

Commission refers Spain to Court of Justice for failure to recover illegal aid from Magefesa Group

The European Commission has declared incompatible with the common market aid granted to the companies of the Magefesa group that had already received the incompatible aid from 1989. In 1989 the Commission took a negative decision on aid granted to the Magefesa group. The aid already declared incompatible in 1989 was not recovered from the beneficiaries. Recovery procedures have only partially been implemented, and solely with regard to the interposed companies which were set up to channel the incompatible aid.

The aid has been granted in the form of the continuous non-payment of taxes and Social Security contributions up to the date of their bankruptcy declaration or until they ceased to be active. Moreover, as regards one of these companies, INDOSA, located in Derio (Vizcaya), the investigation has also found that this company has been able to operate, under a bankruptcy status and without paying taxes and Social Security contributions, since its bankruptcy declaration in 1994 up to May 1997. According to the Commission Decision, this has been made possible by the behaviour of the public creditors at the creditor's assembly conveyed following the bankruptcy declaration in order to appoint the receivers.

From the investigation, it results that since 1989, and even before, the companies from the Magefesa group have systematically failed to comply with their tax and Social Security contributions, despite the launching of various enforcement procedures. In this decision, the Commission considers that the continuous non payment of taxes and Social Security contributions constitutes a transfer of State resources to the companies concerned giving them a competitive advantage since, unlike their competitors, they do not have to cover this normal expenditure.

The Commission will examine separately aid granted to IDISUR within the framework of approved regional schemes. IDISUR is a company set up by former workers of MIGSA, one of Magefesa's affiliate companies, which benefited from aid declared incompatible in 1989 and from new incompatible aid.

Spain shall inform the Commission, within two months following notification of this Decision, of the measures taken to comply with it.