

Case T-14/96

**Bretagne Angleterre Irlande (BAI)**

v

**Commission of the European Communities**

(State aid — Application for annulment — Decision to terminate a review procedure initiated under Article 93(2) of the EC Treaty — Concept of State aid within the meaning of Article 92(1) of the EC Treaty)

Judgment of the Court of First Instance (First Chamber, Extended Composition), 28 January 1999 ..... II - 141

Summary of the Judgment

1. *Actions for annulment — Time-limits — Point from which time starts to run — Date on which the measure came to the applicant's knowledge — Subsidiary criterion — Decision terminating a procedure for the review of State aid — Date of publication (EC Treaty, Arts 93(2) and 173, fifth para.)*
  
2. *State aid — Meaning — Agreement to purchase travel vouchers — Covered — Cultural and social aims — Irrelevant (EC Treaty, Art. 92)*

1. It is clear from the actual wording of the fifth paragraph of Article 173 of the Treaty, concerning the time-limits for bringing actions for annulment, that the criterion of the day on which a measure came to the knowledge of an applicant — to mark the starting point of the period prescribed for initiating proceedings — is subsidiary to the criteria of publication or notification of the measure.

Where an undertaking could legitimately expect the decision terminating a procedure for the review of aid under Article 93(2) of the Treaty to be published in the *Official Journal of the European Communities*, given the Commission's constant practice in this connection, and where that decision was not notified to the undertaking at an earlier date, time for the purposes of initiating proceedings will start to run on the date of publication.

2. A State measure whereby a public authority enters into an undertaking, in the form of an agreement to buy travel vouchers, to purchase travel from a particular undertaking for a period of several years cannot, merely because the parties undertake reciprocal commitments, be excluded in principle from classification as State aid in the sense contemplated in Article 92 of the Treaty.

Where the agreement affects competition and trade between Member States in so far as the travel vouchers can be used only in the low season and, accordingly, the improved service supplied by the undertaking does not in principle entail significant additional costs for it, and where the total number of travel vouchers purchased does not appear to have been fixed by reference to the actual needs of the public authority concerned, such an agreement falls within the scope of Article 92(1).

In such cases, any cultural and social aims pursued by the public authorities play no part in the characterisation of the agreement in the light of Article 92(1). Article 92(1) makes no distinction according to the causes or aims of the aid in question, but defines it in relation to its effects. Nevertheless, such aims may be taken into account by the Commission when, in exercising its power of constant review under Article 93 of the Treaty, it rules on the compatibility with the common market of a measure already categorised as State aid and verifies whether that measure falls within the derogations provided for by Article 92(2) and (3).