# COMMISSION DECISION

## of 24 April 1985

## concerning the insurance in Greece of public property and loans granted by Greek State-owned banks

**(Only the Greek text is authentic)**

(85/276/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 90 (1) and (3) thereof,

Whereas :

By Article 13 of Law No 1256/1982 of 28/31 May 1982 [1], Greece amended Law No 400/1970 of 13/17 January 1970 [2], and in particular Articles 31 (1) and 54 (1) thereof.

Article 13 (2) of Law No 1256/1982 provides that all public property, including the assets of Greek public undertakings, must be insured exclusively with public-sector insurance companies. Paragraph 4 of the same Article requires the staff of State-owned banks to recommend in writing to their customers that they take out insurance with an insurance company owned and controlled by the public banking sector.

Neither circular K 3-3494 from the Greek Ministry of Trade to the State-owned banks stressing the non-binding nature of the recommendation nor the procedure introduced by circular B/147 from the National Bank of Greece simplifying the procedure to be follwed should the borrower wish to take out insurance with an insurance company other than that controlled by the said Bank is likely to modify substantively the laws in force laying down the obligation in question.

Upon conclusion of the insurance contract through the agency of the State-owned bank, the public-sector insurance company is, pursuant to Article 13 (4) of Law No 1256/1982, required to deposit the commission for the service rendered in a special account opened by the State-owned bank for the benefit *inter alia* of its employees' insurance fund. This constitutes a further incentive to the staff of State-owned banks to ensure that the obligation to recommend a public-sector insurance company is fulfilled.

The Greek Association of Insurance Companies has drawn attention to the distortions of competition resulting from the two amendments introduced now by Law No 1258/1982 for private-sector insurers, and in particular for the agencies, branches and subsidiaries of undertakings from other Member States. This point of view has also been expressed by the Governments of two Member States.

By reserving access to the public property insurance market to Greek public-sector insurance companies alone, Greece has introduced new restrictions on establishment in its territory, as this measure makes it impossible for insurance companies from other Member States to set up in business in Greece as public property insurers while Greek public-sector insurers can continue to insure such risks and at the same time acquire new business previously written by private companies. The Greek public property insurance market accounts for approximately 25 % of annual premium income in Greece, which is a large proportion of the total.

The loans made by Greek State-owned credit banks account for same 80 % of the credit market in Greece. By requiring the staff of State-owned credit banks to recommend their customers to take out insurance with a public-sector insurance company, Greece favours the latter to the detriment of non-public-sector insurance companies and hence also of insurance companies from the other Member States.

As a result of this reservation of access to the market for the insurance of certain risks to the public sector, not only do distortions of competition at the expense of, among others, insurance companies from other Member States arise in the market in question, but there is also a risk that they will arise in all insurance activities.

[1] Official Journal of the Hellenic Republic A'65.
[2] Official Journal of the Hellenic Republic A'10.

The Commission asked the Greek Government as early as 28 October 1982 to bring the offending situation to an end. A reminder was sent on 20 September 1984 and a further reminder on 14 December 1984 after the Commission had taken note of the observations and the above-mentioned circulars issued by the Greek Ministry of Trade and the National Bank of Greece which the Greek Government had submitted to it by Note No A II.3082/22002 of 29 November 1984 from its Permanent Representation.

II

Under Article 90 (1) of the EEC Treaty, Member States are required, in the case of public undertakings, neither to enact nor to maintain in force any measure contrary to the rules contained in the Treaty, in particular those rules provided for in Article 7 and Article 85 to 94. The same obligation exists in respect of undertakings to which Member States grant special or exclusive rights.

By adopting Law No 1256/1982, Greece has enacted, in the case of public undertakings, namely public-sector insurance companies, measures within the meaning of Article 90 (1) of the EEC Treaty.

The Commission is required, pursuant to Article 90 (3) of the EEC Treaty, to ensure the application of the provisions of Article 90 and, where necessary, to address appropriate Directives or Decisions to Member States.

Under Article 90 (1), it is necessary to comply with, among others, the provisions of Article 52 of the EEC Treaty concerning the right of establishment, and more particularly with those of Article 53 requiring Member States not to introduce any new restrictions on the right of establishment in their territories of nationals of other Member States.

It is also necessary to comply under Article 90 (1) of the EEC Treaty with the provisions of the second paragraph of Article 5 of the EEC Treaty requiring Member States to abstain from any measure which could jeopardize the attainment of the objectives of the Treaty. The objectives of the Treaty include that referred to in Article 3 (f), namely the institution of a system ensuring that competition in the common market is not distorted, which is to be achieved in particular by observance of the principles contained in Articles 85 and 86.

By deciding that all public property must be insured with public-sector insurance companies and by making it more difficult for insurance undertakings which do not belong to that sector to insure loans made by Greek State-owned banks, Greece has taken measures which are incompatible with Article 52 of the EEC Treaty. Being new restrictions, these measures are incompatible with Article 53 and the second paragraph of Article 5. They are incompatible, moreover, with the objective embodied in Article 3 (f) concerning the institution of a system ensuring that competition in the common market is not distorted, which is to be achieved in particular by observance of the principles contained in Articles 85 and 86,

HAS ADOPTED THIS DECISION:

*Article 1*

The provisions of Article 13 of Greek Law No 1256/1982 of 28/31 May 1982 — amending Articles 31 (1) and 54 (1) of Law No 400/1970 of 13/17 January 1970 on private insurance — laying down that all public property, including the assets of Greek public undertakings, must be insured exclusively with Greek public-sector companies and that Greek State-owned credit banks must recommend their customers to take out insurance with a public-sector insurance company are incompatible with Article 90 (1) of the EEC Treaty read in conjunction with Article 52, Article 53, the second paragraph of Article 5, and Article 3 (f) of the said Treaty.

*Article 2*

Greece shall inform the Commission within two months of the date of notification of this Decision of the measures it has taken to comply therewith.

*Article 3*

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 24 April 1985.

*For the Commission*

P. SUTHERLAND

*Member of the Commission*