

SUMMARY INFORMATION SHEET ON AID MEASURES IN FORCE ON 1ST MAY 2004 (EXISTING AID)

1. GENERAL ASPECTS

Country: Poland

Title of the aid measure (English):

Restructuring of certain public and legal debts for entrepreneurs in difficulty.

Title of the aid measure (Original language):

Restrukturyzacja niektórych należności publicznoprawnych od przedsiębiorców będących w trudnej sytuacji ekonomicznej.

Legal basis (precise reference):

Act of 30 August 2002 on restructuring of certain public and legal debts for entrepreneurs (Journal of Laws No 155, item 1287, as amended)

Ministry or other administrative body responsible for the measure and its implementation:

Restructuring bodies: Social Insurance Institution, Tax offices, State Fund for Rehabilitation of Disabled Persons, Ministry of Environment, customs offices, local authorities;

Person(s) to contact:

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Level at which the measure is administered (central government, regional, other)?

Central, regional and local levels;

When did the measure enter into effect?

30/09/2002 - entry into force of the Act on restructuring of certain public and legal debts for entrepreneurs;

What is the duration of the measure (expiry date)?

The Act on restructuring of certain public and legal debts for entrepreneurs does not set certain expiry date, but the duration of measure is limited. The eligible entrepreneurs, who wanted to benefit from this aid measure, must have submitted application by the end of 45 day period after the entry in to force of the measure, that is by the 14th November 2002. So the number of beneficiaries of measure is restricted since that date. The act envisages that generally 15 months after the issue of decision on restructuring conditions, provided that all restructuring conditions are met, the restructuring authority should make a decision on canceling the defined debts.

The whole process may lengthen for example when there are some contentious debts. In such case the whole proceeding may be suspended for a certain period due to the appeal procedures.

2. DESCRIPTION OF THE MEASURE

Which transport sector is eligible (rail, aviation, maritime, etc.)?

The whole transport sector is eligible;

What are the main aim(s) and objectives of the aid?

The purpose of the scheme is to enable firms in difficulty to restore its long-term viability, which shall also contribute to maintenance and creation of new workplaces, and in consequence increase of employment;

Form of the measure (scheme, ad hoc, individual)

Aid scheme;

What are the instruments (or forms) of aid, ex.:

Write off of liabilities including interests and prolongation fees;

For each instrument of aid please give a short description of the conditions applying to the instrument.

The eligible entrepreneurs (firms in difficulty, especially those losing ability to compete on the market, which may be indicated by diminishing turnover, excess capacity, growing stock inventories, declining cash flow or increasing losses, mounting debt, lack of possibility to obtain bank credit, guarantee or surety), who wanted to benefit from this aid measure, must have submitted application by the end of 45 day period after the entry in to force of the measure, that is by the 14th November 2002. The application should be supplemented by restructuring plan (except for small enterprises), the list of company's liabilities and debts and record of company's fixed assets.

Restructuring plan should, at least:

- include the analysis and evaluation of company's economic and financial situation,
- envisage activities necessary for removal of the causes of the difficult situation of the firm, indicating their costs and financing resources for those activities,
- comprise the prediction on economic and financial situation of the company.

Restructuring plan should be aimed at restoring company's financial situation and creating jobs and perspectives for company's development.

By the end of 45-day period after commencement of restructuring process, restructuring authority issued the decision on the restructuring conditions provided that, documents submitted by entrepreneur indicated, that envisaged activities would lead to restoring of company's economic situation.

After 15-month period since the decision on restructuring conditions was made, the restructuring authority issues decision on completion of the restructuring process, which results in cancelling company's debts under restructuring, provided that the restructuring conditions are met, among others:

- 1) the company has paid the restructuring fee,
- 2) the company has repaid all liabilities towards restructuring authority, which didn't fall under restructuring process.

The restructuring fee is calculated as a percentage of the sum of liabilities under restructuring and it accounts to 15 % of this amount. In case of undertakings in course of the restructuring process on the basis of the Law of 8 September 2000 on commercialisation, restructuring and privatisation of "Polish State Railways" State Enterprise the restructuring fee accounts to 1,5 % of a.m. amount.

The cancelled liabilities do not constitute revenues for income tax calculation purposes;

Budget: give the overall budget made available for the measure (in local currency and Euro)

The overall budget of this scheme, with regard to the whole transport sector is not estimated. In case of railway undertakings the estimated aid amounts to PLN 925 560.1 thousands;

Is the budget adopted annually? If yes, what is the average annual budget?

No;

Specify the eligible beneficiaries (i.a. their character and estimated number).

The eligible beneficiaries are firms in difficulty, especially those losing ability to compete on the market. The usual signs of firm being in difficulty are: diminishing turnover, excess capacity, growing stock inventories, declining cash flow or increasing losses, mounting debt, lack of possibility to obtain bank credit, guarantee or surety;

Is the aid available on non-discriminatory basis, open to all potential beneficiaries, irrespective of nationality?

Yes. The measure is open to all beneficiaries, who are in difficulty;

What are the eligible costs?

All costs connected with restructuring and envisaged in the restructuring plan are considered as eligible costs;

What is the maximum aid intensity?

85 % (or in case of Polish State Railways 98,5 %) of the costs of the restructuring of public debts;

Specify the criteria according to which the amount of aid and/or the aid intensity has been calculated.

In order to ensure the beneficiary's contribution to the restructuring, the aid scheme sets the necessary condition for completion of restructuring process, which is payment of the restructuring fee. Restructuring fee accounts to 15 % of the sum of liabilities under restructuring. In case of undertakings being in course of the restructuring process on the basis of the Law of 8 September 2000 on commercialisation, restructuring and privatisation

of “Polish State Railways” State Enterprise the restructuring fee accounts to 1,5 % of a.m. amount;

Does the measure provide “operating aid”? If “Yes”, please provide details.

No;

If the measure relates to services of general economic interest or public service obligations, please specify by what means this task has been entrusted to the undertaking and how compensation is calculated.

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May the aid in question be cumulated with any other aid measures in operation and if so, does the measure contain provisions limiting the cumulation of aid?

Yes, the measure in question may be cumulated with other restructuring aid measures. The measure does not contain provisions limiting the cumulation of aid;

Does the aid measure fall within existing exemption regulations or guidelines? If so, please specify.

Community Guidelines on State aid for rescuing and restructuring firms in difficulty (*Official Journal C 288, 09.10.1999, p. 0002-0018*);

Regulation (EEC) No 1107/70 of the Council of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway (*Official Journal L 130, 15.06.1970, pages 0001-0003, as amended*) – Article 3d – until the entry into force of Community rules on access to the transport market;