

WRITTEN QUESTION P-3983/05
by João Pinheiro (PPE-DE)
to the Commission

Subject: Gas Natural's takeover bid for ENDESA

The EDP/ENI/GDP transaction was based on a sectoral restructuring plan approved by a national government which, by virtue of Community law, benefited from a temporary derogation for the restructuring of the natural gas market (one of the two sectors involved in the merger). In view of its Community dimension within the meaning of and for the purposes of Regulation No 139/2004¹ of 21 January 2004 - because of the involvement of ENI - this transaction was notified to the Commission, which prohibited it. Since it allegedly does not have a 'Community dimension' - despite the fact that it would have a significant impact within the Community - the concentration that would result from Gas Natural's takeover bid for ENDESA may be notified to and assessed by the authority competent to deal with competition issues and hierarchically dependent on the government that is encouraging and backing the concentration concerned for economic policy reasons.

Does the Commission feel comfortable about maintaining discrepancies in the criteria for the appraisal of concentrations in the Community? If not, how does it intend to propose amending the criteria for referral laid down in Articles 9 and 22 of Regulation No 139/2004, in order to avoid this kind of situation?

¹ OJ L 24, 29.1.2004, p.1.