

**AMENDMENT 3**

by Ieke van den Burg, on behalf of the PSE Group

**Report**

A6-0034/2005

**Sophia in 't Veld**

State aid in the form of public service compensation

Motion for a resolution

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Modification 4a (new)  
Draft Decision  
Article 1, point (iia) (new)

*(iia) public service compensation granted to entities responsible for SGEIs defined by local and regional authorities where:*

*- the service is provided by the entity alone, and provided that the entity carries out all its activities within, and is not in competition with other service providers beyond, the territory of the local or regional authority concerned;*

*- the service is entrusted to an entity legally distinct from the competent local or regional authority and is monitored in a manner analogous to that applicable to services run directly by the local or regional authority concerned;*

*Justification*

*In the name of the principle of freedom of administration for local authorities (which is also written into the Constitutional Treaty), it is important to protect local services of general economic interest. This is in accordance with the European Parliament resolution of 14 January 2004 (paragraphs 35 and 36).*

Or. en

**AMENDMENT 4**

by Ieke van den Burg, on behalf of the PSE Group

**Report**

A6-0034/2005

**Sophia in 't Veld**

State aid in the form of public service compensation

Motion for a resolution

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Modification 5a (new)  
Draft Decision  
Article 1, point (iva) (new)

*(iva) public service compensation granted to bodies governed by public law as defined in Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts<sup>1</sup>, in so far as they carry out activities involving SGEIs.*

<sup>1</sup> *OJ L 134, 30.4.2004, p. 114.*

*Justification*

*This would remove the need for reporting on compensation for non-commercial services of general interest provided by bodies governed by public law, (as defined in the recent procurement directive) which might be argued to be of an 'economic' character, but which lack any commercial or industrial character, and the impact of which on the internal market is non-existent or minimal. This would complement the Decision's provisions relating to hospitals and social housing. (A body governed by public law is defined, inter alia, as one established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character'.)*

Or. en

**AMENDMENT 5**

by Ieke van den Burg, on behalf of the PSE Group

**Report****A6-0034/2005****Sophia in 't Veld**

State aid in the form of public service compensation

Motion for a resolution

## Modification 1a (new)

## Draft Decision

## Recital 7

(7) **State** aid in the form of public service compensation may prove necessary for undertakings entrusted with the operation of SGEIs to operate on the basis of principles and under conditions which enable them to fulfil their missions. Such aid *may be* compatible with the Treaty under Article 86(2) **under certain conditions**.

(7) **Public** aid in the form of public service compensation may prove necessary for undertakings entrusted with the operation of SGEIs to operate on the basis of principles and under conditions which enable them to fulfil their missions. Such aid **constitutes public service compensation under certain conditions defined in this Decision and is consequently** compatible with the Treaty under Article 86(2) **thereof**.

*Justification*

*In order to clarify the scope of this Commission Decision, and in accordance with the conclusions of the Altmark judgment, as set out in Recitals 4 and 5 of the Decision, it is important to lay down the principle that public service compensation granted to undertakings responsible for services of general economic interest does not constitute State aid, under the conditions laid down in the Decision.*

Or. en

**AMENDMENT 6**

by Ieke van den Burg, on behalf of the PSE Group

**Report****A6-0034/2005****Sophia in 't Veld**

State aid in the form of public service compensation

Motion for a resolution

Modification 11a (new)  
Community framework  
Point 2

2. Decision No ... of ... on the application of Article 86 of the Treaty **to state aid in the form** of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (SGEIs), spells out the conditions under which public **service compensation constitutes state** aid compatible with Article 86(2) and **exempts such aid** from the prior notification requirement. Public **service compensation that constitutes state** aid **and** does not fall within the scope of Decision No ... is subject to the prior notification requirement. The purpose of this framework is to specify under what conditions such state aid **can be** compatible with the common market in accordance with Article 86(2).

2. Decision No ... of ... on the application of Article 86 of the Treaty **defines the concept** of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (SGEIs) **and** spells out the conditions under which **such** public aid **is** compatible with Article 86(2) and **is exempt** from the prior notification requirement. Public aid **which** does not fall within the scope of Decision No ... is subject to the prior notification requirement. The purpose of this framework is to specify under what conditions such **public aid constitutes** state aid compatible with the common market in accordance with Article 86(2).

### *Justification*

*In line with the same authors' amendments on the draft Decision, it is important to make a very clear distinction between two categories of public aid for financing public service functions: first, aid which constitutes public service compensation as defined in the Commission decision (non-notifiable aid); secondly, other public aid which helps to finance public service functions and the compatibility of which may be scrutinised by the Commission in the light of rules laid down in the Decision, pursuant to Article 86 of the Treaty.*

Or. en

**AMENDMENT 7**

by Ieke van den Burg, on behalf of the PSE Group

**Report****A6-0034/2005****Sophia in 't Veld**

State aid in the form of public service compensation

Motion for a resolution

Modification 13a (new)  
Community framework  
Point 6

6. In its Altmark judgment of 24 July 2003, the Court laid down the conditions under which public *service compensation* does not constitute state aid. Fixing the amount of *compensation* under a genuine and effective competitive tendering procedure or on the basis of the costs of well-run medium-sized undertakings is such as to increase the effectiveness of SGEIs without jeopardising their operation 3. However, it appears that in some cases the criteria laid down in Altmark for *the setting of the amount of compensation* will not be met and that such *compensation* will, therefore, constitute state aid.

6. In its Altmark judgment of 24 July 2003, the Court laid down the conditions under which public *aid* does not constitute state aid. Fixing the amount of *aid* under a genuine and effective competitive tendering procedure or on the basis of the costs of well-run medium-sized undertakings is such as to increase the effectiveness of SGEIs without jeopardising their operation 3. However, it appears that in some cases the criteria laid down in Altmark for setting the amount of *aid* will not be met and that such *aid* will, therefore, constitute state aid.

*(If this amendment is adopted, it will necessitate corresponding changes throughout the text, notably in point 10, subheading 2.4, and points 12, 17 and 22.)*

### *Justification*

*In line with the same authors' amendments on the draft Decision, it is important to make a very clear distinction between two categories of public aid for financing public service functions: first, aid which constitutes public service compensation as defined in the Commission decision (non-notifiable aid); secondly, other public aid which helps to finance public service functions and the compatibility of which may be scrutinised by the Commission in the light of rules laid down in the Decision, pursuant to Article 86 of the Treaty.*

Or. en



16.2.2005

A6-0034/8

**AMENDMENT 8**

by Ieke van den Burg, on behalf of the PSE Group

**Report**

**A6-0034/2005**

**Sophia in 't Veld**

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Recital A

- A. whereas high-quality *key public* services (*deletion*) are not only an important element of social and economic cohesion, but may also contribute considerably to the competitiveness of the European economy,

Or. en