



Union of Industrial and Employers' Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

Company Affairs Department
DFH/EMB/nd/6.3/3/1

16 February 1999

Mr Karel Van Miert
Member of the
European Commission
BREY 08/40
Rue de la Loi, 200
B-1049 Bruxelles

Dear Mr Van Miert,

As you will recall from earlier contacts, UNICE attaches great importance to the issue of enforcement of state aid rules in the European Union.

We have therefore in recent years repeatedly called for procedural improvements, most recently in the context of the Commission's Proposal for a Council Regulation laying down detailed rules for the application of Article 93 of the EC Treaty.

One of the main areas of concern is the implementation of Commission decisions and the recovery of unlawful state aid. As you know, over the last 10 years, illegally paid aid has not been paid back in half of all the cases where the Commission required its repayment. Furthermore, this situation also leads to uneven application of EU rules in the Union and the distortion of competition. This means that clear and unambiguous rules in the state aid area are particularly important.

The initial Commission proposal quite clearly stated that remedies under national law shall not have suspensive effect. The changes agreed by the Council on 16 November 1998 drastically reduce the clear and unconditional nature of a procedural improvement in this area and thereby its significance and impact.

Following the changes by the Council, there is no longer any clear and unconditional obligation on Member States to change existing laws and practices so as to allow immediate recovery notwithstanding the application of remedies. It is therefore difficult to envisage how this will result in any improvement in the current poor record on aid recovery. Furthermore, standards on aid recovery will continue to differ across Member States.

Similarly, we believe that the amendment suggested by the European Parliament does not provide an adequate solution for the insufficient recovery of state aid, although it is more satisfactory.

The inability of the Commission to ensure the effective application of its state aid decisions across all Member States is now in our view one of the most important challenges facing the EU in this domain. We therefore call for the Institutions to consider means of improving the enforcement of state aid rules in the EU and thus achieve harmonisation in the field of remedies. Such an approach would be a crucial step towards removing some of the distortions of competition within the EU.

Meanwhile, UNICE regrets the changes to the initially proposed rules on recovery of state aid and requests restoration of the original Commission proposal in this field.

Yours sincerely,

Dirk F. Hudig
Secretary General