

STATE AID

NN 89/89

Spain

(91/C 74/03)

*(Articles 92 to 94 of the Treaty establishing the European Economic Community)***Commission notice pursuant to Article 93 (2) of the EEC Treaty to other Member States and other parties concerned regarding aid granted by the autonomous Government of Catalonia**

By means of the letter reproduced below, the Commission informed the Spanish Government of its decision to initiate the Article 93 (2) procedure.

1. By letters dated 6 November 1989, 15 February 1990, 22 October 1990 and 8 November 1990, the Spanish Government provided the Commission, at the latter's request, with details concerning aid granted by the Autonomous Government of Catalonia under the following regional legislation: Decree 191/1986, Order of 2 February 1987, Order of 15 April 1988, Order of 27 July 1989, Law 9/1989 and Order of 19 June 1990.

2. The Commission regrets that the aid measures were not notified to it in advance at the planning stage and would ask the Spanish Government to ensure that in future it is informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid, in accordance with Article 93 (3) of the EEC Treaty.

3. However, since the aid provided for in Decree 191/1986 and in the Order of 2 February 1987 was granted in 1986, the year Spain acceded to the European Communities, and in 1987, the year in which the Commission approved the national scheme for regional aid in Spain, and given the limited size of that aid, the Commission has decided not to raise any objections under Articles 92 and 93 of the EEC Treaty.

4. The other aid measures were introduced after the Commission had authorized the national scheme for regional aid in Spain. In its letter of 1 September 1987 authorizing the scheme, the Commission clearly drew the attention of the Spanish Government to the fact that 'any further measures taken by it or by regional or local authorities must be notified at the planning stage, pursuant to Article 93 (3) of the EEC Treaty'. The Commission therefore considers that the Spanish authorities were sufficiently aware of the Community procedures to be followed as regards State aids at the time they adopted the aid measures in question.

5. Having examined their characteristics and budgets, however, the Commission has decided not to raise any objection under Articles 92 and 93 of the EEC Treaty in

respect of the aids provided for in the Order of 15 April 1988, with the exception of those specified in Sections 2 and 3 of Chapter 3 of the Order.

6. Nor does the Commission object to the aids provided for in the Orders of 27 July 1989 and 19 June 1990, on the grounds that they must comply with the rules on aids of minor importance and that the Commission does not, in principle, object to such aids. The relevant rules are set out in Commission letter No SG(85) D/2611 to the Member States dated 28 February 1985 as regards the aids financed out of the initial budget (Pta 400 million) and in the Commission communication published in *Official Journal of the European Communities* No C 40 of 20 February 1990 as regards the aids financed out of the supplementary budget (Pta 819 million). For it to be able to verify compliance with these rules, the Commission would ask the Spanish Government to submit, before the end of the year, a report on the application of the aids granted under the initial budget and, by 30 June 1991, a similar report on the aids granted under the supplementary budget. The reports should specify, for each firm assisted, the number of employees, the annual turnover, the sector of activity, the amount of aid granted, the amount of the eligible investment and the amount of any other aid granted for that investment. The Commission does, of course, reserve the right to initiate the Article 93 (2) procedure in respect of any aid that fails to comply with the rules applicable. In addition, since the Order of 27 July 1989 does not contain the criteria for aids of minor importance, it would inform the Spanish Government that, for reasons of transparency, it will not authorize any further extension of that Order as it stands.

7. Section 2 (Investment in the Vallès Technology Park) and Section 3 (Investment and projects in preferential zones) of Chapter 3 of the Order of 15 April 1988 provide for regional aids to investment. Those in Section 2 are intended for the Vallès Technology Park, while those in Section 3 are earmarked for preferential zones and sectors that have never been notified to the Commission.

Since Catalonia is not eligible under Article 92 (3) (a), these aids must be scrutinized from the viewpoint of the method for the application of Article 92 (3) (c) to