. L-Aglio di Voghiera jinħareġ fis-suq b'dawn il-karatteristiċi li ġejjin: TEWM FRISK/AĦDAR b'zokk aħdar li huwa iebes madwar l-għonq, u bil-qoxra ta' barra tal-basla għadha friska; basla bajda jew il-lewn tal-avorju fl-abjad u possibbilment bi strixxi rosa; bl-għeruq jagħtu fl-abjad. TEWM SEMINIEXEF: biz-zokk mhux kompletament niexef b'lewn li jvarja minn aħdar għal pjuttost abjad u ta' konsistenza mhux daqshekk iebsa madwar l-għonq; bil-qoxra ta' barra mhux kompletament niexfa, il-basla bajda u avorju fl-abjad u possibbilment bi strixxi rosa, bl-għeruq jagħtu fl-abjad. TEWM NIEXEF: b'żokk niexef jagħti fl-abjad, ta' konsistenza delikata, bil-qoxra ta' barra u l-qoxra ta' madwar kull sinna kompletament niexfa, basla bajda li fiha jidhru s-sinniet, bl-għeruq tal-lewn tal-avorju.

3.3. *Il-materja prima (għall-prodotti proċessati biss):*

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3.4. *L-għalf (għall-prodotti li ġejjin mill-annimali biss):*

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3.5. *Il-fażijiet speċifiċi fil-produzzjoni li jridu jsiru fiż-żona ġeografika identifikata:*

L-operazzjonijiet kollha tal-produzzjoni għandhom isiru neċessarjament fiż-żona tal-produzzjoni minħabba li l-karatteristiċi speċifiċi tal-Aglio di Voghiera huma doviuti kemm għall-għarfien tal-produtturi kif ukoll għall-kundizzjonijiet klimatiċi taż-żona u t-tipi tal-ħamrija li jinsabu hemmhekk.

3.6. *Ir-regoli speċifiċi dwar it-tqattigħ, it-taħkik, l-ippakkjar, eċċ.:*

Il-prodott aħdar/frisk għandu jinħareġ għall-konsum fiż-żmien bejn il-jum meta jinqata' sal-ħames jum wara l-qtugħ; il-prodott seminiexef bejn mis-6 u l-10 jum u dak niexef mill-11-il jum wara l-qtugħ. Il-prodotti kollha jinħarġu għall-konsum fl-għamla tat-TRECCIA (MALJA): magħmula minn qatet ta' bejn 5 u 18 basla u tal-piż bejn 400 g. u 900 g. TRECCIA EXTRA : ta' bejn 8 u 80 basla u l-piż tagħhom bejn 1 u 5 Kg; RETINO (XIBKA ŻGĦIRA): numru varjabbli ta' basal tal-piż bejn 100 g u 500 g; XKEJJER: numru varjabbli ta' basal tal-piż bejn 1 u 5 Kg; TRECCINA (MALJA ŻGĦIRA): ta' bejn 3 u 5 basliet u l-piż tagħhom bejn 150 g u 500 g; BULBO SINGOLO (BASLA INDIVIDWALI) tal-piż: bejn 50 g u 100 g li tiġi ppakkjata f'xibka, fl-injam, fil-plastik, fil-kartun, fil-karta u f'materjali naturali magħmula mill-pjanti. Il-konteniturijridu jkunu ssiġillati b'mod li ma jħallix li l-kontenut ikun jista' jinħareġ mingħajr ma jinkiser l-ippakkjar. Iz-zkuk u l-għeruq għandhom jitneħħew kompletament mill-basliet individwali. L-ippakkjar għandu jsir b'attenzjoni biex jiġi evitat li t-trasport u l-manipulazzjoni eċċessiva jipprovokaw il-ksur tal-irjus tal-basal u fuq kollox il-frammentazzjoni tal-qoxra li jiġġenera r-riskju ta' moffa u ta' ħsara fil-prodott.

3.7. *Ir-regoli speċifiċi dwar it-tikkettar:*

Kull imballaġġ għandu jkollu, bil-kitba fuq l-istess naħa, leġibbli u li ma titħassarx, l-indikazzjonijiet li jidentifikaw l-imballaġġatur jew it-trasportatur. Il-konteniturigħandhom juru wkoll l-isem "Aglio di Voghiera" u l-kliem "denominazzjoni protetta tal-oriġini" jew l-akronimu "DPO" f'karattri li jkunu akbar minn kull indikazzjoni oħra li tidher fuq l-imballaġġ, u l-logo Komunitarju. Fuq il-biċċiet individwali għandu jkun hemm it-tikketta bl-isem "Aglio di Voghiera" kif ukoll l-ittri DPO, il-lowgo Komunitarju u l-isem tal-produttur. Il-logo f'forma ta' ċirku bl-isfond ċelesti ċar jikkonsisti minn disinn li jirrappreżenta nofs sinna tewm maqtugħa fiċ-ċentru tagħha bl-ittra V. Is-sinna tewm hija tal-lewn isfar bi strixxi tad-dell aktar skuri. Fiċ-ċirku, f'pożizzjoni mmejla hemm miktub bl-iswed il-kliem Aglio di Voghiera Fuq, u dejjem ġewwa ċ-ċirku jidhru l-ittri bl-iswed D.O.P (DPO). Għal finijiet biss ta' pubbliċità tista' tintuża verżjoni bl-abjad u iswed, u f'dak il-każ il-logo ċirkolari jkun imdawwar b'linja sewda. Il-lowgo, meta jiġi ttimbrat fuq it-tikketta, għandu jkun terz mid-daqs meta mqabbel mad-dimensjoni totali tat-tikketta.

4. **Id-definizzjoni konċiża taż-żona ġeografika:**

Iż-żona tal-produzzjoni tal-Aglio di Voghiera hija kkostitwita minn dawn il-muniċipalitajiet li jinsabu fil-provinċja ta' Ferrara: Voghiera, Masi Torello, Portomaggiore, Argenta u Ferrara.

5. **Ir-rabta maż-żona ġeografika:**

5.1. *L-ispeċifiċità taż-żona ġeografika:*

Iż-żona tal-kultivazzjoni tal-Aglio di Voghiera hija żona ta' pjanura, li tinsab f'ambjent tad-delta u f'wied mim b'ilmijiet tax-xmajjar li joffru klima ideali għat-tkabbir ta' dan il-prodott. Il-ħamrija fil-biċċa l-kbira hija taflija, taflija bis-sediment, ramlija bis-sediment. Minħabba l-preżenza abbundanti ta' ramel ġej mix-xmajjar għandha kapaċità kbira għad-drenaġġ tal-ilma taħt l-art; din il-kapaċità tiffavorixxi t-tkabbir u l-iżvilupp tat-tewm filwaqt li tippreżervah mill-ħsara. Il-klima hija kkaratterizzata minn xita inqas minn ta' żoni oħra tal-pjanura, b'frekwenza tax-xita aktar spisas fix-xhur tar-rebbiegħha milli waqt ix-xhur tas-sajf. Is-sjuf sħan u xemxin jgħinu x-xogħol tal-ħsad u, flimkien mal-kundizzjonijiet ta' umdità, li huma tipiċi għaż-żona tal-Ferrara, jiffavorixxu l-inxif gradwali tal-Aglio di Voghiera.

5.2. *L-ispeċifiċità tal-prodott:*

Il-karatteristiċi partikolari tal-"Aglio di Voghiera" huma l-lewn abjad ileqq tiegħu, id-daqskbir tal-basla ġejja fit-tond u regolari, magħmula minn sinniet perfettament magħqudin bejniethom u, fuq kollox, u li l-konservazzjoni tiegħu ddum fit-tul. Il-kompożizzjoni kimika tiegħu tesibixxi bilanċ perfett bejn żjut

volatili b'komposti tal-kubrit, enżimi, vitamini B, imluħ minerali u flavonojdi. Karatteristika oħra, mhux anqas importanti, hija l-identità ġenetika speċifika li dehret permezz tat-tekniki tal-amplifikazzjoni tad-DNA, il-frott ta' selezzjoni naturali li seħħet permezz tal-metodi tal-għażla li ntirtu minn ġenerazzjoni għal oħra.

5.3. *Rabta kawżali bejn iż-żona ġeografika u l-kwalità jew il-karatteristiċi tal-prodott (għal DPO) jew il-kwalità speċifika, ir-reputazzjoni jew karatteristika oħra tal-prodott (għal IĠP):*

Il-karatterstiċi tal-Aglio di Voghiera jirrizultaw mir-rabta qawwija li hemm mal-ambjent kif ukoll minħabba fatturi umani. Il-karatteristiċi tipiċi tal-prodott imsemmija fil-punt 5.2 huma dovuti għall-artijiet fejn jiġi kkultivat. Il-ħamrija taflija, taflija bis-sediment, u ramilija bis-sediment li fiha ramel li joriġina mix-xmara tiffavorixxi l-iskular taħt l-art tal-ilmijiet, tagħti lill-prodott il-konservazzjoni fit-tul tal-basal, it-tkabbir qawwi tagħhom, il-lewn abjad luminuż u fuq kollox il-forma regolari u kompatta li tikkarateriżżah. Permezz tar-riproduzzjoni tas-sinniet, bil-propagazzjoni veġetali, u billi jintużaw dawk ġejjin minn fost l-aqwa basal, jinkiseb il-bilanċ perfett bejn enżimi, vitamini u mluħ minerali li jagħtu lil dan it-tewm l-identità ġenetika speċifika tiegħu. Kif diġà ssemma, rabta qawwija oħra li jagħmel l-Aglio di Voghiera daqshekk speċjali hija r-rabta umana. Huwa fil-fatt il-bniedem li minn dejjem kien jagħti kas partikolari għat-tekniki ta' irrigazzjoni matul il-perjodu taż-żrigħ u tal-ħsad, li b'kapaċità miksuba matul is-snin u li għaddiet minn ġenerazzjoni għal ġenerazzjoni, jagħżel b'idejh minn fost il-kultivazzjoni ta' qabel l-aħjar basal mnejn jittieħed il-materjal għaż-żrigħ, filwaqt li jara li dawn ikunu kbar u b'saħħithom. B'teknika esperta, jaħdem u jħejji b'idejh il-basal fis-sura ta' malji, malji żgħar u basal individwali, u li fl-aħħar mill-aħħar jgħaddi riċetti tant tajbin. Ix-xhieda arkeoloġika ta' dan l-aħħar kif ukoll tal-imgħoddi tal-Voghenza l-antika jikkonfermaw ir-rwol predominanti li dan iċ-ċentru kien ikollu għad-Delta tal-Po u li ilu mill-anqas mis-seba′ seklu wara Kristu. Fi tmiem il-perjodu medjevali nofsani kienu l-Estensi, is-sinjuri ta' Ferrara, li reġgħu taw il-ħajja lit-territorju ta' Voghiera. Id-dominju tal-familja Este inkoraġġixxa l-kultivazzjonijiet kollha possibbli fl-artijiet taż-żona, b'attenzjoni partikolari għall-pjanti tal-kċina, l-insalati, pjanti aromatiċi u fuq kollox it-tewm. Wara t-tluq tal-familja Este fl-1598, l-esperjenza miksuba fil-kamp agrikolu ma ntilfet xejn għaliex proprjetarji ċelebri oħrajn indunaw bil-valur ta' dawn l-artijiet fertili tul il-passaġġ tax-xmara antika Po li sal-lum qiegħda tħeġġeġ il-kultivazzjoni ta' produzzjoni speċjalizzata ħafna bħat-tewm.

Referenza għall-pubblikazzjoni tal-ispeċifikazzjoni:

Il-Gvern nieda l-proċedura nazzjonali ta' oġġezzjoni bil-pubblikazzjoni tal-proposta għar-rikonoxximent tad-DPO "Aglio di Voghiera" fil-"Gazzetta Ufficiale della Repubblica Italiana" Nru 124 tat-30 ta' Mejju 2007.

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