

Update Vereniging Gelijkberechtiging Grondbezitters, November 2013

Original subsidy regime:

- Subsidy regime: subsidies for the acquisition of nature land reserved exclusively to a limited group of *terreinbeherende organisaties* (TBOs) (originally at central level, subsequently decentralized to the provinces)
- Ad hoc: Transfer of land for free by the authorities
- Discrimination vis-à-vis other land owners – distortion of competition

Procedural steps

- Late 2008: submission of a State aid complaint to DG COMP (CP 381/2008)
- 2009: creation *Vereniging Gelijkberechtiging Grondbezitters* to strive towards equal treatment of land owners
- Pressure state aid investigation: Dutch authorities amend the subsidy regime: acquisition subsidies no longer reserved to TBOs (this subsidy regime contains however no provisions on transfer of ground for free). The amended subsidy regime is notified to DG COMP, and results in Commission decision N308/2010.

Commission decision N308/2010 (13 July 2011) :

- Acquisition subsidies are State aid BUT the amended subsidy regime compatible with the internal market (since nature management can be regarded as a 'service of general economic interest' and service providers are not 'overcompensated')
- **Important:**
 - nature management organizations are '**undertakings**'
 - subsidies to these organizations have can affect trade between Member States
- Both findings are of key importance for the complaint on past subsidies/transfers for free (CP 381/2008), which was temporarily suspended and ***again activated in April 2011***. In view of negotiations in the Netherlands, we have not kept pressure on Commission to the maximum.

Procedural steps on the national level

- The VGG demands that the Dutch central en provincial authorities stop the transfer of grounds (for free) to the TBO's.
- The authorities initially refused to stop this practice. However in December 2011 the central authority and one of the provincial authorities confirmed that they will not transfer ground for free to the TBO's.
- A draft of a claim form was sent to the authorities which refused to stop transferring ground for free to the TBO's. The VGG announced that it would start a national suit against this practice if the authorities did not stop it. (30 December 2013)
- All provincial authorities confirm that they will no longer transfer grounds to the TBO's.

Actions for annulment lodged by Provinces and TBOs against N308/2010 declared inadmissible by General Court on 19 February 2013

Judgment of the General Court on 12 September 2013 in Case T-347/09 (Germany v Commission)

- Allows qualification of nature management organizations as 'undertakings'

- Opens the door to increasing pressure on other member states as finding of state aid much easier (Dutch precedent and Court case)
- We don't know whether Germany has appealed the General Court's judgment to the Court of Justice (not yet published in OJ, but may occur later). Deadline for appeal as such has expired

Settlement negotiations

- Currently the VGG is having negotiations with the central and provincial authorities about a possible solution. The VGG has demanded that a possible solution consists of the following elements: (i) all (legal) costs that the VGG made should be compensated, (ii) the central and provincial authorities shall not start or participate in proceeding on a national or European level in order to challenge that nature management organizations are 'undertakings', (iii) the TBO's shall sell a large amount of their lands (20%) in order to stimulate the land market, (iv) in the future all owners of lands shall be treated equally and (v) the authorities shall not try to restore the old situation in which private owners of lands were disenfranchised.