

**Commission notice on the determination of the applicable rules for the assessment of unlawful State aid**

*(notified under document number C(2002) 458)*

(2002/C 119/12)

**(Text with EEA relevance)**

A number of instruments approved by the Commission over the years contain a provision to the effect that unlawful State aid, i.e. aid put into effect in contravention of Article 88(3) of the EC Treaty, shall be assessed in accordance with the texts in force at the time when the aid was granted. This is for example the case for the Community guidelines on State aid for environmental protection <sup>(1)</sup> and the multisectoral framework on regional aid for large investment projects <sup>(2)</sup>.

For the purpose of transparency and legal certainty, the Commission informs Member States and third parties that it has decided to apply the same rule in respect of all instruments indicating how the Commission will exercise its discretion in order to assess the compatibility of State aid with the common market (frameworks, guidelines, communications, notices). Therefore, the Commission shall always assess the compatibility of unlawful State aid with the common market in accordance with the substantive criteria set out in any instrument in force at the time when the aid was granted.

The present notice is without prejudice to the more specific rules contained in the Community guidelines on State aid for rescuing and restructuring firms in difficulty <sup>(3)</sup>.

The present notice is without prejudice to the interpretation of Council and Commission regulations in the field of State aid.

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<sup>(1)</sup> OJ C 37, 3.2.2001, p. 3.

<sup>(2)</sup> OJ C 70, 19.3.2002, p. 8.

<sup>(3)</sup> OJ C 288, 9.10.1999, p. 2.