State aid: aid to industry and services, scoreboard for 2001 and 2002

2002/2196(INI) - 05/06/2002 - Document attached to the procedure

The Commission presented a report in respose to the request of the Barcelona Council to report to the Seville European Council on the progress of work concerning the guidelines on state aid and to present if appropriate a proposal for a regulation on block exemption in this field. The Commission is working on a draft text based on the lines and options set out in this report. The Commission must thus take account of the evolving nature of the case law in this field. It considers it would be prudent to await the forthcoming Court of Justice judgments on public service compensation (in particular in the Altmark and GEMO cases) before finalising its position on these matters in a Community context. If, in its forthcoming judgments, the Court of Justice does not uphold Ferring (case 22/11/2001) but considers that compensation for public service constitutes state aid, the two-stage procedure proposed by the Commission in its report to the Laeken European Council may be continued, i.e. in a first stage, preparation of a Community framework then, in a second stage, in the light of experience acquired in applying that framework and, if necessary and guided by experience, preparation of a regulation exempting some forms of aid for general economic interest services from the prior notification obligation. If in its forthcoming rulings the Court of Justice upholds Ferring, public service compensation will have to be regarded as not constituting state aid under Article 87(1) of the Treaty, provided it does not exceed the amount necessary to allow the public interest services to operate. In that case, compensation would not be subject to the prior notification obligation provided for in Article 88(3) of the Treaty. As announced in the Commission's report to the Laeken European Council, this work should be carried out in close cooperation with the Member States. To that end, the Commission departments will be holding a first meeting with experts from the Member States in the autumn of 2002, on the basis of a departmental working paper. This document will have to be finalised in the light of the evolving case law with a view to the adoption of a text by the Commission if possible by the end of 2002. The text will in particular take stock of the relevant case law, in particular as regards the concepts of economic activity and effects on trade, and clarify the methods for calculating compensation, notably in connection with public contracts, in order to avoid excess compensation. The text will naturally be without prejudice to the specific provisions applicable to the rail, road and inland waterway transport sector. As for the question of an exemption regulation, the Commission will examine the extent to which it is necessary and feasible in accordance with the guidelines set out in its report to the Laeken European Council.