



2025/2488

22.12.2025

COMMISSION DECISION (EU) 2025/2488

of 26 August 2025

on the State aid SA.33754 (2013/C) (ex 2013/NN) implemented by Spain for Real Madrid CF

(notified under document C(2025)5839)

(Only the Spanish text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1), point (a), thereof,

Having called on interested parties to submit their comments pursuant to the provision(s) ⁽¹⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) In October and November 2011, press reports and information provided by the public drew the attention of the Commission to alleged State aid in favour of Real Madrid Club de Fútbol ('Real Madrid'), granted in the form of a property transfer through an agreement signed with Madrid City Council ('Ayuntamiento de Madrid') on 29 July 2011 ('the 2011 settlement agreement', see recital (29), 'the measure'). On 20 December 2011, the Commission requested Spain to comment on this information. Spain shared its comments in submissions received on 23 December 2011 and 20 February 2012. Upon a further request of information by the Commission dated 2 April 2012, Spain supplied additional information which was received on 18 June 2012.
- (2) By letter dated 18 December 2013, the Commission informed Spain that it had decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union (TFEU) in respect of the measure. ⁽²⁾ By letter dated 16 January 2014, Spain provided comments on that decision.
- (3) The Commission decision to initiate the procedure ('the Opening Decision') was published in the Official Journal of the European Union. ⁽³⁾ The Commission invited interested parties to submit their comments on the measure.
- (4) The Commission received comments from interested parties. It forwarded them to Spain, which was given the opportunity to react. Spain's comments were received by the Commission by letter dated 17 November 2014. On 4 November 2015 and 14 March 2016, the Commission met with representatives of Real Madrid. On 6 November 2015, the Commission held a telephone conference with representatives of the City of Madrid. On 9 March 2016, Spain sent further information.
- (5) On 22 April 2015, the Commission shared the study on the valuation of plot B-32 prepared at the Commission's request by the independent land valuation office CEIAM Cabré Alegret ('CEIAM') for possible comments with the Spanish authorities. The CEIAM valuation study estimated the value of the right of use of plot B-32. By letter dated 15 June 2015, the Spanish authorities provided observations on that study. By letter dated 9 July 2015, Real Madrid sent its observations on that study.

⁽¹⁾ OJ C 69, 7.3.2014, p. 108.

⁽²⁾ OJ C 69, 7.3.2014, p. 108.

⁽³⁾ Cf. footnote 1.

- (6) On 4 July 2016, the Commission adopted the Decision (EU) 2016/2393 ⁽⁴⁾, pursuant to Article 7 of Council Regulation (EC) No 659/1999 ⁽⁵⁾ ('the 2016 Decision'). Article 1 of the 2016 Decision, established that the State aid granted to Real Madrid was put into effect in breach of Article 108(3) TFEU, and was incompatible with the internal market. Article 3 of the 2016 Decision ordered the recovery of such aid.
- (7) On 14 November 2016, Real Madrid lodged an application before the General Court for the annulment of the 2016 Decision.
- (8) By judgment of 22 May 2019, the General Court concluded that Madrid City Council did not act as a market economy operator when signing the 2011 settlement agreement (see recitals (1) and (29)(25)). In particular, the General Court found that a prudent market economy operator in a situation such as the one Madrid City Council faced in the case at stake would have sought legal advice before signing the 2011 settlement agreement and accepting full legal liability for the impossibility of transferring plot B-32, as agreed in the agreement signed by Madrid City Council and Real Madrid on 29 May 1998 (see recital (17)) ('the 2019 judgment'). ⁽⁶⁾
- (9) During the hearing before the General Court in case T-791/16, Real Madrid claimed that Madrid City Council received two technical experts' reports from its own departments before the signature of the agreement with Real Madrid dated 29 July 2011. The two technical experts' reports were substantiated by reading the summary of grounds of the 2011 settlement agreement, which reproduced Madrid City Council's findings on that matter. ⁽⁷⁾ According to the General Court, the information contained in this summary of grounds could not be regarded as a legal analysis of the causes leading to Madrid City Council's liability for the non-transfer of plot B-32 to Real Madrid. The General Court found, in particular, that this summary of grounds neither described in detail the regulations applicable to the transferability of plot B-32 until 2011, nor did it contain an analysis of who would be liable, and on what grounds, for the non-transfer of such plot. ⁽⁸⁾ In addition, the General Court indicated that the two technical experts' reports were not provided to the Commission or to the General Court before the hearing. ⁽⁹⁾
- (10) The General Court annulled the 2016 Decision, based on the following grounds. In the 2016 Decision, the Commission examined whether the compensation granted to Real Madrid for the non-transfer of plot B-32, as agreed in the 2011 settlement agreement contained State aid. This compensation happened by way of transfer of three other land plots ('the three other plots') and the offsetting of mutual debts. In the 2016 Decision, the Commission exclusively considered the estimated value of plot B-32, but did not estimate the value of the three other land plots transferred to Real Madrid. The General Court therefore concluded that the Commission did not take into consideration all aspects of the relevant transaction for the purposes of establishing whether there was an advantage resulting from the 2011 settlement agreement. ⁽¹⁰⁾
- (11) Following the annulment of the 2016 Decision, and a request for information from the Commission dated 26 September 2019, Spain submitted observations on 31 January 2020. On 21 November 2019, Real Madrid provided its reply to the Commission's request for information of 26 September 2019.

⁽⁴⁾ Commission Decision (EU) 2016/2393 of 4 July 2016 on the State aid SA.33754 (2013/C) (ex 2013/NN) implemented by Spain for Real Madrid CF (OJ L 358 of 29.12.2016, p. 3).

⁽⁵⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L83 of 27.3.1999, p. 1).

⁽⁶⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 58.

⁽⁷⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 53.

⁽⁸⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 55.

⁽⁹⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 54.

⁽¹⁰⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, paras. 122 and 125.

- (12) On 27 July 2021, the Commission shared with the Spanish authorities and Real Madrid the land valuation study it had commissioned from the independent land valuation office TINSA Tasaciones Inmobiliarias, S.A. ('TINSA')⁽¹¹⁾ for possible comments. By letter dated 29 November 2021, the Spanish authorities submitted their observations on that study. By letter dated 15 October 2021, Real Madrid submitted its observations on that study.
- (13) On 31 January 2020, 4 August 2020, 10 May 2022, 15 July 2024, and 14 April 2025 the Spanish authorities submitted further information. In their observations of 15 July 2024, the Spanish authorities stressed the relevance of the analysis included in their previous observations of 20 February 2012, 18 June 2012, 16 January 2014, and 17 November 2014. The Commission received additional observations from Real Madrid dated 21 November 2019, 12 June 2020 and 29 July 2022.

2. DETAILED DESCRIPTION OF THE MEASURE

- (14) Real Madrid is a professional sport club.⁽¹²⁾ In the financial year 2023-2024, Real Madrid's operating revenues reached EUR 1 073 000 000. These revenues were generated from ticket sales, marketing activities, broadcasting rights, merchandising, sponsorship, etc.⁽¹³⁾
- (15) On 20 December 1991, Madrid City Council and Real Madrid concluded an agreement concerning the remodelling of Real Madrid's stadium, the Santiago Bernabéu ('the 1991 agreement'). Under this agreement, Real Madrid committed to build an underground carpark and to carry out additional works for the improvement of certain areas surrounding the Santiago Bernabeu. Real Madrid failed to comply with some of those obligations.
- (16) On 29 November 1996, Real Madrid, Madrid City Council and the regional government, the Community of Madrid ('Comunidad de Madrid') entered into a land swap agreement ('*convenio de permuta de suelo*') ('the 1996 swap agreement'). In this agreement, Real Madrid agreed to transfer to the Community of Madrid and Madrid City Council a plot of land of 30 000 square metres located in the "*Ciudad Deportiva*" area in Madrid. In exchange, Madrid City Council agreed to transfer to Real Madrid plots of land to be identified at a later occasion. In the 1996 swap agreement, the value of the 30 000 square metres transferred to Madrid City Council and the Community of Madrid was set, as agreed by the parties, at EUR 27 million. The 30 000 square metres plot were to be equally divided between the Community of Madrid and Madrid City Council. According to the Spanish authorities, in 2004, Madrid City Council sold the 15 000 square metres of the land in the Ciudad Deportiva for EUR 53 578 623 (see recital (51) below).
- (17) On 29 May 1998, Madrid City Council and Real Madrid concluded an agreement in order to implement the 1996 land swap agreement ('the 1998 implementation agreement'). According to this agreement, Real Madrid committed to transfer to Madrid City Council 15 000 square meters in the *Ciudad Deportiva*⁽¹⁴⁾ valued at EUR 13 500 000⁽¹⁵⁾. In return, Madrid City Council committed to transfer to Real Madrid the following land plots with a matching value: two plots located in the *Julian Camarillo Sur* area ('plots 33 and 34') and plot B-32 in the *Las Tablas* area ('plot B-32'). Plot B-32 consists of an area of 70 815 square metres with a building area of 35 407 square meters.
- (18) For the purpose of the 1998 implementation agreement, as indicated by the Spanish authorities, on 28 May 1998, the services in charge of land valuation in Madrid City Council estimated the value of plot B-32 at EUR 595 194.

⁽¹¹⁾ TINSA is one of the valuation companies recognised and listed by the Bank of Spain. TINSA was selected by the Commission in the framework of a call for tender where other two companies participated.

⁽¹²⁾ As established by the Spanish Act 39/2022, of 30 December on Sport, all football clubs had to be converted into sport limited companies. The exception to this rule is FC Barcelona, Real Madrid (football and basketball), Athletic de Bilbao and Osasuna which keep their structure as professional sport clubs.

⁽¹³⁾ Information available on <https://www.realmadrid.com/es-ES/el-club/transparencia/cuentas-anuales>.

⁽¹⁴⁾ I.e. one half of the land plot transferred to Madrid City Council and the Community of Madrid in accordance with the 1996 swap agreement.

⁽¹⁵⁾ The other 15 000 square meters were transferred to the Community of Madrid.

That valuation was performed in accordance with Royal Decree 1020/1993 ⁽¹⁶⁾ laying down a methodology to determine the value of urban land property. According to the Spanish authorities, when valuing plot B-32, the services in charge of land valuation in Madrid City Council took into account that, on 28 May 1998, only the urban planning of plot B-32 had been approved, and that the urban development of the area was not implemented, and no building permits had been granted.

- (19) The 1998 implementation agreement contained a single condition precedent, namely that the agreement had to be approved by the Council of Municipal Urban Management (*'Consejo de la Gerencia Municipal de Urbanismo'*) of Madrid City Council. The approval took place on 4 June 1998. Furthermore, the parties agreed in the 1998 implementation agreement that the transfer of plot B-32 to Real Madrid should take place seven days after the registration of plot B-32, owned by Madrid City Council, in the Spanish Property Registry (*'Registro de la Propiedad'*).
- (20) On 23 February 1999, Madrid City Council transferred plots 33 and 34 to Real Madrid. Plot B-32 was not transferred at that moment because the City Council did not hold yet ownership of the plot.
- (21) On 28 July 2000, Madrid City Council acquired ownership of plot B-32. ⁽¹⁷⁾ Plot B-32 was registered in the Property Registry as property of Madrid City Council on 11 February 2003. The transfer of plot B-32 to Real Madrid did not materialise.
- (22) Plot B-32 was classified for basic sport use (*'equipamiento básico deportivo'*), under the Urban Partial Plan (*'plan parcial'*) of the area "UZI 0.08 Las Tablas" of 28 July 1995. Such classification was also specified in the General urban plan of Madrid (*'Plan General de Ordenación Urbana de Madrid'*, (*'PGOU'*)), which was approved on 17 April 1997 by Madrid City Council and the Community of Madrid. The parties to the 1998 implementation agreement were aware of the sport use classification of plot B-32. The Spanish authorities considered before the signature of the 1998 implementation agreement that plot B-32's urban classification did not exclude its transfer to a private entity, provided that the plot was used for its intended sport use. According to the Spanish authorities, since Real Madrid planned to build sport infrastructures on such land plot, Madrid City Council assumed that plot B-32 could be transferred to Real Madrid.
- (23) Act 9/2001 ⁽¹⁸⁾, which entered into force in 2001, precludes the transfer of the ownership of plot B-32 to a private entity. This is because, in accordance with Act 9/2001, land plots with the same use as plot B-32 have to be owned by public authorities and remain in public ownership as of the entry into force of the urban plans classifying those plots as plots of public use (*'bien de naturaleza demanial'*). Contrary to the provisions of the 1998 implementation agreement but in line with the requirements of Act 9/2001, Madrid City Council refrained from transferring the ownership of plot B-32 in 2003. ⁽¹⁹⁾
- (24) In 2004, the Madrid High Court (*'Tribunal Superior de Justicia de Madrid'*) ruled that land plots with an urban classification such as the one granted to plot B-32, are automatically to be considered as publicly owned and could not be sold to private entities. ⁽²⁰⁾

⁽¹⁶⁾ Real Decreto 1020/1993, de 25 de junio, por el que se aprueban las Normas Técnicas de Valoración y el Cuadro Marco de Valores del Suelo y de las construcciones para determinar el valor catastral de los bienes inmuebles de naturaleza urbana, BOE núm. 174 de 22 de Julio de 1993, p. 22356 a 22366.

⁽¹⁷⁾ According to the Spanish authorities, the acquisition of plot B-32's ownership by Madrid City Council took place once the administrative compensation project (*'Proyecto de Compensación'*, i.e. an administrative, urban development instrument through which Madrid City Council acquired ownership of this plot) concerning the area of Las Tablas was approved on 28 July 2000.

⁽¹⁸⁾ Act 9/2001 of 17 July 2001, Building Code of the Community of Madrid (*'Ley del Suelo de la Comunidad de Madrid'*). Boletín Oficial del Estado núm. 245 of 12/10/2001.

⁽¹⁹⁾ According to the Spanish authorities, the compensation project was approved, as indicated in footnote 17, on 28 July 2000. Such compensation project did not only concern plot B-32, but also other plots located in the Las Tablas area. The ownership of these other plots, including B-32, in such area was registered in the Spanish Property Registry on 11 February 2003. Between 28 July 2000 and 11 February 2003, the services of Madrid City Council formalised administrative steps needed to register the plots in the Property Registry.

⁽²⁰⁾ Judgment of 6 October 2004 of the Madrid High Court.

- (25) Under the 2011 settlement agreement, Madrid City Council and Real Madrid settled a legal dispute between the two parties concerning the 1991 agreement, the 1996 agreement, and the 1998 implementation agreement.
- (26) Madrid City Council's administrative file about the signing of the 2011 settlement agreement includes three reports drafted by Madrid City Council's urban, legal, and financial departments.⁽²¹⁾ The Spanish authorities and Real Madrid indicated that, based on the administrative legal provisions applicable to the municipal administration⁽²²⁾, these reports were mandatory for Madrid City Council before signing contracts such as the agreement at stake. These three expert reports, which were signed on 28 July 2011, i.e. before the signature of the 2011 settlement agreement, were in favour of such signing by Madrid City Council ('the Madrid City Council's three reports'). Madrid City Council's urban, legal and financial departments considered the 1996 swap agreement, the 1998 implementation agreement, the valuation of the three other plots made by Madrid City Council's technical services on 27 July 2011 and Real Madrid's request of 28 January 2011 asking for the transfer of the ownership of plot B-32.
- (27) On 28 July 2011, the position of Madrid City Council's urban, legal, and financial departments with regard to the signing of the 2011 settlement agreement can be summarised as follows:
- (a) The 1998 implementation agreement was legally effective after its approval by the Council of the Gerencia Municipal de Urbanismo on 4 June 1998 (*'el Convenio (...) desde dicho momento adquirió eficacia y ha de entenderse perfeccionado el negocio jurídico patrimonial'*).
 - (b) Real Madrid complied with its obligation to transfer 15 000 square meters in the *Ciudad Deportiva* to Madrid City Council, as agreed in the 1996 swap agreement and in the 1998 implementation agreement.
 - (c) There was a legal impossibility to transfer the ownership of plot B-32 to Real Madrid (*'Existe, aunque no una imposibilidad física, sí una imposibilidad jurídica de entregar la parcela'*).
 - (d) Such impossibility to transfer the ownership in plot B-32 entailed a breach of the 1998 implementation agreement by Madrid City Council which resulted in the obligation to compensate Real Madrid for the value of plot B-32 in 2011.
- (28) Contents of Madrid City Council's three reports were reproduced in the summary of grounds of the 2011 settlement agreement. However, Madrid City Council's administrative file regarding the signing of the 2011 settlement agreement was only provided to the Commission in 2020.
- (29) In the 2011 settlement agreement, Madrid City Council acknowledged its failure to transfer the ownership of plot B-32 and agreed to compensate Real Madrid for this breach of the 1998 implementation agreement. As agreed by the parties in 2011, the compensation would be equivalent to the value of plot B-32 in 2011 and would be paid by transferring the three other plots to Real Madrid.
- (30) In a valuation report of 27 July 2011, the services in charge of land valuation of Madrid City Council estimated the value of plot B-32 in 2011 at EUR 22 693 054,44. For this valuation, Madrid City Council's services used the criteria already used for the valuation of plot B-32 in 1998 and took into account the land classification of the plot and its urban situation in 2011.

⁽²¹⁾ Report "Memoria Justificativa" of 28 July 2011, signed by the persons in charge of Subdirección General de Patrimonio Municipal del Suelo, Departamento de Valoraciones and Servicio de Gestión de Suelos Patrimoniales del Ayuntamiento de Madrid. Report of 28 July 2011 signed by the Director-General of the Legal Department of Madrid City Council. Report of 28 July 2011 signed by the person in charge of the Intervención General of Madrid City Council and the Deputy Director-General of Fiscalización de Ingresos y Análisis Financiero of Madrid City Council.

⁽²²⁾ Applicable in 2011: Organic Regulation of the Government and Administration of Madrid City Council of 31 May 2004, Law 22/2006 of 4 July 2006 on capital role and special regime of Madrid and Royal Legislative Decree 2/2004 of 5 March 2004 approving the recast text of the Law governing local finances.

- (31) The three other plots transferred to Real Madrid were the following: a plot located between *Rafael Salgado*, *Paseo de la Castellana* and *Concha Espina* of 3 600 square metres; plots in the area of *Mercedes Arteaga* and *Jacinto Verdaguer*, totalling 7 966 square metres; and a plot of 3 035 square metres in *Ciudad Aeroportuaria Parque de Valdebebas*. The combined value of the three other plots, as calculated by the services in charge of land valuation of Madrid City Council, was of EUR 19 972 348,96.
- (32) In the 2011 settlement agreement, the parties also agreed that Real Madrid owed Madrid City Council an amount of EUR 2 812 735,03, as compensation for its failure to comply with certain contractual obligations under the 1991 agreement (see recital (15)).
- (33) By way of the 2011 settlement agreement, Real Madrid and Madrid City Council agreed to offset their mutual debts. First, an amount of EUR 92 037,59 of property taxes, which Real Madrid had been paying since 2002 for plot B-32, was added to Real Madrid's claim of EUR 22 693 054,44 for plot B-32. Secondly, the EUR 2 812 735,03 of outstanding debts under the 1991 agreement was deducted from Real Madrid's claim, leading to a claim of Real Madrid against Madrid City Council of EUR 19 972 357,00. That claim was, thirdly, offset against the value of EUR 19 972 348,96 of the three other plots. The result was, fourthly, a remaining net claim of EUR 8.04 for Real Madrid against Madrid City Council.
- (34) Under a subsequent agreement concluded in September 2011 between Madrid City Council and Real Madrid ('the 2011 urban development agreement'), Real Madrid undertook to transfer to Madrid City Council the plot in the *Mercedes Arteaga/Jacinto Verdaguer* area (one of the three other plots), and a shopping mall complex, as well as to make a one off payment of EUR 6 600 000 to Madrid City Council. In return, Madrid City Council committed to transfer to Real Madrid an area of land of 5 216 square metres it owned in front of Real Madrid's Santiago Bernabeu stadium, on which Real Madrid intended to construct a shopping mall and a hotel. In the context of the latter transfer, Madrid City Council and the Community of Madrid amended the PGOU, reclassifying the area in front of that stadium to enable a denser coverage by buildings and its commercial use. However, a judgment of the Madrid High Court of 2 February 2015 ⁽²³⁾ annulled that amendment to the PGOU.

3. GROUNDS FOR INITIATING THE FORMAL INVESTIGATION PROCEDURE

- (35) In submissions to the Commission prior to the opening of the formal investigation procedure, the Spanish authorities argued that due to the legal impossibility of fulfilling its obligation under the 1998 implementation agreement to transfer plot B-32 to Real Madrid, Madrid City Council was under a legal obligation to compensate Real Madrid with the value of the plot of land in question. This raised the question for the Commission whether it was indeed not possible to transfer the land to Real Madrid in 1998 and about the consequences of such impossibility on the part of one party of a contract to fulfil its contractual obligation under Spanish civil law.
- (36) The Commission expressed doubts on whether the value of plot B-32 assumed in the 2011 settlement agreement reflected a market price. The evaluation was carried out by Madrid City Council's services, apparently without an independent expert evaluation.
- (37) The Commission had doubts on whether the value of the properties which were transferred to Real Madrid by the further exchange of land around its Bernabeu Stadium, under the 2011 urban development agreement, was in line with their market value. Therefore, the Commission considered that there could also be aid present in those transactions within the meaning of Article 107(1) TFEU.
- (38) The Commission expressed doubts regarding the compatibility of any possible aid with the internal market. In the absence of specific guidelines on the application of the State aid rules to commercial sport activities, any assessment would have to be based directly under Article 107(3)(c) TFEU. According to that provision, aid may be considered compatible with the internal market if it facilitates, in the common interest, the development of certain economic activities or of certain economic areas. The Commission doubted that there was an objective of common interest which could justify selective support to a very strong actor in a highly competitive economic sector.

⁽²³⁾ Judgment No 77/2015, Sala de lo Contencioso-Administrativo, Sección Primera.

- (39) In the Opening Decision, the Commission took the preliminary view that the compensation of Real Madrid by Madrid City Council under the 2011 settlement agreement constituted State aid in favour of Real Madrid within in the meaning of Article 107(1) of the Treaty. Accordingly, the Commission invited Spain and interested parties to provide relevant information regarding the doubts explained in this section 3.

4. COMMENTS FROM THE SPANISH AUTHORITIES

- (40) This section summarises the observations submitted by the Spanish authorities from 2011 to 2025, i.e. before and during the formal investigation procedure initiated by the Commission in the present case.

4.1. Comments regarding the transferability of plot B-32

- (41) Plot B-32 was classified for sport use (see recital (22)). According to the Spanish authorities, the urban classification as sport use of plot B-32 was not an obstacle for the plot to be transferred to a private entity, such as Real Madrid, in 1998. The legal impossibility to transfer plot B-32 did not stem from its sport use, but from its specific public ownership nature (*'bien de naturaleza demanial'*), as introduced by Law 9/2001, which made the plot non-transferable.
- (42) In their observations, the Spanish authorities explained the following:
- Based on its interpretation of the relevant Spanish law, doctrine ⁽²⁴⁾ and case-law ⁽²⁵⁾, Madrid City Council understood in 1998 that a land plot should be publicly owned and considered as non-transferable to private entities only after the relevant public service to which the plot is assigned to (in this case, sport use) was implemented and put into operation.
 - Prior to that moment, the plot was considered to still be part of the municipal assets and transferable to private entities.
 - According to the Spanish authorities, this was a historically applied practice of Madrid City Council and of other public administrations in Spain.
 - As indicated by the Spanish authorities, 'at the time when the transfer of plot B-32 was agreed, Madrid City Council took the view that, in fact, provided that its sport use was maintained, it could be transferred. Otherwise, Madrid City Council would not have agreed to transfer it to Real Madrid'. When Madrid City Council and Real Madrid agreed on the transfer of plot B-32 (i.e. by way of the 1998 implementation agreement), Madrid City Council then considered that plot B-32 was transferable to a private entity such as Real Madrid, provided that its sport use was maintained. Real Madrid agreed to keep the sport use of the plot.
- (43) Furthermore, the Spanish authorities indicated that the non-transferability of plot B-32 to private entities was unequivocally established when Act 9/2001 was adopted. Based on Article 36.1 of Act 9/2001, land plots with the same use as plot B-32 have to be owned publicly. In addition, pursuant to Article 64 of the same act, the entry into force of the PGOUs have the effect of linking land plots to their urban classification. As explained by the Spanish authorities, 'it was then [11 February 2003] that the municipal services, in the light of the legislation applicable at that time (Act 9/2001 (...)), came to the conclusion, subsequently confirmed by case-law and doctrine, that plot B-32 could no longer be transferred to that football club'.

⁽²⁴⁾ Menéndez Rexach, "Contra la privatización del dominio público. La naturaleza demanial de los sistemas generales", Revista Jurídica del Deporte núm. 12/2005, Doctrina Editorial Aranzadi. Bremond Triana, Luis, "Las parcelas dotacionales de equipamiento sin servicio público establecido, ¿son bienes demaniales?", Revista de Derecho Urbanístico y Medio Ambiente, núm. 264, 2011. Bremond Triana Luis, "La constitución de un derecho de superficie sobre terrenos cedidos para dotaciones públicas de equipamiento genérico", Práctica Urbanística: Revista Mensual de Urbanismo, núm. 101, 2011.

⁽²⁵⁾ Judgment of the Madrid High Court (second chamber) of 6 October 2004.

- (44) In accordance with clause IV of the 1998 implementation agreement, the transfer of plot B-32 to Real Madrid should be carried out within seven days of the registration in the Land Property Registry of Madrid City Council as owner of plot B-32. That registration took place on 11 February 2003. It was therefore from that moment that the plot could be transferred. According to the Spanish authorities, since Act 9/2001 had already entered into force in the meantime as of 1 January 2003, plot B-32 was to be held under public ownership and could not be transferred to Real Madrid.
- (45) In addition, the Spanish authorities provided arguments as to a possible modification of the sport use classification of plot B-32 in the PGOU to enable its transfer to a private entity. The Spanish authorities explained first that Madrid City Council could have proposed such a modification to the Community of Madrid. However, according to the Spanish authorities, and based on case law of the Spanish Supreme Court ⁽²⁶⁾, such amendment could only be made if it was justified by a general interest. An amendment of the PGOU aimed only to make possible the transfer of a specific land plot to a private entity could have been considered as arbitrary and not serving the general interest. Second, the Spanish authorities claim that an amendment of the PGOU in the present case would have entailed the need for Madrid City Council to acquire new land of similar characteristics to plot B-32.

4.2. **Comments regarding the breach of the 1998 implementation agreement and the consequences of such breach**

- (46) The Spanish authorities stressed that Madrid City Council and Real Madrid agreed in the 1998 implementation agreement that the effectiveness of such agreement was subject to a single condition precedent, namely that it should be approved by the Consejo de la Gerencia Municipal de Urbanismo of Madrid City Council. Such an approval was issued on 4 June 1998, and, therefore, the 1998 implementation agreement became effective on that date and must be regarded as having been completed (*perfeccionado*).
- (47) According to the Spanish authorities, the non-transfer of plot B-32 to Real Madrid amounted to a breach of the 1998 implementation agreement by Madrid City Council, considering that Madrid City Council '*had a contractual obligation to transfer to Real Madrid concretely and specifically plot B-32*' and that Real Madrid '*was entitled to receive plot B-32*' in accordance with an effective and completed agreement.
- (48) The Spanish authorities explained the legal consequences of such a breach already in 2012 and 2014, based on their interpretation of the Spanish relevant legal provisions.

4.2.1. *Consequences of a breach due to arising impossibility (as opposed to an impossibility ab initio) to fulfil the agreement*

- (49) The Spanish authorities considered that the 1998 implementation agreement was valid *ab initio* and binding for Madrid City Council and Real Madrid. The authorities considered that the 1998 implementation agreement was not vitiated by any flaw rendering it null or annulable. The validity of such agreement was never challenged. The breach of the agreement by Madrid City Council was due to the non-fulfilment of the obligation to transfer the ownership of plot B-32 to Real Madrid as a result of the application of Act 9/2001, which entered into force after the single condition precedent contained in the 1998 implementation agreement was fulfilled (see recitals (43) to (46)).
- (50) The Spanish authorities also stress that the 1998 implementation agreement is a swap agreement, which does not involve an obligation to transfer a land plot in return for a price, as it is the case for sale and purchase contracts, but rather to receive specific land plots in return for the transfer of other land plots. The economic equilibrium of the agreement was based on the valuation of all the plots object of the agreement, including those transferred by Real Madrid and those transferred or to be transferred by the Madrid City Council. Real Madrid and the Madrid City Council would not have signed the agreement otherwise.

⁽²⁶⁾ Sentencias del Tribunal Supremo de 26 de julio de 2006 (RJ 2006, 6330, casación 2393/2003), de 30 de octubre de 2007 (RJ 2008, 1327, casación 5957/2004) y de 24 de marzo de 2009 (RJ 2009, 1709, casación 10055/2004).

- (51) The Spanish authorities indicate that in case of an arising impossibility (as opposed to an impossibility *ab initio*) to perform a contract, such as the one preventing Madrid City Council to transfer plot B-32 to Real Madrid, Real Madrid as the party who was not in breach of the agreement had two possible ways forward, based on Article 1124 of the Spanish Civil Code:
- (a) To require the fulfilment of the due contractual obligation. In this scenario, the specific asset object of the contract must be delivered and, where this is not possible, the obligation must be fulfilled by equivalence (*'cumplimiento por equivalencia'*) and the defaulting party must provide the value equivalent to the asset not transferred.
 - (b) To terminate the agreement, which in this case would have involved the return of the land plots initially swapped by the parties. However, since those plots had been sold in the meantime and could not be returned in kind, Madrid City Council would have had to return the values of those plots at the time they were sold. In other words, Madrid City Council would have been obliged to pay Real Madrid the value of the 15 000 square metres of the land in the Ciudad Deportiva when it was sold which, according to Spain, amounted to EUR 53 578 623. The Spanish authorities stress that such an outcome would have been much more onerous for Madrid City Council than what was agreed to under the 2011 settlement agreement.
- (52) The Spanish authorities confirmed that Real Madrid required Madrid City Council to fulfil the obligation to transfer the ownership of plot B-32 and not to terminate the 1998 implementation agreement. In this scenario, since the transfer of plot B-32 became impossible, Madrid City Council should fulfil its obligation by giving Real Madrid a value equivalent to the value of plot B-32 in 2011 ⁽²⁷⁾.

4.2.2. Consequence of a breach due to impossibility *ab initio* to fulfil the agreement

- (53) The Spanish authorities rejected the possibility of an impossibility *ab initio* to fulfil the 1998 implementation agreement (and in particular, to transfer plot B-32 to Real Madrid) and confirmed that they considered that the agreement was valid and, therefore, not null or voidable (see recital (49)). In 2012 and 2014 explanations, the authorities provide the Commission with a description of the consequences of a nullity.
- (54) Specifically, the Spanish authorities consider that, should the 1998 implementation agreement be null and void – *quod non* according to the Spanish authorities – because plot B-32 was not transferred to Real Madrid, the nullity would affect the whole agreement, and the parties should return the land plots they initially swapped.

4.3. Comments regarding the valuation of the land plots

- (55) Regarding the valuation of plot B-32, the Spanish authorities explain that the valuation was carried out by the technical services of Madrid City Council on the basis of established criteria used for the valuation of all the land plots owned by the municipality. The experts in such services are bound by the principles of objectivity, professionalism, and impartiality. Public administrations are required by law to calculate the value of land plots owned by such administrations to establish their asset inventory, irrespective of their public or private legal domain.
- (56) In 2011, the value of plot B-32 was determined by experts of Madrid City Council in a report dated 27 July 2011 (i.e. before the signature of the 2011 settlement agreement), which was based on the calculation model (*'Modelo básico de repercusión de suelo'*) as follows:
- (a) Plot: 70 815 square metres in total, of which 35 407 square metres available for building purposes;
 - (b) Considering the authorised use, the state of development and the degree of urbanisation at that moment, a value ⁽²⁸⁾ of EUR 588 per square metre was considered;

⁽²⁷⁾ Regarding the calculation of value of plot B-32 in 2011 for the purposes of the 2011 settlement agreement, the Spanish authorities refer to the following judgments of Spanish courts: judgment of the Supreme Court of 16 March 1995 (first chamber), case 3515/91; judgment of the Supreme Court of 4 December 1995 (first chamber), case 2076/92; judgment of the Audiencia Provincial de Las Palmas of 17 June 2010, case 197/2009.

⁽²⁸⁾ In accordance with the Order of the Ministry of Economy and Finance EHA/1213/2005.

(c) Indexation coefficient: 1,09.

(d) The result of $35\,407 \times 588 \times 1,09$ was of EUR 22 693 054,44.

(57) The Spanish authorities also referred to the report of the Ministry of Finance of 2011, where the value of plot B-32 was estimated at EUR 25 776 296.

(58) As indicated in recital (18), for the purpose of the 1998 implementation agreement, the services of Madrid City Council estimated the value of plot B-32 in 1998 at EUR 595 194. According to the Spanish authorities, the difference between the value of plot B-32 in 1998 and in 2011 could be explained by the situation of the plot in each of these moments. In 1998, the services of Madrid City Council took into account the very early and basic urban development state of the plot. At that point in time, only the urban planning was completed, but the development of the area was not implemented and the building permits not granted. Thus, several years passed until it was possible to build something on the plot. That situation had completely changed by 2011.

(59) Regarding the study prepared for the Commission by TINSA for the valuation of the three other plots transferred to Real Madrid instead of plot B-32 as agreed in the 2011 settlement agreement (see recital (31)), the Spanish authorities indicated that the methodology⁽²⁹⁾ and the rules⁽³⁰⁾ under which TINSA carried out its valuation are different from the methodology⁽³¹⁾ and rules⁽³²⁾ applied by Madrid City Council. Furthermore, TINSA's assessment was based on their own data bases, to which Madrid City Council did not have access. The Spanish authorities also indicated that TINSA carried out a sensitivity analysis where, based on probabilities, high range intermediate values were identified. However, according also to the Spanish authorities, the difference between the result of the valuations made by Madrid City Council and TINSA (EUR 1 127 651,04, i.e. a 5.36 % difference) is acceptable. Such a difference in the results of the calculation would be acceptable even in valuations carried out based on the same methodology.

4.4. Comments regarding the value of the land around the Bernabeu stadium

(60) Regarding the intended real estate arrangements under the 2011 urban development agreement, Spain considered that the judgment No 77/2015 of the Madrid High Court of 2 February 2015 annulled the modification of the PGOU with regard to the land around the Bernabeu Stadium and prevents the execution of the 2011 urban development agreement.

5. COMMENTS FROM REAL MADRID

(61) The Commission received observations from Real Madrid after the publication of the Opening Decision, as well as following the 2019 judgment of the General Court.

5.1. Comments regarding the transferability of plot B-32 to Real Madrid

(62) Real Madrid underlined that the urban classification of plot B-32 as "sport use" did not change the obligation of Madrid City Council, under the 1998 implementation agreement, to transfer the ownership of the plot to Real Madrid. At that moment, it was unclear that plot B-32 should be later publicly owned. A condition for a land plot to be of public ownership is that the plot must be "designated" for a public service (*afectación*). Such a designation occurs when such public service is implemented or, in other words, connected effectively to a public need⁽³³⁾.

⁽²⁹⁾ TINSA used the dynamic residual method.

⁽³⁰⁾ Orden ECO/805/2003, de 27 de marzo, sobre normas de valoración de bienes inmuebles y de determinados derechos para ciertas finalidades financieras.

⁽³¹⁾ Madrid City Council used the static residual method.

⁽³²⁾ Real Decreto Legislativo 7/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley de Suelo y Rehabilitación Urbana. Real Decreto 1492/2011, de 24 de octubre, por el que se aprueba el Reglamento de valoraciones de la Ley de Suelo.

⁽³³⁾ Judgment of the Spanish Supreme Court of 21 September 2011 in appeal No 561/2008, ES:TS:2011:5830. See also judgment of the Supreme Court of 30 December 2010 in Appeal No. 484/2007, ES:TS:2010:7335.

- (63) According to Real Madrid, more than 25 years after the classification of plot B-32 as “sport use”, no building works have been carried out on such plot and it has never been used to provide any public service. Therefore, the classification as “sport use” never became effective and it could not be considered that the plot came to form part of the public domain (*dominio público*).
- (64) Furthermore, Real Madrid considered that the urban planning classification could have been amended before entering into the 1998 implementation agreement. Madrid City Council had the capacity to cancel (*desafectación*) the then existing classification of plot B-32 and assign a distinct classification to it. In 1998, such a change to the existing classification could have been implemented without facing any specific statutory obstacles. However, the situation changed in 2001 because of the entry into force of Act 9/2001. Article 67.2 of Act 9/2001 provided that the decision to declassify land intended for public use (*desafecte el suelo de un destino público*) must be accompanied by compensatory measures with a view to maintain the quality and quantity of such public resources in the affected area ⁽³⁴⁾. As a result, when the obligation to transfer plot B-32 arose in 2003, Madrid City Council could not have reclassified that plot without adopting measures to ensure that the quality and quantity of the basic sport installations at Las Tablas would not be affected.
- (65) In consequence, Madrid City Council would have had to acquire land at Las Tablas area similar in size to plot B-32 and classify it for “basic sport use”. This would have been very expensive, since any available land in that area was classified, in 2011, as “residential” or “commercial”. Land with those classifications commanded a much higher market price than land classified as for “basic sport use”. A study submitted by Real Madrid estimated the cost for Madrid City Council for such compensatory measures to be between EUR 58 million and EUR 240 million, i.e. much more than the EUR 22 693 054,44 compensation agreed under the 2011 settlement agreement ⁽³⁵⁾.

5.2. **Comments regarding the breach of the 1998 implementation agreement and the consequences of such breach**

- (66) According to Real Madrid, in the 1998 implementation agreement, Madrid City Council assumed undoubtedly the obligation to transfer the ownership of plot B-32 to Real Madrid. Real Madrid would have never transferred full ownership of land to Madrid City Council in exchange for a plot with limitations as to its transferability. Moreover, a hypothetical agreement involving a non-transferable plot would have broken the balance of the contract and could have led to an unjust enrichment of Madrid City Council, incompatible with Spanish law.
- (67) Furthermore, Real Madrid did not consider that the market economy operator principle is applicable to the present case. The relevant reference framework in this case to establish the liability of a public authority and the consequence of such liability was determined not by the market but by the law. It was irrelevant whether Madrid City Council’s action is market-conform, in so far as its action and degree of responsibility is determined by law.
- (68) The fact that Madrid City Council did not fulfil its contractual obligation, entitled Real Madrid to demand compensation for breach of contract. This compensation should have put Real Madrid in the same position as if Madrid City Council had complied with its contractual obligation and transferred full ownership of plot B-32 to Real Madrid.
- (69) Real Madrid did not have a claim to a simple right of use over plot B-32. Such a claim would have distorted the obligations assumed by Madrid City Council and Real Madrid in the 1998 implementation agreement. The relevant value for compensation purposes was the value that plot B-32 would have had for Real Madrid if Madrid City Council had fulfilled its obligation to transfer the ownership of the plot, in accordance with the terms of the agreement.

⁽³⁴⁾ “Toda alteración de la ordenación establecida por un Plan de Ordenación Urbanística que [...], desafecte el suelo de un destino público [...], deberá contemplar las medidas compensatorias precisas para mantener la cantidad y calidad de las dotaciones previstas respecto del aprovechamiento urbanístico del suelo [...]”.

⁽³⁵⁾ The Aguirre Newman Report, submitted by Real Madrid, pages 122-126.

- (70) Real Madrid argued that, for a contractual obligation to be null and void under the Spanish law, the obstacles to performance must exist from the outset, be absolute, permanent and beyond the control of the parties. For the same reason, Madrid City Council could not have avoided its contractual obligation vis-à-vis Real Madrid to transfer plot B-32 by invoking the Spanish law doctrine of arising impossibility (*'imposibilidad sobrevenida'*). Madrid City Council could only have avoided liability if the obstacles to performance were insuperable and beyond its control.
- (71) According to Real Madrid, it would not have been conceivable for Real Madrid to accept a settlement that assigned a value to its contractual right to plot B-32 that was lower than the plot's market value in 2011. Real Madrid would not have accepted a settlement that estimated the value of its right over plot B-32 at the market value of that plot in 1998 or in 2003. Real Madrid would have brought court proceedings to protect the full value of its right to require performance of the 1998 implementation agreement.
- (72) Alternatively to the 2011 settlement agreement, Real Madrid would have insisted on its contractual rights. That could have been compensation for breach of contract if the breach was caused intentionally or by negligence on the basis of Article 1101 of the Civil Code. This would lead to a claim of compensation of the value that the land had at the time of the judgment, which would be the value assumed in the 2011 settlement agreement. Real Madrid could also have terminated the contract pursuant to Article 1124 of the Civil Code, with the consequence of the right to restitution of what had already been performed according to Article 1123 of the Civil Code and a claim for damages.
- (73) Real Madrid underlines that the 2011 settlement agreement is more advantageous for Madrid City Council than a full restitution of the plots exchanged. Restitution would have entailed a return to the situation existing before the 1998 implementation agreement. In principle, Madrid City Council would have been compelled to return the 15 000 square metres it received at Ciudad Deportiva to Real Madrid and Real Madrid would have had to return to Madrid City Council plots 33 and 34. However, to return the plots as such would not be feasible. The parties sold the land years ago to third parties that acquired the land in good faith. In such cases, the parties must instead, according to Spanish law, return to the other party the value of the land that is subject to restitution at the time the judgment.
- (74) Based on a land valuation report of 2014 commissioned by Real Madrid to the real estate consultancy Aguirre Newman (the Aguirre Newman Report⁽³⁶⁾), Real Madrid explained how restitution of the contractual performances in 2011 would be dealt with under Spanish law and what the financial consequences of restitution would be. According to Real Madrid, restitution would have triggered the following payments between Madrid City Council and Real Madrid:
- Madrid City Council would have had to pay to Real Madrid the value in 2011 of the 15 000 square metres at Ciudad Deportiva, estimated in the Aguirre Newman Report at EUR 65 346 000 ⁽³⁶⁾;
 - Real Madrid would have had to pay to Madrid City Council the 2011 value of plots 33 and 34, estimated by Aguirre Newman at EUR 32 246 000 ⁽³⁷⁾.
 - Accordingly, the net effect of restitution would consist in Madrid City Council paying to Real Madrid EUR 33 100 000, i.e. EUR 10 407 000 more than what Real Madrid received under the 2011 settlement agreement. This meant that Real Madrid essentially relinquished an additional EUR 10 407 000 claim against Madrid City Council by agreeing to the 2011 settlement agreement.
- (75) Real Madrid therefore argued that by entering into the 2011 settlement agreement, Madrid City Council was able to avoid that risk at a cost that was about EUR 10 407 000 lower than what Real Madrid could have claimed had it terminated the 1998 implementation agreement and sought restitution.

⁽³⁶⁾ The Aguirre Newman Report, submitted by Real Madrid, pages 113-117.

⁽³⁷⁾ The Aguirre Newman Report, submitted by Real Madrid, pages 106-112.

- (76) Lastly, Real Madrid argued that it could have sought compensation for any damage caused as a result of Madrid City Council's breach of contract. Based on Article 1124 of the Spanish Civil Code and established case-law, termination and contractual damages are mutually compatible remedies. The purpose of such damages being to place the creditor in the same position as if the debtor had complied with its obligations under the contract.
- (77) Should the 1998 implementation agreement be assumed null and void, Real Madrid argued that the legal consequence of nullity of the contract would result, according to Article 1303 of the Civil Code, in the restitution of the parties' performances under the void contract. Article 1307 of the Civil Code provides that the item which cannot be returned because it has been lost should be substituted for its value at the time of the loss, plus interest. A sale to a third party in good faith is tantamount with a loss⁽³⁸⁾. That approach would have led to the following payments between Madrid City Council and Real Madrid:
- (a) Madrid City Council would have been under an obligation to pay Real Madrid the proceeds from its sale in 2003 of the 15 000 square metres at Ciudad Deportiva of about EUR 53 000 000, plus interests from that date.
 - (b) In turn, Real Madrid's obligation to pay Madrid City Council the proceeds from its sale in 1999 of plots 33 and 34 would have amounted to about EUR 12 900 000, plus interest.
 - (c) Consequently, the net effect of such restitution in 2011, without interest, would have resulted in an obligation of Madrid City Council to pay Real Madrid the amount of EUR 40 100 000. That amount would exceed by EUR 17 407 000 the compensation paid to Real Madrid under the 2011 settlement agreement and would be EUR 7 000 000 more than what Madrid City Council would have to return to Real Madrid if the 1998 implementation agreement was terminated as a result of breach of contract by the Madrid City Council.

5.3. Comments regarding the value of the land plots

- (78) The values of land plots in 1998 were determined by experienced expert officials of the Gerencia Municipal de Urbanismo of Madrid City Council, using the valuation methodology laid down in Spanish law. According to those valuations, the plots to be transferred to Real Madrid had the same total value as the 15 000 square metres to be transferred to Madrid City Council.

Table 1

Valuations in the 1998 implementation agreement

Madrid City Council		Real Madrid	
Land plots to be transferred to Real Madrid	Value	Land plots to be transferred to Madrid City Council	Value
Plot B-32	595 194 EUR	15 000 m ² at Ciudad Deportiva	13 522 772 EUR
Plot B-33 and B-34	12 927 578 EUR		
Total	13 522 772 EUR	Total	13 522 772 EUR

- (79) Accordingly, the valuations used by Madrid City Council in 1998 as the basis for the transfer of plots B-32, 33 and 34, did not indicate that it would overcompensate Real Madrid.

⁽³⁸⁾ Judgment of the Supreme Court of 6 June 1997, appeal no. 1610/1993 ("por su enajenación a terceros de buena fe la cosa vendida se hizo irrevindicable, no la sentencia que así lo declara habida cuenta que esta sentencia es declarativa, no constitutiva, y se limita a constatar una situación jurídica preexistente; de ahí que la obligación de restitución surja en el momento en que los vendedores enajenaron, careciendo de poder dispositivo sobre ellas").

- (80) The valuation methodology used to assess the value of the plots object of the 1998 implementation agreement was employed by public authorities all over Spain to objectively determine the value of land ⁽³⁹⁾. The officials preparing valuation reports are experts in the field and are under personal duty to act in accordance with applicable law and procedures, and to uphold the principles of objectivity, neutrality and impartiality. The valuations they prepare are presumed fair and accurate, including when used in legal proceedings before Spanish courts. To deliberately adjust a valuation (up or down) to benefit a private party at the cost of the public administration would be unlawful under Spanish law.
- (81) For those reasons, Real Madrid considered that the valuations made in 1998 for the purposes of the 1998 implementation agreement were independent expert valuations within the meaning of the Commission Communication on State aid elements in sales of land and buildings by public authorities ⁽⁴⁰⁾.
- (82) The Aguirre Newman report estimated the 1998 market value of plot B-32 and of the 15 000 square metres at Ciudad Deportiva. The results of the Aguirre Newman Report are broadly consistent with the valuations agreed by Madrid City Council's services before the signature of the 1998 implementation agreement. The results support the view that Real Madrid was not overcompensated in 1998. In fact, the report indicated that the 1998 implementation agreement underestimated the 1998 value of the 15 000 square metres at Ciudad Deportiva and overestimated the value of plot B-32 as well as of plots 33 and 34.

Table 2

Valuations in the 1998 implementation agreement compared to those in the aguirre newman report

Madrid City Council				Real Madrid			
Land plots to be transferred to Real Madrid	Value (Aguirre Newman)	Value (1998 agreement)	Variation (Δ%)	Land plots to be transferred to Madrid City Council	Value (Aguirre Newman)	Value (1998 agreement)	Variation (Δ%)
Plot B-32	574 000 EUR	595 194 EUR	+ 3,69 %	15 000 m ² en la Ciudad Deportiva	13 850 000 EUR	13 522 772 EUR	- 2,04 %
Plot B-33 and B-34	12 869 000 EUR	12 927 578 EUR	+ 0,46 %				
Total	13 443 000 EUR	13 522 772 EUR	+ 0,59 %	Total	13 850 000 EUR	13 522 772 EUR	- 2,04 %

⁽³⁹⁾ Royal Decree 1020/1993 containing the Technical Standards for Cadastral Valuation and the Standards Table for Land and Construction Values ('Real Decreto 1020/1993 por el que se aprueban las Normas Técnicas de Valoración y el Cuadro Marco de Valores del Suelo y de las construcciones para determinar el valor catastral de los bienes inmuebles de naturaleza urbana'). Article 114.1 of Act 33/2003 on the Assets of the Public Administrations ('Ley 33/2003, de 3 de noviembre, del Patrimonio de las Administraciones Públicas') provides that valuations of public land, made for the purposes of said Act, may be carried out by (i) technical staff at the public body that manages the assets or rights to be transferred or that is interested in acquiring/renting them, (ii) technical staff at the Ministry of Finance and Public Administration, (iii) valuation companies registered on the Valuation Companies Register of the Bank of Spain ('Registro de Sociedades de Tasación del Banco de España') and other valuation companies which have been duly authorised.

⁽⁴⁰⁾ OJ C 209, 10.7.1997, p. 3.

- (83) The results above show that Madrid City Council acted like a private operator when entering into the 1996 land swap agreement and the 1998 implementation agreement. Madrid City Council did not transfer any benefit to Real Madrid. The subsequent sale by Madrid City Council of land plots in the Ciudad Deportiva for EUR 53 000 000 confirms that Real Madrid was not overcompensated when it swapped with Madrid City Council the plot at the Ciudad Deportiva. In addition, the sale of the plots located in the Julián Camarillo Sur area by Real Madrid to third parties in 1999 for a price that was nearly identical to the value assigned to these plots in the 1998 implementation agreement corroborates the accuracy of the valuations of Madrid City Council.
- (84) Regarding the land valuation of plot B-32 in 2011, Real Madrid considered that the valuation made by the technical services of Madrid City Council's Urban Development Department also constitutes an independent valuation. The valuation made by Aguirre Newman on behalf of Real Madrid, where established international valuation principles were used, indicated that the market value of plot B-32 in 2011 was of EUR 22 690 000, i.e. almost the same as the valuation made by Madrid City Council for the purposes of the 2011 settlement agreement.
- (85) Real Madrid also commissioned Tinsa to estimate the value of plot B-32 in 2011 using the methodology Tinsa used to calculate the value of the three other plots, i.e. the dynamic residual method, for the purposes of the report commissioned by the Commission. Based on this valuation, the market value of plot B-32 in 2011 was of EUR 23 000 000. Tinsa's valuation is made under the following specific assumptions. First, plot B-32 was classified for basic sport use, and second, the calculation of the value is made considering the plot as a land without restrictions for its transferability.
- (86) Moreover, Real Madrid draws attention to the fact that the value assigned to plot B-32 by the Real Estate Cadastre ('*Catastro Inmobiliario*') in 2011 was of EUR 25 776 296. The Real Estate Cadastre is a State entity attached to the Spanish Ministry of Finance, which is independent from Madrid City Council or on any other authority in Madrid. According to Spanish law, the cadastral value must not exceed the market value of the land in question and is based e.g. on information regarding actual market transactions. Consequently, the 2011 market value of plot B-32 should not have been lower than EUR 25 776 296.
- (87) Regarding the value increase since 1998, Real Madrid explains that, in 1998, plot B-32 was an unproductive land plot located in an undeveloped area. Although an urban development plan had been approved by Madrid City Council in 1997, such approval did not ensure an actual development of the land, which required significant investments from private investors willing to assume the risk. The first building permits in Las Tablas area, where plot B-32 is located, were not issued until 2001. From that moment, significant construction began, and it became clear that Las Tablas would likely be an area with successful urban development. The relocation of the global head offices of Telefónica to Las Tablas was followed by other large companies. In 2011, the area was fully developed and was a very popular residential and commercial area. That dramatic transformation of Las Tablas into a fully developed and built-up area, surrounded by expensive apartment blocks and the headquarters of multinational corporations, had a strong effect on the value of plot B-32 in 2011.
- (88) The consultant Aguirre Newman calculated on behalf of Real Madrid the value in 2011 of the three other plots at EUR 12 385 000.
- (89) Furthermore, Real Madrid accepted the valuation of the three other plots carried out by the services of Madrid City Council and agreed to it in the 2011 settlement agreement.
- (90) Regarding the study prepared for the Commission by Tinsa for the valuation of the three other plots to be transferred to Real Madrid instead of plot B-32 as agreed in the 2011 settlement agreement (see recital (31)), Real Madrid considered that Tinsa's valuation included errors, which had a significant impact on the results of the valuation. One of these errors was the fact that Tinsa's valuation was based on asking prices and not on closing prices of actual purchase transactions. Tinsa could have used the tool offered since 2017 by the Spanish Land Property Registries, which provide data regarding real transactions and, therefore, closing prices. Using this tool could be key when estimating a market value. Otherwise, the assessment could result in deviations in the results. Furthermore, the use by Tinsa of comparable reference values and certain weighting coefficients would not be correct.

5.4. Comments regarding the land around the Bernabéu stadium

- (91) Real Madrid explains that, as regards the amendment of the PGOU related to the area surrounding the Bernabéu Stadium and the Carabanchel district as agreed to in the 2011 urban development agreement, the envisaged amendment of the urban development plan provided for an increase in buildable area (“*edificabilidad*”) to allow the stadium to be enlarged and covered with a roof. To compensate for those developments, Spanish law provides that the owner shall transfer 10 % of the value of the increase in buildable area (“*aprovechamiento*”) to the public authority. In that case, this transfer to the Madrid City Council was supposed to comprise the plots at Mercedes Arteaga/Jacinto Verdaguer, which would be reclassified from “residential” (“*residencial*”) to “green area” and “public installations” (“*equipamiento público*”).
- (92) However, the judgment No 77/2015 of the Madrid High Court of 2 February 2015 annulled that amendment of 2011 to the PGOU. That judgment has become legally binding and prevents the execution of the 2011 urban development agreement. Real Madrid stresses that that agreement bears no relation whatsoever with the 2011 settlement agreement. So far, no land has been transferred between Madrid City Council and Real Madrid under the 2011 urban development agreement. In fact, the respective plans of the parties were cancelled.

6. COMMENTS FROM OTHER INTERESTED PARTIES

- (93) Following the publication of the Opening Decision, the Commission received observations from the association *Ecologistas en Acción*, the *Asociación para la Defensa del Estado de Derecho*, and from the citizens who had informed the Commission about the real estate transaction under consideration.
- (94) *Ecologistas en acción* stated that even in 1998 plots which were classified for public services, like public sport use, could not be transferred to private parties. That prohibition would also apply to land which had not yet been acquired by the municipality, but which was included in the urban plans with such a classification. This statement is *Ecologistas en acción*'s own interpretation of Spanish urban law.
- (95) Similarly to Real Madrid, *Ecologistas en acción* draw the Commission's attention to the judgment No 77/2015 of the Madrid High Court of 2 February 2015, which annulled the modification of the PGOU with regard to the land around the Bernabéu stadium. The Madrid High Court found that there was no general interest justifying the urban planning changes linked to the land around the stadium which is mentioned in paragraph 18 of the Opening Decision. The transaction between Real Madrid and the Madrid City Council was found by that court not to follow considerations of general public interests of the municipality but to be dictated only by the needs of Real Madrid in respect to its stadium modernisation project.
- (96) The Madrid High Court underlined that urban planning decisions of the responsible authorities must serve objectively the general interest and not the interests of one or more land owners and not even the interests of the municipality itself.
- (97) The other interested parties did not contribute additional elements of fact or law.

7. ASSESSMENT OF THE MEASURE

7.1. Preliminary observation on the 2011 urban development agreement

- (98) According to the information provided by the Spanish authorities and Real Madrid, judgment No 77/2015 of the Madrid High Court of 2 February 2015 annulled the modification of the PGOU with regard to the land surrounding Real Madrid's Bernabéu stadium. As a result of that judgment, the 2011 urban development agreement will no longer be executed so that the Commission assessment of the 2011 urban development agreement has become without object.
- (99) The present Decision therefore only examines the 2011 settlement agreement.

7.2. Existence of aid

- (100) Pursuant to Article 107(1) TFEU, '[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market'.
- (101) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.

7.2.1. Undertaking

- (102) For State aid rules to apply, the recipient of that alleged aid must be an undertaking within the meaning of Article 107(1) TFEU. According to case-law, an undertaking can be any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed.⁽⁴¹⁾ In so far as they constitute economic activities, sport activities are thus subject to European Union competition law⁽⁴²⁾. In the present case, Real Madrid operates a professional sport club for which it generates revenues from ticket sales, marketing activities, broadcasting rights, merchandising, sponsorship, etc. (see recital (14)). Accordingly, Real Madrid should be considered an undertaking for the purposes of Article 107(1) TFEU.

7.2.2. Imputability to the State and financing through State resources

- (103) For measures to be qualified as State aid within the meaning of Article 107(1) TFEU, they have to be, first, imputable to the State and, second, involve State resources. The latter condition means that the aid must be granted directly by the State or by a public or private body designated or established by the State⁽⁴³⁾.
- (104) The 2011 settlement agreement was entered into by Madrid City Council, which is a public authority in Spain (see recital (29)). By way of this agreement, Madrid City Council compensated Real Madrid for its failure to comply with its contractual obligation to transfer plot B-32 through the transfer of the other three plots. Accordingly, the 2011 settlement agreement is imputable to Madrid City Council and results in the transfer of State resources in the form of a transfer of plots of land by Madrid City Council to Real Madrid.

7.2.3. The aid must distort or threaten to distort competition and affect trade between Member States

- (105) Any aid granted to Real Madrid is liable to affect trade between Member States, since Real Madrid derives revenues from the sale of tickets, marketing activities, merchandising, broadcasting rights and sponsorship not only within Spain, but from sources throughout the European Union. Moreover, it competes economically with professional football clubs in Spain and throughout the European Union for the aforementioned revenues (see recital (14)), and in the acquisition of football players, so that any aid granted to it is liable to affect intra-EU trade and distort competition, since Real Madrid's financial position may be strengthened as compared to its competitors on the market for professional football as a result of that aid⁽⁴⁴⁾. Consequently, the fourth condition for a finding of State aid is also fulfilled in the present case.

⁽⁴¹⁾ Judgment of the Court of 12 September 2000, Joined Cases C-180/98 to C-184/98, *Pavel Pavlov and Others v Stichting Pensioenfonds Medische Specialisten*, EU:C:2000:428.

⁽⁴²⁾ Judgment of the Court of 21 December 2023, Case C-124/21 P, *International Skating Union*, EU:C:2023:1012, paras. 91 et seq., judgement of the Court of 15 December 1995, Case C-415/93, *Bosman*, EU:C:1995:463, paragraphs 73, judgment of the Court of 18 July 2006, Case C-519/04 P, *Meca-Medina and Majcen v Commission*, EU:C:2006:492, para. 22 and judgment of the Court of 16 March 2010, Case C-325/08, *Olympique Lyonnais*, EU:C:2010:143, para. 23.

⁽⁴³⁾ Judgment of the Court of 22 March 1977, Case 78/76, *Steinike & Weinlig v Germany*, EU:C:1977:52, para. 21; judgment of the Court of 13 March 2001, Case C-379/98, *PreussenElektra*, EU:C:2001:160, para. 58; judgment of the Court of 15 May 2019, Case C-706/17, *Achema*, EU:C:2019:407, paras. 47 et seq.

⁽⁴⁴⁾ Judgment of the Court of 3 March 2005, Case C-172/03 *Wolfgang Heiser v Finanzamt Innsbruck*, EU:C:2005:130, para. 55, judgment of the Court of 9 June 2011, Joined Cases C-71/09 P, C-73/09 P and C76/09 P, *Comitato "Venezia vuole vivere" and Others v Commission*, EU:C:2011:368, para. 136. See also judgment of the Court of 19 September 2000, Case C-156/98, *Germany v Commission*, EU:C:2000:467, para. 30, and the case-law cited.

7.2.4. *Selectivity*

(106) The 2011 settlement agreement is selective since it was concluded by Madrid City Council with Real Madrid only.

7.2.5. *Economic advantage*

(107) For the purposes of Article 107(1) TFEU, an advantage is any economic benefit which an undertaking would not have obtained under normal market conditions, i.e. in the absence of State intervention. ⁽⁴⁵⁾

(108) According to the case-law, economic transactions carried out by a public body or a public undertaking do not confer an advantage on its counterpart, and therefore do not constitute aid, if they are carried out in line with normal market conditions ⁽⁴⁶⁾. To determine whether a particular transaction carried out by a public authority has been carried out in line with normal market conditions, it is necessary to compare the behaviour of that public authority with that of a similarly situated hypothetical market economic operator operating under normal market conditions. If the market economy operator would have entered into that transaction under similar terms, then the presence of an advantage may be excluded as regards that transaction ⁽⁴⁷⁾.

7.2.5.1. *Applicability of the market economy operator principle*

(109) In its 2019 judgment, the General Court found in paragraph 51 that ‘the applicability of the private investor criterion requires that it be established, unequivocally and on the basis of objective and verifiable evidence, that there was an evaluation comparable to one to which a private operator would have access prior to or at the point of adoption of the measure at issue’. ⁽⁴⁸⁾

(110) Furthermore, the General Court confirmed in the 2019 judgment that ‘the Kingdom of Spain could have relied on any legal analysis which Madrid City Council would have drawn up in the circumstances given in paragraph 51’. ⁽⁴⁹⁾ The General Court also clarified that such a legal analysis ‘did not mean only external advice’. ⁽⁵⁰⁾

(111) The Commission’s investigation has shown that the Madrid City Council collected and considered the following evidence prior to the signing of the 2011 settlement agreement.

(112) The Madrid City Council’s three reports were prepared by experts in the urban, legal and financial departments of Madrid City Council and signed before the signature of this agreement (see recitals (27) and (28)). When preparing these three reports, the experts considered the 1996 swap agreement, the 1998 implementation agreement, the valuation of the three other plots made by Madrid City Council’s technical services on 27 July 2011 and Real Madrid’s request of 28 January 2011 asking for the transfer of the ownership of plot B-32 (see recital (26)). Based on their assessment of this evidence, the experts advised the local authority to sign the 2011 settlement agreement, before such signing took place. The legal, urban and financial advice included in the Madrid City Council’s three reports is reproduced in the summary of grounds of the 2011 settlement agreement.

(113) Furthermore, the Spanish authorities also provided to the Commission detailed observations prepared by Madrid City Council. The Commission notes that these observations include a detailed legal analysis by Madrid City Council based not only on their interpretation of the relevant Spanish and regional urban and civil law provisions, but also on Madrid City Council’s practice, as well as case-law and doctrine applicable to the present case (see sections 4.1 and 4.2).

⁽⁴⁵⁾ Judgment of the Court of 29 April 1999, Case C-342/96, *Spain v Commission* EU:C:1999:210, para. 41.

⁽⁴⁶⁾ Judgment of the Court of 11 July 1996, Case C-39/94, *SFEI and Others* EU:C:1996:285, paras. 60 and 61.

⁽⁴⁷⁾ Judgment of the Court of 24 January 2013, Case C-73/11 P, *Frucona Košice v Commission* EU:C:2013:32, para. 71 and the case-law cited.

⁽⁴⁸⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 51.

⁽⁴⁹⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 52.

⁽⁵⁰⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 50.

- (114) Based on the evidence described above in recitals (113) and (113), Madrid City Council carried out a legal (as well as urban and financial) analysis supporting the signature of the 2011 settlement agreement.
- (115) First, in the Madrid City Council's three reports, the municipal experts advised Madrid City Council to sign the 2011 settlement agreement, based on the following reasons:
- (a) Once approved by the *Gerencia Municipal de Urbanismo* on 4 June 1998, the 1998 implementation agreement became a legally effective contract.
 - (b) While Real Madrid had fulfilled its contractual obligation and transferred to Madrid City Council 15 000 square metres in the *Ciudad Deportiva*, Madrid City Council had not transferred plot B-32 to Real Madrid.
 - (c) There was a legal impossibility to transfer the ownership of plot B-32 to Real Madrid.
 - (d) In 2011, Madrid City Council was therefore in breach of the 1998 implementation agreement. The consequence of such a breach of the 1998 implementation agreement was that Real Madrid was entitled to receive a compensation.
- (116) Second, as described in sections 4.1 and 4.2, the Spanish authorities provided the Commission with a detailed legal analysis supporting the following conclusions:
- (a) Plot B-32, which was considered in 1998 by Madrid City Council and Real Madrid as a transferable land plot, became non-transferable to private entities, due to a 2001 amendment of the regional, applicable urban legislation, which imposed the public ownership of the plot. The possibility to amend plot B-32's sport use classification, as proposed by some interested parties, was discarded. Based on case-law, Madrid City Council considered that such an amendment must in any case serve a general interest and cannot be adopted exclusively to render possible the transfer of a land plot to a private entity (see section 4.1).
 - (b) Madrid City Council did not transfer plot B-32 to Real Madrid. As a result, Madrid City Council was liable for the breach of the 1998 implementation agreement, which was an effective agreement. In such a scenario, Real Madrid, could require, as it did, Madrid City Council to provide the value equivalent to the non-transferred plot. Real Madrid could alternatively have terminated the 1998 implementation agreement and requested that the parties return the land plots they swapped. Considering that the plots swapped by Madrid City Council and Real Madrid had already been sold to third parties, the return of these plots became impossible. In such a case, the parties should have, based on Spanish law, returned to each other the value of the land plots at the time they were sold (see sections 4.2 and 5.2).
- (117) That legal analysis allowed Madrid City Council to consider, in the framework of its decision-making process, the different options legally available and their economic consequences. In the 2011 settlement agreement, the parties agreed to settle their dispute through the transfer to Real Madrid of the three other plots. The Commission notes that, as stated by Madrid City Council and Real Madrid, this settlement avoided an outcome, i.e. the termination of the agreement, which would have been much more onerous for Madrid City Council (see recital (51)).
- (118) In view of the above, the Commission does not contest the applicability of the market economy operator principle to Madrid City Council when signing the 2011 settlement agreement. In this regard, the Commission also notes the following:
- The 2011 settlement agreement is a contract governed by private law. The consequences of the breach of such a contract are subject to Spanish civil law and not to public law (see section 4.2).
 - Both, the Madrid City Council's three reports and the observations submitted by the Spanish authorities in 2012 and 2014 reflect the same legal opinion, based, among other, on their respective interpretation of the same legal provisions.
 - In their observations submitted from February 2012 until 2025, the Spanish authorities point to their legal opinion before the signature of the 2011 settlement agreement, in particular to their legal analysis referring to the non-transferability of plot B-32 to Real Madrid and its liability for such non-transfer, which was considered by both Madrid City Council and Real Madrid as a breach of the agreement (see recitals (42) to (45)).

- Madrid City Council's three reports, combined with the Spanish authorities' observations submitted from 2012 to 2025, provide a detailed interpretation of the Spanish urban and civil law applicable prior or at the time of the signing of the 2011 settlement agreement, and not after that moment. Furthermore, the aforementioned three reports and observations were prepared by the same services of Madrid City Council, which are legal, urban and financial experts.
- In its observations, Real Madrid claims that plot B-32 was transferable in 1998, that Madrid City Council was liable for the non-transfer of the plot, which was a breach of contract, and that Real Madrid was entitled to demand a compensation due to a breach of contract. Such compensation should have put Real Madrid in the same position as if Madrid City Council had complied with its contractual obligation and transferred full ownership of plot B-32 to Real Madrid.

- (119) The Commission has no indications that the legal analysis made by the Spanish authorities as described above, or the sources the Spanish authorities relied on when carrying out such analysis, were incorrect.
- (120) The observations submitted by interested parties do not provide facts or substantiate claims demonstrating that the analysis carried out by the Spanish authorities was incorrect. Therefore they do not change this conclusion (see recitals (94) to (97)).
- (121) The Commission therefore considers that the observations submitted by the Spanish authorities shortly after the signing of the 2011 settlement agreement, as described in sections 4.1 and 4.2, reflect a legal analysis carried out before the signature of the 2011 settlement agreement. This would be confirmed by the Madrid City Council's three reports.
- (122) In light of the above, the Commission finds that the evaluation carried out by Madrid City Council was based on objective and verifiable evidence. The evidence it had collected, prior to or at the point of signing the 2011 settlement agreement, shows that Madrid City Council carried out an evaluation comparable to that of a private operator.

7.2.5.2. Application of the market economy operator principle

- (123) The General Court recalled in the 2019 judgment that, 'in order to determine whether the sale of land by public authorities to a private individual constitutes State aid, the Commission must apply the test of a private investor in a market economy, to determine whether the price paid by the presumed recipient of the aid corresponds to the selling price which a private investor, operating in normal competitive conditions, would be likely to have fixed. As a rule, the application of that test requires the Commission to make complex economic assessment.'⁽⁵¹⁾
- (124) Furthermore, the General Court found that, 'it is thus necessary to assess whether, having regard to the initial intention of the parties to the 1998 implementation agreement, and also to the regulations applicable to plot B-32, both at the date at which the implementation agreement was signed and at the date of the signing of the 2011 settlement agreement, it is reasonable to think that a market economy operator would have accepted to pay all the compensation for the non-transferral of the plot concerned, which was estimated to be equal to the value of that plot, namely EUR 22 690 000'.⁽⁵²⁾
- (125) The Spanish authorities confirmed that for the purposes of the 1998 implementation agreement, the services of Madrid City Council estimated the value of plot B-32 at EUR 595 194 (recital (18)).

⁽⁵¹⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 90.

⁽⁵²⁾ Judgment of the General Court of 22 May 2019, Case T-791/16, *Real Madrid Club de Fútbol v European Commission*, EU:T:2019:346, para. 87.

- (126) As indicated in recital (56), on 27 July 2011 (i.e. before the signature of the settlement agreement), the services of Madrid City Council calculated the ownership value of plot B-32 at that date at EUR 22 693 054,44. According to the Spanish Ministry of Finance, the ownership value of plot B-32 in 2011 was estimated at EUR 25 776 296 (recital (57)). The valuation made by the consultant Aguirre Newman on behalf of Real Madrid indicated that the market value of plot B-32 in 2011 was of EUR 22 690 000 (recital (84)). The consultant TINSA also set the ownership value of plot B-32 for Real Madrid at EUR 23 000 000 (recital (85)).
- (127) According to Madrid City Council's services, the three other plots had a value in 2011 of EUR 19 972 348,96 (recital (31)). In a report commissioned by the Commission, TINSA (see recital (12)) estimated the value of the three other plots at EUR 21 100 000. On behalf of Real Madrid, the consultant Aguirre Newman estimated the value of the three other plots in 2011 at EUR 12 385 000 (recital (88)).
- (128) The Commission considers that the conditions for the application of the market economy operator principle are satisfied in the present case, based on the following considerations.
- (129) According to Madrid City Council's legal analysis, carried out on the basis of objective and verifiable evidence collected prior to or at the point of signing the 2011 settlement agreement (see recital (122)), Real Madrid was entitled to receive a compensation for the breach of the 1998 implementation agreement. Such a compensation should be of a value equal to the value of the ownership of plot B-32 in 2011 (see recital (52)).
- (130) Furthermore, Madrid City Council and Real Madrid claim that the Madrid City Council's services in charge of the valuation of land plots were professional valuation experts legally bound by the principles of objectivity and impartiality. They estimated the value of plots owned by the public administrations, as required by the law, and their valuations are presumed accurate before national courts (recitals (55) and (80)). Based on this, Real Madrid considered that the valuation of plot B-32 made in 1998 and in 2011 by the technical services of Madrid City Council constituted independent valuations (recital (81)).
- (131) In addition, the consultant Aguirre Newman, on behalf of Real Madrid, estimated the value of plot B-32 in 2011 at EUR 22 690 000. The Commission notes that, although the methodologies used by the services of Madrid City Council and Aguirre Newman to estimate the value of plot B-32 were different, the result of their valuations were almost identical.
- (132) The Commission takes also into account that, according to Madrid City Council and Real Madrid, the public real estate cadastre, a service within the Spanish Ministry of Finance and independent from Madrid City Council, estimated the value of plot B-32 in 2011 at EUR 25 776 296.
- (133) With regard to the increase of the value of plot B-32 from 1998 until 2011, the Spanish authorities explained that the difference in value could be explained by the different legal and economic situation of the plot in each of these years. In 1998, only the urban planning for such plot was completed. However, the possibility to build on the plot took several years (recital (58)). Real Madrid agrees with Madrid City Council's reasoning and points to the same considerations, adding that the first building permits in the Las Tablas area were only granted as from 2001 (recital (87)).
- (134) Regarding the three other plots, Real Madrid accepted the valuation of the three other plots carried out by the services of Madrid City Council and agreed to it in the 2011 settlement agreement (see recital (89)).
- (135) The Commission also takes into consideration that the services of the Madrid City Council estimated the values of plot B-32 and of the other three plots in 2011 before the signature of the 2011 settlement agreement. In addition, as indicated by the Spanish authorities, these valuations were made based on the same methodology, which is legally established and was carried out by experts legally subject to the principles of objectivity and impartiality (recital (55)).

- (136) The values of plot B-32 and the three other plots, as estimated by the services of the Madrid City Council, fall within the range of values estimated in the different valuations submitted to the Commission by Real Madrid and the valuation of the three other plots prepared by TINSA on behalf of the Commission. ⁽⁵³⁾
- (137) The observations submitted by other interested parties do not provide facts or substantiate claims demonstrating that the valuations carried out by the services of Madrid City Council were incorrect. Therefore, they do not change this consideration.
- (138) In light of the above considerations, the Commission concludes that it is reasonable to think that a market economy operator would have accepted to pay Real Madrid a compensation for the non-transferral of plot B-32, which was estimated to be equal to the ownership value of that plot in 2011.
- (139) The Commission also considers that the values to be compared in order to calculate the compensation due to Real Madrid under the 2011 settlement agreement should be those estimated by the services of Madrid City Council for the purposes of such agreement ⁽⁵⁴⁾, as shown in table 3 below.

Table 3

Values in 2011 of plot b-32 and the three other plots by madrid city council

Land plot	Value (in EUR)
The three other plots transferred to Real Madrid	19 972 348,96
Plot B-32	22 693 054,44

- (140) In the 2011 settlement agreement, Madrid City Council and Real Madrid also agreed that Real Madrid owed Madrid City Council an amount of EUR 2 812 735,03, as compensation for its failure to comply with certain contractual obligations under the 1991 agreement (see recitals (15) and (32)).
- (141) To assess the potential advantage of Real Madrid, the Commission considers not only the ownership 2011 values as estimated by the services of Madrid City Council (see table 3 above), but also Real Madrid's debt with Madrid City Council as mentioned above in recital (140), as follows:

Table 4

Comparison of values in 2011 of plot b-32 and the three other plots by madrid city council

Land plot	Value (in EUR)
a) The three other plots transferred to Real Madrid	19 972 348,96
b) Plot B-32	22 693 054,44 (+ 92 037,59 ⁽⁵⁵⁾)
c) Real Madrid's debt	2 812 735,03
No advantage (a-b+c)	Negative aid amount

⁽⁵³⁾ The Commission has assessed the different valuations of plot B-32 and the three other plots submitted by Madrid City Council and Real Madrid, as well as TINSA's report including the valuation of the three other plots, carried out on behalf of the Commission. The values estimated for plot B-32 by Madrid City Council and Real Madrid are almost identical. Regarding the value of the three other plots, the estimates provided by Madrid City Council, Real Madrid and TINSA, for the Commission, differ considerably from a maximum of EUR 21 100 000, estimated by TINSA for the Commission, to a minimum of EUR 12 385 000, estimated by Aguirre Newman for Real Madrid. The value of the three other plots estimated by the services of the Madrid City Council falls within this range at EUR 19 972 348,96.

⁽⁵⁴⁾ The value for the right of use of plot B-32 estimated by the consultant CEIAM (see recital (5)) is not taken into account in the present Decision.

⁽⁵⁵⁾ Amount paid by Real Madrid for the property tax over plot B-32, to be added to the value of plot B-32, under the 2011 settlement agreement.

8. CONCLUSION

The Commission therefore concludes that the doubts expressed in the Opening Decision have been sufficiently dispelled. Madrid City Council, when it signed the 2011 settlement agreement, behaved in a way a hypothetical private investor in a comparable position would have done. Therefore, the transaction does not entail State aid within the meaning of Article 107(1) TFEU.

HAS ADOPTED THIS DECISION:

Article 1

The measure which the Kingdom of Spain has implemented in favour of the football club Real Madrid does not constitute aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 26 August 2025.

For the Commission
Teresa RIBERA
Executive Vice-President
