European Commission - Press release

State aid: Commission opens in-depth investigation into support for the Portuguese railway maintenance company EMEF

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Following a complaint, the European Commission has opened an in-depth investigation to assess whether public measures in favour of the state-owned Portuguese railway maintenance company EMEF gave the company a selective advantage over its competitors, in breach of EU state aid rules.

EMEF is a subsidiary of Comboios de Portugal (CP), the state-owned Portuguese passenger rail operator. It is active in the railway maintenance sector, offering in particular heavy maintenance, upgrading and refurbishment of railways rolling stock and its related equipment as well as freight wagon design, manufacturing and upgrading.

In 2015 the Commission received a complaint from a competitor alleging that EMEF continuously received illegal financial support from CP. EMEF has been loss-making since at least 2005, except in 2012 and 2014.

According to the complaint and information received from Portugal, EMEF appears to have received public support worth around €90 million since 2005 from CP in the form of capital increases, loans and guarantees.

State interventions in companies can be considered free of state aid within the meaning of the EU rules when they are carried out at conditions that a private investor would have accepted.

At this stage, the Commission has concerns that the measures in favour of EMEF were not granted at market conditions and may therefore have given EMEF a selective advantage over its competitors.

EU state aid rules only allow public support to companies in financial difficulty under specific conditions, requiring in particular that the company is subject to a sound restructuring plan, which would allow it to return to viability in the long-term without continued state support and without unduly distorting competition in the Single Market.

The Commission will now investigate further to find out whether its initial concerns are confirmed or not. The opening of an in-depth investigation gives interested parties an opportunity to comment on the measures under assessment. It does not prejudge the outcome of the investigation.

Background

Under EU state aid rules, public interventions in favour of companies can be considered free of state aid when they are made on terms that a private operator would have accepted under market conditions (the market economy investor principle - MEIP). If this principle is not respected, the public interventions involve state aid within the meaning of Article 107 of the Treaty on the Functioning of the European Union, because they confer an economic advantage on the beneficiary that its competitors do not have.

Under the 2004 EU Rescue and Restructuring Guidelines (see MEMO), firms in difficulty may receive state aid under certain strict conditions. Aid may be granted for a period of six months ('rescue aid'). Beyond this period, the aid must either be reimbursed or a restructuring plan must be notified to the Commission for the aid to be approved ('restructuring aid'). The plan must ensure that the long-term viability of a firm is restored without further state support, that distortions of competition induced by the state support are addressed through compensatory measures and that the company owners contribute sufficiently to the costs of restructuring.

The non-confidential version of the decision will be made available under the case number SA.41727 in the State Aid Register on the DG Competition website once any confidentiality issues have been resolved. New publications of state aid decisions on the internet and in the Official Journal are listed in the State Aid Weekly e-News.

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