

new subsidy programmes and changes to existing programmes. During the 1985-1987 period, the EC Commission identified 149 cases in which appropriate notification of state aids was not carried out. Moreover, the significance of these aids in relation to all state aids granted followed an upward trend, rising from 11.5% to 18% from 1985 to 1987.⁶⁴

As a consequence, the EC Commission, in December 1988, initiated procedures under Article 169 of the EEC Treaty against five EC Member States, France, Belgium, Greece, Spain and Italy, for having systematically failed to notify the Commission of aid programmes.⁶⁵ Article 169 enables the Commission to take action against Member States that do not fulfil an obligation under the EEC Treaty, such as the notification requirements under Article 93. While the Commission found that all Member States had failed to meet these requirements in some cases, the above-mentioned countries were singled out in the Article 169 action as having been the worst offenders. To help correct the situation, the Commission requested that the governments of these countries reply within two months concerning plans they were undertaking to ensure that the state aid notification requirements would be respected in the future.

The EC Commission has also attempted to promote strict adherence to the state aid notification requirements by forcing the repayment of inappropriately notified state aids without any consideration of their acceptability under Article 92. These efforts, however, suffered a significant setback with the decision of the Court of Justice in February, 1990 in the Boussac case.⁶⁶ In this case, the EC Commission asserted that the inappropriate notification of aid could, by itself, provide sufficient grounds for its recovery. The Court of Justice concluded, however, that the Commission, in such cases, can only order the suspension of further payments of aid until its compatibility with the EEC Treaty can be determined. The Court's decision, therefore, provides less incentive for early notification of aids than was desired by the Commission.

Other measures that EC competition authorities have taken to establish stricter compatibility of state aid with the EEC Treaty have included the release, in 1987, of guidelines for the designation of disadvantaged regions in which the