

COMMON MARKET LAW REVIEW

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Aims

The Common Market Law Review is designed to function as a medium for the understanding and implementation of European Union Law within the Member States and elsewhere, and for the dissemination of legal thinking on European Union Law matters. It thus aims to meet the needs of both the academic and the practitioner. For practical reasons, English is used as the language of communication.

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Common Market Law Review

Europa Instituut

Steenschuur 25

2311 ES Leiden

The Netherlands

e-mail: a.m.mcdonnell@law.leidenuniv.nl

tel. + 31 71 5277549

fax: + 31 71 5277600

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The editors will consider for publication manuscripts by contributors from any country. Articles will be subjected to a review procedure. The author should ensure that the significance of the contribution will be apparent also to readers outside the specific expertise. Special terms and abbreviations should be clearly defined in the text or notes. Accepted manuscripts will be edited, if necessary, to improve the general effectiveness of communication. If editing should be extensive, with a consequent danger of altering the meaning, the manuscript will be returned to the author for approval before type is set.

Submission of manuscripts

Manuscripts should be submitted together with a covering letter to the Managing Editor. They must be accompanied by written assurance that the article has not been published, submitted or accepted elsewhere. The author will be notified of acceptance, rejection or need for revision within three to nine weeks. Digital submissions are welcomed. Articles should preferably be no longer than 28 pages (approx. 9,000 words). Annotations should be no longer than 10 pages (approx. 3,000 words). Details concerning submission and the review process can be found on the journal's website <http://www.kluwerlawonline.com/toc.php?pubcode=COLA>

PRIVATE PARTIES AND STATE AID PROCEDURES: A CRITICAL ANALYSIS OF THE CHANGES BROUGHT BY REGULATION 734/2013

EDOARDO GAMBARO AND FRANCESCO MAZZOCCHI*

Abstract

This article provides a critical analysis of the changes brought by Regulation 734/2013 to the procedural rules on State aid proceedings from the perspective of private parties. The main changes to the procedure concerned the strengthening of the Commission's investigations and the establishment of a new regulatory framework for the handling of complaints. These amendments were driven by public enforcement reasons and confirmed the role of undertakings as a source of information for the Commission, without granting them a more active role in the two-stage administrative phase. The aim of the contribution is to draw a picture of the position of private parties before the Commission in light of these amendments and to demonstrate that a broader and effective protection of rights of undertakings would not have been in conflict with the efficiency goals pursued by the reform.

1. Introduction

The procedural rules on State aid proceedings, as well as other legal instruments in this area of law, were amended in the context of the broad programme of reform named “EU State aid modernization” (SAM).¹ The changes brought by Regulation 734/2013 to Regulation 659/99 – in turn, now codified as Regulation (EU) 2015/1589 – the “Procedural Regulation”² – were mainly inspired by the need to streamline and improve the efficiency of the procedure, extending the Commission's powers of investigation with the possibility of requesting information to undertakings, launching sector inquiries and intervening in proceedings before Member States national

* Studio Santa Maria (Milan).

1. See Communication on EU State aid modernization of 8 May 2012 (SAM), COM(2012)209. Announcing its intention to modernize State aid control, the Commission stated that its objectives were threefold: “(i) to foster sustainable, smart and inclusive growth in a competitive internal market; (ii) to focus Commission *ex ante* scrutiny on cases with the biggest impact on internal market whilst strengthening the Member States cooperation in State aid enforcement; (iii) to streamline the rules and provide for faster decisions”. *Ibid.*, para 8.

2. O.J. 2015, L 248/9.