COMMISSION DECISION

of 25 January 2006

on the State Aid implemented by the Netherlands for AZ and AZ Vastgoed BV

(notified under document number C(2006) 80)

(Only the Dutch version is authentic)

(Text with EEA relevance)

(2006/743/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letters registered as received on 26 June 2002 and 6 February 2003, the Commission received complaints regarding the state aid granted by the Netherlands to the football club AZ Alkmaar. In the course of the preliminary investigation of the complaints, it received additional information from the complainants and from the Dutch authorities.

(2) By letter dated 23 July 2003, the Commission informed the Netherlands that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the measures. The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* [2]. The Commission invited interested parties to submit their comments.

(3) The Netherlands requested an extension of the deadline for submitting comments; its request was granted. It responded to the decision to initiate the procedure by letters registered as received on 29 October and 5 November 2003.

(4) In December 2003 the Commission received several letters containing comments from interested parties. The interested parties sent additional comments by letters registered as received on 9 February, 6 April and 6 October 2004.

(5) In the spring of 2004 the Commission received information that the municipality intended to renegotiate the agreement with AZ and AZ Vastgoed. It therefore asked the Dutch authorities for additional information by letter of 3 June 2004, to which they replied by letter of 5 July 2004, stating that the municipality, AZ and AZ Vastgoed were indeed considering whether to conclude a new agreement. They reiterated that, on account of the suspension injunction imposed by the Court of Appeal in Amsterdam, the agreement could not be implemented [3]. They provided additional information by letter registered as received on 5 November 2004, in which they confirmed that a new agreement had been concluded between the parties and that the previous agreement had been dissolved.

II. DESCRIPTION

(6) On 7 December 2001 the municipality of Alkmaar reached an agreement with Stichting AZ and AZ Vastgoed BV (hereafter referred to as 'AZ' and 'AZ Vastgoed' respectively) concerning a new location for the football stadium. The agreement between the municipality of Alkmaar, on the one hand, and AZ and AZ Vastgoed, on the other, concerned four transactions connected to the sale of several plots of land.

(7) According to the Dutch authorities, two plots of land were sold to AZ and AZ Vastgoed for the construction of a new stadium, business premises and a car park. The municipality of Alkmaar sold the land on which the existing stadium was built to AZ. AZ and AZ Vastgoed would demolish the old stadium, develop the land and build 150 apartments. Lastly, a plot of land was sold to AZ for the construction of training facilities. The agreement imposes obligations on the buyers of the land. Certain items of infrastructure have to be developed and maintained by AZ and AZ Vastgoed.

(8) In July 2003 the Commission decided to initiate the formal investigation procedure; if the agreement constituted state aid within the meaning of Article 87(1) of the EC Treaty, it was doubtful whether the aid to AZ and AZ Vastgoed was compatible with the EC Treaty.

(9) As the Court of Appeal in Amsterdam issued an order in April 2004 for implementation of the agreement to be suspended, the land has never been transferred pursuant to the agreement of 7 December 2001.

[1] OJ C 266, 5.11.2003, p. 8.
[2] See footnote 1.
[3] Gerechtshof Amsterdam, 1.4.2004, LJN: AO6912, 206/03 KG (www.rechtspraak.nl).

(10) However, in November 2004 the Dutch authorities informed the Commission that the agreement concluded on 7 December 2001 between the municipality of Alkmaar, on the one hand, and AZ and AZ Vastgoed BV, on the other, had been dissolved.

(11) According to the Netherlands, new negotiations were conducted and an independent expert evaluation of the plots had been carried out in accordance with the Commission communication on state aid elements in sales of land and buildings by public authorities ([1]). After this evaluation, a new agreement was concluded between the municipality and Egedi BV (the legal successor to AZ Vastgoed).

(12) Under the circumstances, the agreement which is subject of the investigation has been dissolved, with the result that the formal investigation procedure no longer serves any useful purpose and should be terminated.

III. **CONCLUSION**

(13) Since the agreement subject to the formal investigation procedure has been dissolved, the investigation no longer serves any useful purpose.

(14) Accordingly, the formal investigation procedure of Article 88(2) of the EC Treaty in respect of the above-mentioned agreement between the municipality of Alkmaar, on the one hand, and AZ and AZ Vastgoed, on the other, should be terminated,

HAS ADOPTED THIS DECISION:

Article 1

The formal investigation procedure under Article 88(2) of the EC Treaty initiated on 23 July 2003 against AZ and AZ Vastgoed BV is hereby terminated.

Article 2

This decision is addressed to the Kingdom of the Kingdom of the Netherlands.

Done at Brussels, 25. January. 2006.

For the Commission

Neelie KROES

Member of the Commission

([1]) OJ C 209, 10.7.1997, p. 3.