

**COMMISSION REGULATION (EC) NO 794/2004**  
**of 21 april 2004 implementing Council Regulation (EC) No 659/1999**  
**laying down detailed rules for the application of Article 93 of the EC Treaty**

**CHAPTER V: Interest rate for the recovery of unlawful aid**

**Article 9 Method for fixing the interest rate**

(1) Unless otherwise provided for in a specific decision the interest rate to be used for recovering State aid granted in breach of Article 88(3) of the Treaty shall be an annual percentage rate fixed for each calendar year.

It shall be calculated on the basis of the average of the five-year inter-bank swap rates for September, October and November of the previous year, plus 75 basis points. In duly justified cases, the Commission may increase the rate by more than 75 basis points in respect of one or more Member States.

(2) If the latest three-month average of the five-year inter-bank swap rates available, plus 75 basis points, differs by more than 15 % from the State aid recovery interest rate in force, the Commission shall recalculate the latter.

The new rate shall apply from the first day of the month following the recalculation by the Commission. The Commission shall inform Member States by letter of the recalculation and the date from which it applies.

(3) The interest rate shall be fixed for each Member State individually, or for two or more Member States together.

(4) In the absence of reliable or equivalent data or in exceptional circumstances the Commission may, in close co-operation with the Member State(s) concerned, fix a State aid recovery interest rate, for one or more Member States, on the basis of a different method and on the basis of the information available to it.

**Article 9 was modified by the Regulation (CE) no 271/2008 of 30 January 2008 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty!**

**Article 10 Publication**

The Commission shall publish current and relevant historical State aid recovery interest rates in the Official Journal of the European Union and for information on the Internet.

**Article 11 Method for applying interest**

(1) The interest rate to be applied shall be the rate applicable on the date on which unlawful aid was first put at the disposal of the beneficiary.

(2) The interest rate shall be applied on a compound basis until the date of the recovery of the aid. The interest accruing in the previous year shall be subject to interest in each subsequent year.

(3) The interest rate referred to in paragraph 1 shall be applied throughout the whole period until the date of recovery. However, if more than five years have elapsed between the date on which the unlawful aid was first put at the disposal of the beneficiary and the date of the recovery of the aid, the interest rate shall be recalculated at five yearly intervals, taking as a basis the rate in force at the time of recalculation.

**Article 11 (3) was modified by the Regulation (CE) no 271/2008 of 30 January 2008 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty!**