



**EUROPEAN COMMISSION**

**PRESS RELEASE**

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## **State aid: Commission orders The Netherlands to recover €6.9 million incompatible state aid from Schouten-de Jong Bouwfonds**

The European Commission has concluded that certain public support measures granted to Schouten-de Jong Bouwfonds ("SJB") by a public private partnership ("PPP"), consisting of the Dutch municipality of Leidschendam-Voorburg and SJB, constitutes state aid that is incompatible with EU rules. These measures consist of the reduction of an agreed sales price for building land and the waiver of agreed fees for SJB. The Commission has found that the measure clearly provides SJB with an economic advantage over its competitors, which the company would not have obtained in normal market circumstances. In order to remedy the distortion of competition brought about by this undue advantage, SJB now needs to pay back the aid with interest.

The municipality of Leidschendam set-up a PPP with SJB in order to regenerate the Damcentrum area. The main task of the PPP was to make the area ready for new construction. The company set-up for the PPP would sell building land to private companies, among which SJB, who would be responsible for the construction phase. The price for the land and the fees for the ground exploitation were agreed in 2004. The exploitation was delayed and by the time the PPP could deliver the land, the Dutch housing market had declined and SJB did not start building. In 2010, the municipality agreed that the PPP company would lower the agreed sales price and waive the agreed fees for SJB, which amounted to a total price decrease of €6.9 million. SJB started building thereafter. Following a complaint, the Commission opened an in-depth investigation in January 2012.

The Commission has found that no private investor operating under normal market conditions would have accepted the retro-active reduction of the sales price and the waiver of the fees in favour of SJB. The measures clearly conferred an advantage on SJB. The developers bought building land from the PPP company and had to construct and sell the planned buildings at their own risk. By lowering the price of the land and waiving the fees, the municipality took over the risk of a declining housing market, which should have been borne by SJB. This freed SJB of costs it would otherwise have borne and reinforced its competitive position vis-à-vis other developers that were also faced by a declining market. The measures therefore constitute state aid in the meaning of the EU rules.

The Commission then examined whether the aid could be found compatible with EU rules. However, Leidschendam is not a deprived urban area which suffers from market failure. On the contrary, several developers had shown interest in the project at their own risk and expenses. The aid was therefore not needed to implement the project.

## **Background**

Public interventions in companies that carry out economic activities can be considered free of state aid in the meaning of the EU rules (Article 107 of the Treaty on the Functioning of the European Union – TFEU), when they are made on terms that a private player operating under market conditions would have accepted (the market economy investor principle – MEIP).

If the MEIP is not respected, the public intervention constitutes state aid because it procured an economic advantage to the beneficiary that its competitors did not have. The Commission will then proceed to assess, whether such aid can be found compatible with the common EU rules that allow certain categories of aid, for example because it enables the delivery of a good or service that market forces alone would not have produced.

More information will be made available under the case number [SA.24123](#) in the [State Aid Register](#) on the [competition](#) website once any confidentiality issues have been resolved. New publications of state aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).

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