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COMMISSION STAFF WORKING DOCUMENT

Accompanying the

REPORT FROM THE COMMISSION

State Aid Scoreboard

- Autumn 2009 Update -

Facts and figures on State aid in the EU Member States

{COM(2009) 661 final}

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INTRODUCTION

State aid in the context of the economic crisis

Over the past decade, the EU experienced steady economic growth whereby GDP increased on average by roughly 1.5% per annum. Between 2002 and 2007, the level of State aid, expressed as a percentage of GDP, decreased on average by around 2% per year and stood at less than 0.5% in 2007. During this period, Member States continued their effort to reduce budget deficits which reached lower levels than the beginning of the millennium. The rate of unemployment fell in line with the economic trend though with some delay and stood at approximately 7% EU-wide in 2008.

The financial crisis has caused an abrupt end to GDP growth, low levels of State aid expenditure and decreasing budget deficits. Unemployment is expected to rise in the coming years up to 10%. Economic activity contracted in the second half of 2008. This has led to a fall of GDP by approximately 1.4%. It is expected to decline further (by almost 4%) for the entire year 2009 and to stabilise in 2010 with small growth expected to be 0.75% and 1.5% in 2011. Budget deficits have increased substantially, returning to levels reached at the beginning of the decade, with significant variations between Member States however. As can be expected, State aid expenditure has also risen since most Member States have given support to their economies to stabilise the financial sector.

Aid granted to the real economy through the Temporary Framework measures is not shown in this report since expenditure only occurs from 2009 and underlying data will only be available in 2010.

After the break-down of the inter-banking market in September 2008, Member States injected substantial amounts of aid to the banking sector in order to prevent collapses of banks in the EU with the aim of reducing systemic risks which many banks have posed on the functioning of the financial markets. It is this kind of aid which contributed most to the significant increase of State aid expenditure in 2008.

A stable banking system is key to provide the economy with liquidity, mainly in form of credit. Small and Medium-sized Enterprises (hereinafter "SME") in particular need financing from banks to invest in new technologies, thereby creating job opportunities for the future. Recapitalisation measures and aid to the real economy were put in place by Member States to ensure both that lending to the economy continues and that the real economy could continue to invest. The massive aid which contributed to stabilise the banking sector should eventually reap future dividends in the form of new jobs and opportunities to exploit new technologies, as many enterprises are able to stay in business because of continued access to finance (though this is admittedly more difficult than in previous years).

Needless to say, State aid expenditure has to return to pre-crisis levels over the next years and budget deficits will also have to decrease. A big challenge for Member States will be the sharp rise in unemployment expected over the next years (around 10.25% in 2010). Only by returning to economic growth, can public spending be reduced over time. Current State aid contributes to stabilising the economy in order to boost return to growth. By gradually ending crisis-caused state support over the next years at the appropriate time, the path of economic growth will not be jeopardised through a sudden lack of resources but it will ensure a smooth transition towards sustainable growth.

Scope and content

This autumn 2009 update of the State aid Commission Staff Working Document (hereinafter "the Scoreboard")[1] focuses on the State aid situation in the twenty-seven Member States for the year 2008 and gives detail on the underlying trends.

When starting to analyse State aid expenditure in 2008, a higher aid volume was expected due to aid in response of the financial crisis. Many Member States granted substantial aid to the financial sector, be it in form of rescue and restructuring aid or aid directed to remedy a serious disturbance of the economy. By presenting State aid expenditure including the aid volumes granted to crisis-related measures (hereinafter "crisis measures"), the report would probably draw the wrong conclusions since high aid volumes related to crisis measures certainly distort the overall picture on State aid. Where appropriate or necessary, the report henceforth identifies instances of State aid volumes excluding crisis measures, thereby being able to focus on the essential developments, as if there were no crisis measures. Aid measures qualify as crisis measures if they were adopted under sector specific State aid rules introduced in the context of the current global financial crisis (for more detail on the individual Communications, see chapter 3). Measures which respond to the financial crisis but were approved prior the State aid rules aforementioned also count as crisis measures. The report updates on all crisis measures and gives an outlook for 2009.

In order to analyse data and trends of the Member States' response to successive European Council call for “less and better targeted aid”, State aid granted to remedy the crisis situation will be excluded from total aid. This update of the Scoreboard also reports on progress towards delivering a comprehensive and coherent reform package for State aid that began with the State Aid Action Plan[2] (hereinafter "SAAP") in 2005.

This Annex of the Scoreboard comprises five chapters. Key statistical information on State aid awarded by each Member State in 2008 is included in Chapter 1 and 2 where detailed data show the trend of State aid expenditure. Chapter 3 provides an update of the spring 2009 Scoreboard on the financial and real economy State aid cases. It also provides an outlook for 2009, based on latest developments. Chapter 4 provides an overview on the simplification of State aid rules that have been put into place since the SAAP in 2005. In particular, it will update on the use of block exempted aid by Member States. Chapter 5 reports on ongoing efforts to enforce the State aid rules and to recover unlawful aid. Finally, tables in annex show key figures of State aid expenditure, the follow-up on the SAAP, the case lists in regard of the financial and economic crisis and on recovery.

The Directorate-General Competition publishes this Scoreboard on its website[3], where previous editions can also be found. Also available on the website are a series of key indicators and in-depth statistics covering the EU as a whole as well as individual Member States.

The EFTA Surveillance Authority (ESA) publishes an annual scoreboard[4] on the volume of State aid granted in Iceland, Liechtenstein and Norway. Data for these countries have also been included in Tables 1-1 and 1-2 in Annex.

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1 Any reference to the Scoreboard in this text refers to this document (the Commission's staff working document).

2 COM(2005) 107 final, 7.6.2005

3 http://ec.europa.eu/competition/state_aid/studies_reports/studies_reports.html

4 http://www.eftasurv.int/information/sascoreboard/

State aid as defined under Article 87 of the EC Treaty

The Scoreboard covers State aid as defined under Article 87(1) of the EC Treaty that Member States granted up to the end of 2008. All State aid data refer to the implementation of Commission decisions but exclude cases which are still under examination. With respect to general measures implemented by Member States, they do not constitute State aid as defined by Article 87(1).

State aid is expenditure which represents an economic advantage passed onto undertakings engaged in economic activities. In cases of grants, the economic advantage passed onto the beneficiary normally corresponds to budgetary expenditure. For other aid instruments, advantage to the beneficiary and cost to government may differ. For guarantees, for example, the beneficiary avoids the risk associated with the guarantee, since it is carried by the State. Such risk-carrying by the State should normally be remunerated by an appropriate premium. Where the State forgoes all or part of such a premium, there is both a benefit for the undertaking and a drain on the resources of the State. Thus, even if it turns out that no payments are ever made by the State under a guarantee, there may nevertheless be State aid under Article 87(1) of the Treaty. The aid is granted at the moment when the guarantee is given, not when the guarantee is invoked nor when payments are made under the terms of the guarantee.

Revised format of the State aid autumn Scoreboard

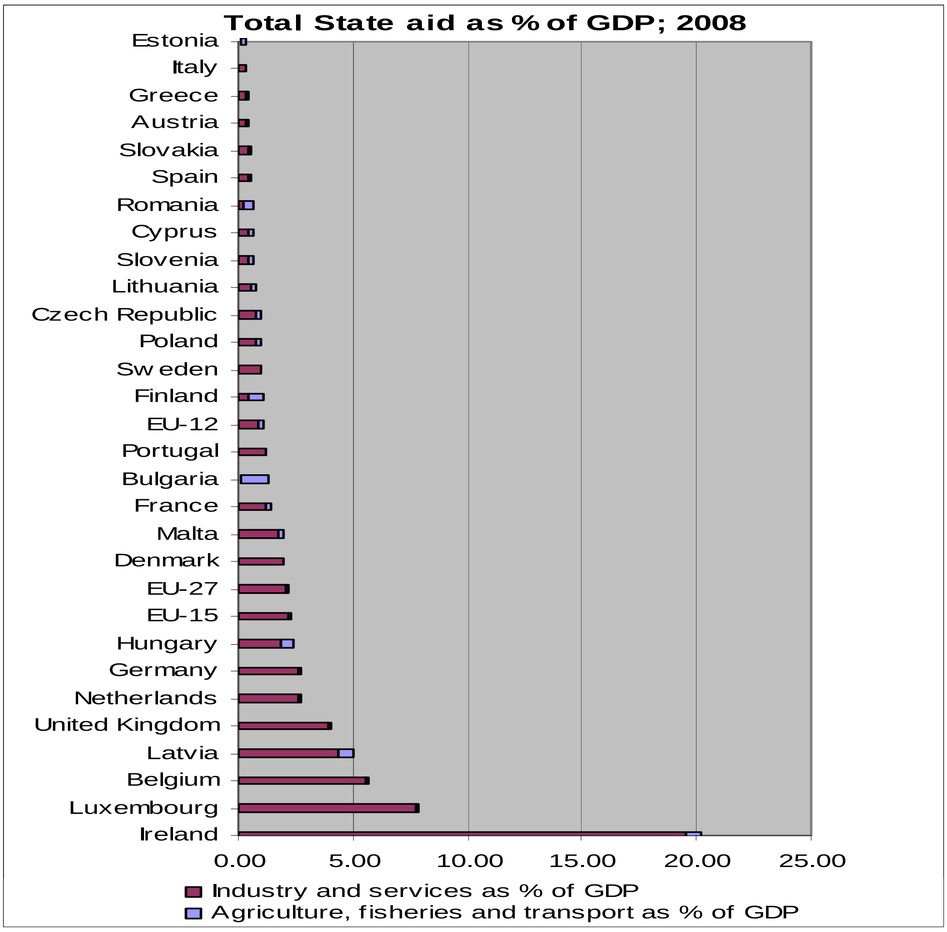
With the autumn 2009 Scoreboard, the Commission publishes the report in a new format composing of a summary adopted by the College of Commissioners and an annex (only available in English) presenting facts and figures. While the summary outlines the principal developments of State aid expenditure on the basis of the analysis of their underlying data and other detected trends, the staff report gives detail on facts and trends. Needless to say, it covers the entire scope as provided in previous autumn editions.

1. STATE AID IN 2008 IN ABSOLUTE AND RELATIVE TERMS

2008's State aid expenditure in the EU covers total State aid, aid to industry and services and aid granted through crisis measures *inter alia*. The indicator of 'State aid as percentage of GDP' takes into account the general economic situation in the particular Member State as well as that of the EU as a whole. The static picture (i.e. focus on the data of the year under review) shows aid levels in absolute and relative terms. It will set the tone for a comparative analysis of aid expenditure since the Scoreboard also deals with the impact of the financial crisis on State aid.

1.1. Total State aid and State aid per sector as % of GDP

Figure 1[5]: Total State aid as % of GDP (all sectors; crisis measures included), 2008



Total State aid[6] granted by the Member States amounted to approximately € 279.6 billion in 2008[7]. In absolute terms, the United Kingdom showed the highest aid level (€ 72.5 billion)

5 Source: DG Competition, DG Energy and Transport, DG Agriculture and DG Maritime Affairs and Fisheries: Note: Member States are ranked in ascending order according to the total amount of aid expressed as % of GDP. Data cover all State aid measures as defined under Article 87(1) of the EC Treaty that have been awarded by Member States and examined by the Commission. Included are all sectors except railways and Services of General Economic Interest.

6 The total covers aid to manufacturing, services, coal, agriculture, fisheries and part of the transport sector but excludes aid to the railway sector, aid for compensation for services of general economic interest due to the lack of comparable data.

followed by Germany (€ 66.8 billion), Ireland (€ 37.5 billion), France (€ 26.8 billion) and Belgium (€ 19.4 billion).

In relative terms, State aid amounted to 2.2% of EU-27[8] GDP in 2008. This average masks significant disparities between Member States: the share of total aid to GDP amounts to less than 1% (of GDP) in ten countries and exceeds the average in eight countries. In the latter group, the sharp increase on State aid was due to the crisis measures.

1.2. Impact of crisis measures on total State aid

Crisis measures implemented and reported by Member States in 2008 amounted to approximately € 212.2 billion or around 1.7% of GDP.

Figure 2[9]: Total State aid to industry and services as % of GDP (all cases versus crisis measures excluded); EU-27; 2008

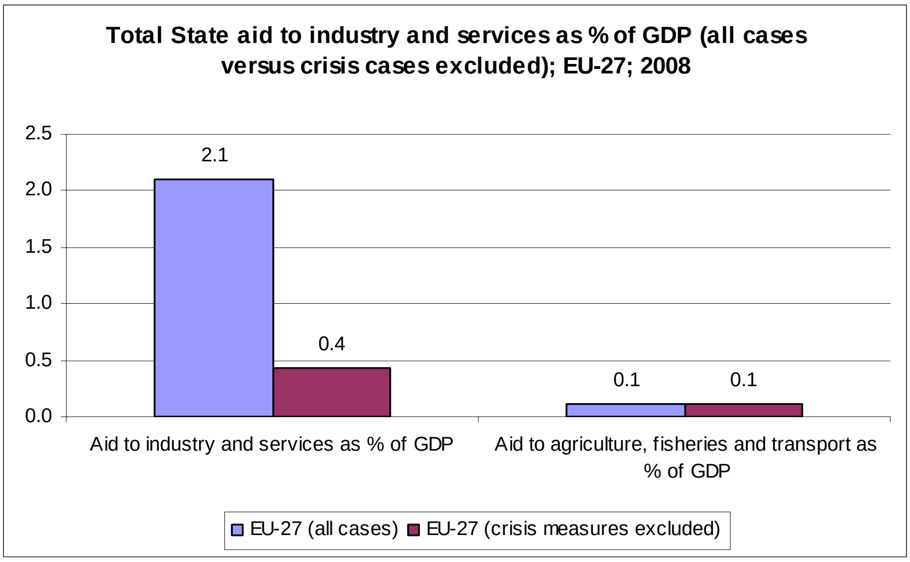


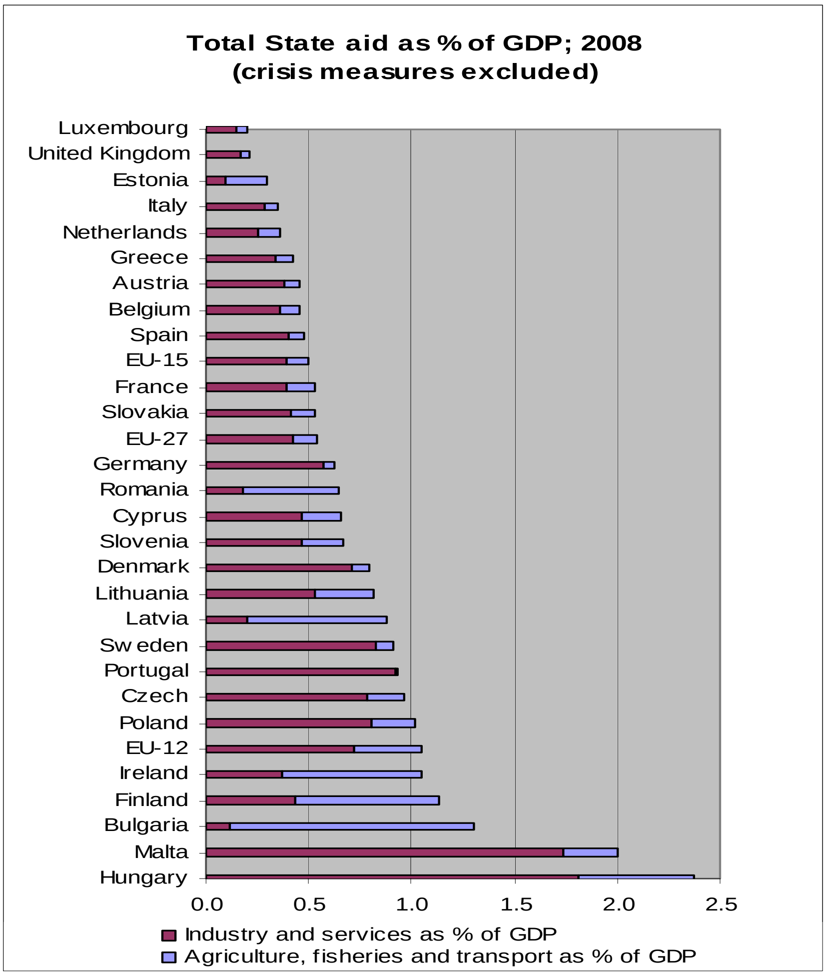
Figure 2 clearly shows which impact the crisis measures had on total State aid granted by Member States to industry and services when expressed as percentage of GDP.

The big increase of State aid to industry and services at EU-27 level can be attributed to the thirteen Member States which granted aid to financial institutions in response to the crisis. Many of the EU-12[10] countries saw no need to support their banking sector and hence their aid levels remained unaffected by crisis measures. For detailed information on crisis measures, see chapter 3.

7 Crisis measures included
8 EU-27 means all Member States of the EU.
9 Source: DG Competition, DG Energy and Transport, DG Agriculture and DG Maritime Affairs and Fisheries. Note: Data cover State aid to industry and services.
10 EU-12 includes Member States which entered the EU in 2004 or thereafter.

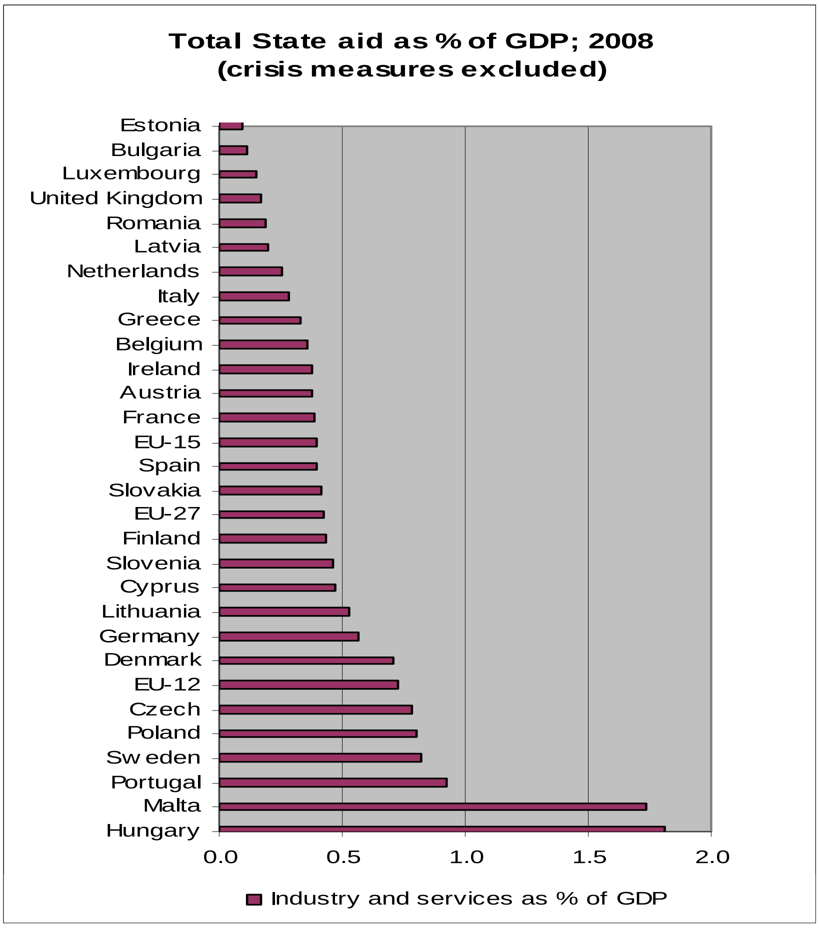
1.3. Total State aid and State aid per sector as % of GDP (crisis measures excluded)

Figure 3[11]: Total State aid (crisis measures excluded) as % of GDP (all sectors) 2008



[11] Source: DG Competition, DG Energy and Transport, DG Agriculture and DG Maritime Affairs and Fisheries: Note: Member States are ranked in ascending order according to the total amount of aid expressed as % of GDP. Data cover all State aid measures as defined under Article 87(1) of the EC Treaty that have been awarded by Member States and examined by the Commission. Included are all sectors except railways.

Figure 4[12]: Total State aid (crisis measures excluded) as a percentage of GDP (industry and services only) 2008



When excluding crisis measures, total State aid amounted to around € 67.4 billion in 2008. Germany granted most aid (around € 15.7 billion), followed by France (€ 10.3 billion), Italy (€ 5.5 billion), Spain (€ 5.2 billion) and the United Kingdom (€ 3.8 billion).

In relative terms, total State aid amounted to 0.54% of EU-27 GDP in 2008. This average masks significant disparities between Member States: the share of total aid to GDP amounts to less than the average in eleven Member States.

In sectoral terms, around € 47.2 billion of aid was earmarked for the manufacturing and services sectors, roughly € 1.7 billion for the other non manufacturing sectors[13], € 2.7 billion for coal, € 12 billion for agriculture[14] and fisheries and approximately € 2.4 billion for the transport sector (excluding railways)[15]. Crisis aid implemented in 2008 relates only to the financial services sector and is therefore allocated to 'manufacturing and services'.

[12] Source: DG Competition. Note: Member States are ranked in ascending order according to the total amount of aid expressed as % of GDP. Data cover all State aid measures as defined under Article 87(1) of the EC Treaty that have been awarded by Member States and examined by the Commission.

[13] It includes aid for mining and quarrying, oil and gas extraction, aid for electricity, gas and water supply and aid for construction.

[14] For Agriculture: € 11.76 billion

[15] DG Agriculture is responsible for aid to the agricultural sector, DG Maritime and Fishery Affaires for aid to fisheries and DG Transport and Energy for aid to the transport sector, coal and railways.

Significant differences were found between Member States regarding the sectors to which aid was directed. In 2008, aid directed at manufacturing and services, other non manufacturing sectors and coal represented 75% or more of total aid *inter alia* in Belgium, the Czech Republic, Denmark, Germany, Italy, France, Austria, Portugal, Sweden and the United Kingdom. In few Member States, aid to agriculture, fisheries and transport still accounts to more than 50%, namely in Bulgaria, Estonia, Ireland, Romania and Finland. Aid to the agricultural and fisheries sectors accounted in the EU-12 Member States for around twice the share of the EU-15[16] average. Due to the particularities associated with aid to agriculture, fisheries and transport, it is worth looking at total aid less these sectors i.e. total aid to industry and services.

Aid to industry and services[17]

Total aid to industry and services amounted to approximately € 265 billion[18] in 2008. In absolute terms, the United Kingdom granted most aid (€ 71.8 billion) followed by Germany € 65.3 billion), Ireland (€ 36.3 billion), France (€ 24.1 billion), Belgium (€ 19 billion), and the Netherlands (€ 15.6 billion).

In relative terms, State aid to industry and services amounted to 2.1% of EU-27 GDP in 2008. This second indicator produces a rather different ranking of Member States. Fourteen Member States granted aid representing less than 1% of GDP and only seven Member States exceed on the average, namely Belgium, Germany, Ireland, Latvia, Luxembourg, the Netherlands, and the United Kingdom.

When excluding crisis measures, aid awarded to industry and services amounts to € 52.9 billion in 2008. Germany granted most aid (around € 14.2 billion) followed by France (€ 7.6 billion), Italy (€ 4.5 billion), Spain (€ 4.4 billion) and the United Kingdom (€ 3.1 billion).

In relative terms, State aid to industry and services amounted to 0.42%[19] of EU-27 GDP in 2008. This average masks significant disparities between Member States: the share of total aid to GDP amounts to less than the average in fourteen countries.

Aid to industry and services represent 78% of total State aid, of which 4.1% or € 2.7 billion are allocated to the coal industry. The remainder of aid is shared between agriculture (almost 17.5% of total aid), fisheries (0.4% of total aid), and transport[20] (3.6% of total aid).

Around half of the Member States lie below the EU average (0.44% of GDP) of aid for industry and services. However, some increase in aid expenditure in 2008 was expected due to the crisis.

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16 EU-15 comprises Member States that joined the EU before 2004.
17 See methodological notes with respect to aid for industry and services at the end of this document.
18 Crisis measures included.
19 Crisis measures excluded
20 Excluding railways

1.4. Broad sectoral distribution of aid (with and without crisis measures)

Figure 5[21] : Total State aid (all cases); EU-27; 2008

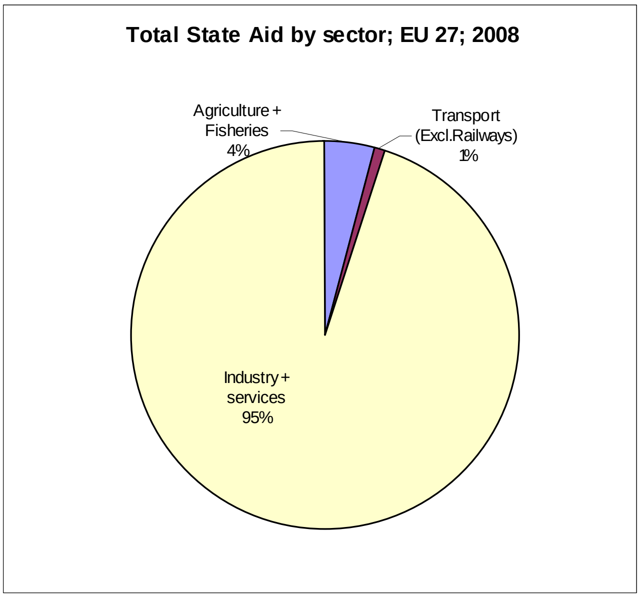
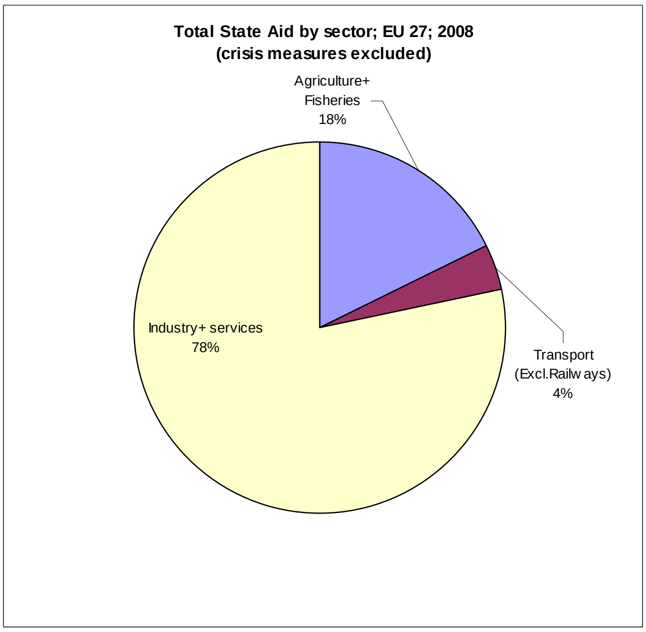


Figure 6[22] : Total State aid (crisis measures excluded); EU-27; 2008



Figures 5 and 6 present the distribution of State aid per sector. Due to the significant aid volume granted for crisis measures, Member States dedicated almost all aid to industry and services (95%) in 2008. The other sectors represent only a small aggregated share of 5%.

When excluding crisis measures, Member States roughly awarded 78% of aid to industry and services. The remainder of aid is shared between agriculture and fisheries (18%) and transport (4%)[23].

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21 Source: DG Competition, DG Energy and Transport, DG Agriculture and DG Maritime Affairs and Fisheries

22 Source: DG Competition, DG Energy and Transport, DG Agriculture and DG Maritime Affairs and Fisheries

2. Trends and patterns of State aid expenditure in the Member States

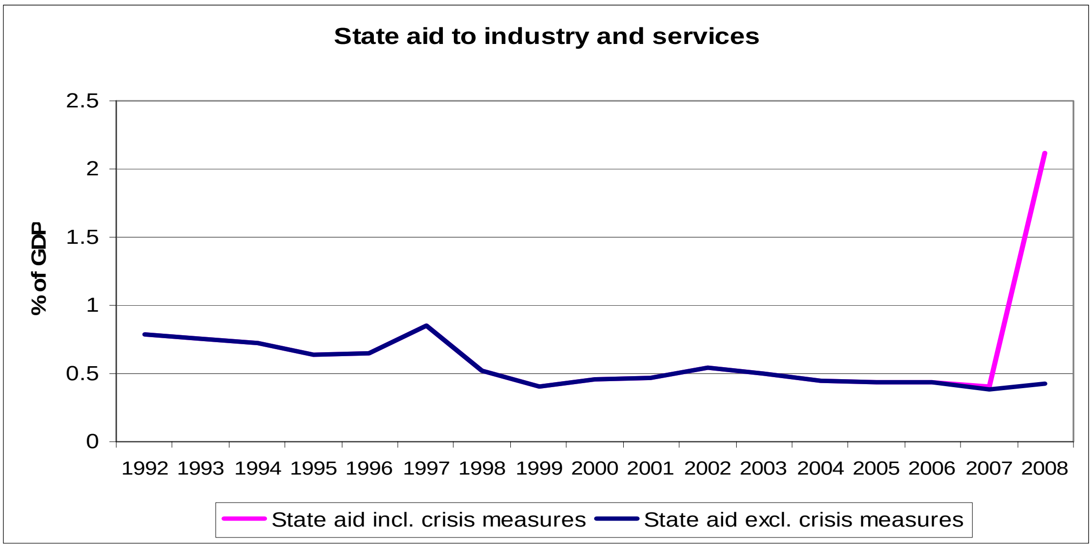
After the static view above, the analysis continues with trends and patterns of State aid expenditure in the Member States. The degree to which Member States have (or have not) reduced the level of State aid can be measured by looking not only at State aid relative to GDP in particular years but on the same information over a number of years in order to eliminate annual fluctuations and delayed reporting[24] as far as possible. The periods into which expenditure data were grouped are 2003-2005 and 2006-2008.

2.1. Levels of State aid to industry and services

In view of the fact that data on aid to agriculture, fisheries and transport contains particularities[25] which prevent the production of aggregate information across all sectors for the purposes of trend analysis in particular, all State aid observations will exclude these sectors.

Total State aid to industry and services obviously includes aid granted for crisis measures. Crisis-related aid (€ 212.5 billion) contributed to a five times higher level of total State aid to industry and services in 2008 compared with 2007. This would influence many key data and undermine the comparability of data between individual years. Furthermore, crisis measures represent aid granted under exceptional circumstances and can clearly be attributed as aid to the financial sector. Where appropriate, State aid expenditure for crisis measures is therefore not taken into account for the purpose of analysing trends and patterns. See chapter 3 for details on crisis measures.

Figure 7[26]: State aid to industry and services since 1992



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[23] Excluding railways

[24] In spite of the Member States' obligation (Annex III, Commission Regulation (EC) No 794/2004 of 21 April 2004) to report State aid expenditure figures for the year t-1, some Member States are able to report figures for some measures only for year t-2. In addition, unlawfully granted State aid is included in the Scoreboard data only after Commission's decision on particular unlawful aid case and retroactively added to the year in which the aid was granted. Therefore, overall aid levels could possibly be underestimated for the most recent years.

[25] For instance, aid to the agricultural sector is earmarked through a set of particular objectives which are different from those for industry and services' primary objectives.

[26] Source: DG Competition

Figure 7 shows the long-term trend on State aid expenditure for industry and services in the EU. During the Nineties, the overall level of aid was around 0.7% of GDP[27] on average on a downward path. This decline can be partly explained by the work that began in the mid 1980s to make effective State aid control a key component of the Single Market Programme. State aid further widened and strengthened in the 1990s mainly due to preparation for the European Monetary Union.

New impetus from the Lisbon Strategy launched by the European Council in 2000 and then the SAAP in 2005 resulted in further declining aid expenditure for industry and services, fluctuating between 0.4% and 0.6% GDP between 2000 and 2007[28].

Three main factors contributed to this decrease: first, due to a period of economic growth since 2000, Member States granted considerably less rescue and restructuring aid for ailing firms. 2007 showed an exception with the support to Northern Rock[29] and Sachsen LB[30]. Both cases are now included under the crisis measures. Second, State aid to the coal sector showed a continued downward trend. The decrease can be primarily observed in Poland, France, Germany, and to a lesser extent, Spain. Apart from that, no further significant rescue and restructuring aid was granted. Third, pre-accession commitments and continued efforts after accession both contributed to the downward trend since the EU-12 Member States continued to adjust their State aid policies and practices to the requirements under EU State aid law and policies.

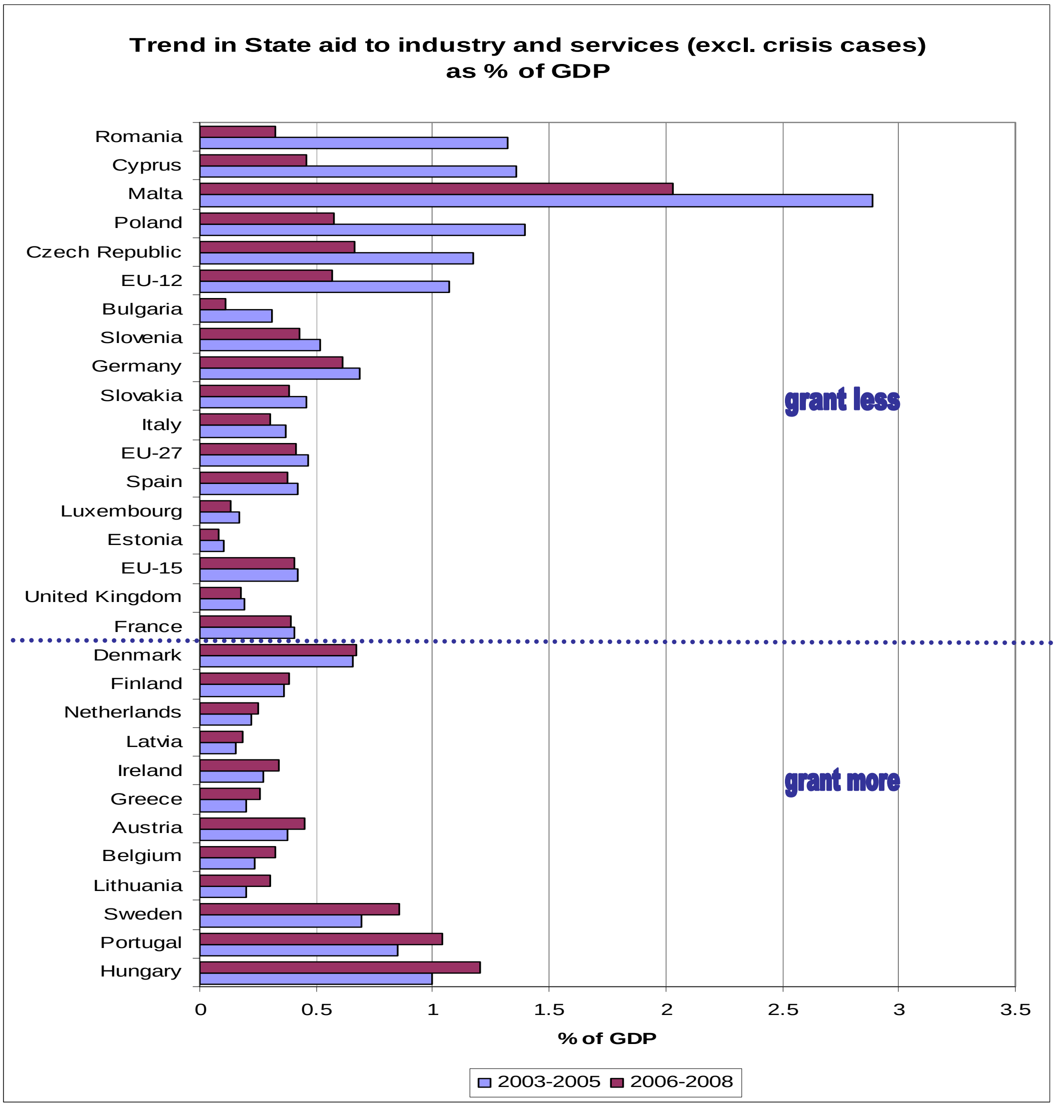
This positive downward trend abruptly stopped due to the financial crisis. The strong upward move in 2008 can be almost exclusively attributed to the crisis measures, which is a five times higher than in 2007[31].

In order to see expenditure developments on State aid without the distorting effect of the crisis measures, crisis measures will be excluded from total aid to industry and services for the purpose of the further analysis. On this basis, the trend shows a moderate upward move in 2008. Compared with 2007, aid for industry and services increased by approximately 0.04% of GDP. For instance, Germany granted more regional aid to foster investment in the new German Länder and parts of Berlin[32]. Spain gave more aid for environmental protection[33]. Poland substantially increased employment aid and introduced new block exempted aid representing several € 100 million of expenditure. Only aid earmarked for horizontal objectives contributed to the increase. Aid for sectoral development and rescue and restructuring aid was lower compared to 2007.

It is important to emphasise that this upward move nevertheless represents a level of State aid expenditure which is below the level of 2006 and it is within the trend average seen between 2000 and 2007.

[27] 1997 had a peak due to the Credit Lyonnais aid.
[28] The aid to BGB in 2002 contributed to another peak in the long-term trend.
[29] NN 70/2007 *Northern Rock*
[30] C 9/2008 *Restructuring aid to Sachsen LB*
[31] Higher aid levels were already expected in 2007 - see Autumn 2008 Scoreboard, p. 16 - where the first signs of the financial crisis appeared on the screen, e.g. rescue and restructuring of Northern Rock and Sachsen LB.
[32] N 357a/2006 *Investitionszulagengesetz 2007* and XR 6/2007 *Investitionszulagengesetz 2007*
[33] A large part can be attributed to NN 61/2004 *Tax exemption on bio fuels*.

Figure 8[34]: **Trend in State aid to industry and services as % of GDP (crisis measures excluded)**



The trend in State aid expenditure to industry and services, as shown in figure 8, underlines engagement of Member States to reduce aid expenditure. Firstly, a majority of Member States were able to reduce aid levels in the period 2006-2008 as compared with 2003-2005. On average in the EU-27, the trend has been stable between the periods 2006-2008 compared to 2003-2005. However, many of the EU-12 countries achieved significant reduction by 1% of GDP or even more. As a result, the average EU-12 expenditure reduced by almost half, i.e. from more than 1% of GDP in 2003-2005 to slightly above 0.5% in 2006-2008. Many EU-15 countries were also able to reduce aid levels, now down at approximately 0.4% of GDP in the period 2006-2008, i.e. almost equal to the EU-27 average. Despite the increase of aid to industry and services in 2008, the trend analysis has not shown a reversal of the long-term downward trend in EU-27.

Despite the positive downward trend, some Member States increased aid expenditure in 2006-2008 compared to 2003-2005. Hungary substantially increased aid expenditure. Most aid was

[34] Source: DG Competition

earmarked for regional development by granting investment aid to regional development programmes. The other area of increased expenditure was aid for employment. Portugal granted substantial aid to financial services, mainly fiscal aid. However, the increase of the trend for 2006-2008 can be explained from the statistical effect that Portugal reported substantial aid volumes (Madeira tax regime) in 2006 and 2007 whereas high expenditure discontinued in 2008. Being in phase-out, the future trend for Portugal can be expected to return to lower levels. A very similar pattern of statistical effect can be identified with respect to Sweden and awarding large volumes of aid for environmental protection since 2005. Belgium granted more aid for horizontal objectives and some further aid for financial services (outside the crisis measures). Lithuania awarded more aid to regional development, as well as Greece. Ireland increased aid for research and development and support for SMEs.

2.2. State aid for horizontal objectives of common interest

State aid for horizontal objectives, i.e. aid that is not granted to specific sectors, is usually considered as being better suited to address market failures and thus less distortive than sectoral and ad hoc aid. Research and Development and Innovation (hereinafter "R&D&I"), safeguarding the environment, support to SMEs, employment creation, the promotion of training and aid for regional economic development are the most prominent horizontal objectives pursued with State aid.

2.2.1. Horizontal versus sectoral aid in 2008

Figure 9[35]: Total State aid, aid to industry and services as % of GDP, share of horizontal aid

Figures in (..) include crisis measures	**Total State Aid less railways (in billion EUR)**	**Total State Aid for industry and services (billion EUR)**	**Total State Aid less railways as % of GDP**	**Total State Aid for industry and services as % of GDP**	**Horizontal objectives as % of total aid to industry and services**
EU-27	**67.4 *(279.6)***	**52.9 *(265.0)***	**0.54 *(2.2)***	**0.42 *(2.1)***	**87.61 *(17.49)***
EU-15	**57.1 *(268.3)***	**45.8 *(256.9)***	**0.50 *(2.3)***	**0.40 *(2.2)***	**87.68 *(15.62)***
EU-12	**10.3 *(11.3)***	**7.1 *(8.1)***	**1.05 *(1.1)***	**0.72 *(0.82)***	**87.17 *(76.79)***
Belgium	1.6 *(19.4)*	1.2 *(19.0)*	0.46 *(5.63)*	0.36 *(5.52)*	99.01 *(6.40)*
Bulgaria	0.4 *(0.4)*	0.04 *(0.0)*	1.30 *(1.30)*	0.12 *(0.12)*	91.25 *(91.25)*
Czech Republic	1.4 *(1.4)*	1.2 *(1.2)*	0.97 *(0.97)*	0.78 *(0.78)*	93.75 *(93.75)*
Denmark	1.9 *(4.7)*	1.7 *(4.5)*	0.80 *(2.02)*	0.71 *(1.93)*	93.71 *(34.47)*
Germany	15.7 *(66.8)*	14.2 *(65.3)*	0.63 *(2.68)*	0.57 *(2.62)*	86.93 *(18.87)*
Estonia	0.05 *(0.05)*	0.01 *(0.01)*	0.29 *(0.29)*	0.09 *(0.09)*	100.00 *(100.00)*
Ireland	1.9 *(37.5)*	0.7 *(36.3)*	1.05 *(20.20)*	0.38 *(19.53)*	84.50 *(1.63)*
Greece	1.0 *(1.0)*	0.8 *(0.8)*	0.42 *(0.42)*	0.33 *(0.33)*	97.57 *(97.57)*
Spain	5.2 *(6.2)*	4.4 *(5.3)*	0.48 *(0.56)*	0.40 *(0.48)*	78.91 *(65.02)*
France	10.3 *(26.8)*	7.6 *(24.1)*	0.53 *(1.37)*	0.39 *(1.23)*	95.60 *(30.17)*

[35] Source: DG Competition, DG Agriculture, DG Mare and DG Transport

Italy	5.5 *(5.5)*	4.5 *(4.5)*	0.35 *(0.35)*	0.29 *(0.29)*	85.30 *(85.30)*
Cyprus	0.1 *(0.1)*	0.1 *(0.1)*	0.65 *(0.65)*	0.47 *(0.47)*	94.99 *(94.99)*
Latvia	0.2 *(1.2)*	0.0 *(1.0)*	0.88 *(5.05)*	0.20 *(4.37)*	99.94 *(4.53)*
Lithuania	0.3 *(0.3)*	0.2 *(0.2)*	0.82 *(0.82)*	0.53 *(0.53)*	100.00 *(100.00)*
Luxembourg	0.1 *(2.9)*	0.1 *(2.9)*	0.20 *(7.83)*	0.15 *(7.78)*	100.00 *(1.88)*
Hungary	2.5 *(2.5)*	1.9 *(1.9)*	2.38 *(2.38)*	1.81 *(1.81)*	81.18 *(81.18)*
Malta	0.1 *(0.1)*	0.1 *(0.1)*	2.00 *(2.00)*	1.74 *(1.74)*	2.26 *(2.26)*
Netherlands	2.2 *(16.2)*	1.5 *(15.6)*	0.36 *(2.73)*	0.25 *(2.62)*	97.81 *(9.45)*
Austria	1.3 *(1.3)*	1.1 *(1.1)*	0.46 *(0.46)*	0.38 *(0.38)*	98.67 *(98.67)*
Poland	3.7 *(3.7)*	2.9 *(2.9)*	1.02 *(1.02)*	0.80 *(0.80)*	93.28 *(93.28)*
Portugal	1.6 *(2.0)*	1.5 *(2.0)*	0.93 *(1.19)*	0.92 *(1.18)*	16.34 *(12.76)*
Romania	0.9 *(0.9)*	0.3 *(0.3)*	0.64 *(0.64)*	0.18 *(0.18)*	52.86 *(52.86)*
Slovenia	0.2 *(0.2)*	0.2 *(0.2)*	0.66 *(0.66)*	0.47 *(0.47)*	89.16 *(89.16)*
Slovakia	0.4 *(0.4)*	0.3 *(0.3)*	0.53 *(0.53)*	0.42 *(0.42)*	83.91 *(83.91)*
Finland	2.1 *(2.1)*	0.8 *(0.8)*	1.13 *(1.13)*	0.44 *(0.44)*	98.37 *(98.23)*
Sweden	3.0 *(3.4)*	2.7 *(3.1)*	0.92 *(1.03)*	0.82 *(0.94)*	99.59 *(87.77)*
United Kingdom	3.8 *(72.5)*	3.1 *(71.8)*	0.21 *(4.00)*	0.17 *(3.96)*	90.99 *(3.87)*

Table 9 makes clearly visible the impact of the crisis measures on totals by comparing total aid including or excluding crisis measures.

As chapter 3 shows, crisis measures is aid granted to the financial sector and hence classify as sectoral aid. If the corresponding aid volumes were included in the total of the sectoral aid for 2008, the share of horizontal objectives in relation to total aid to industry and services would amount to approximately 17%. Around 83% would be sectoral aid whereby the crisis measures represent the largest part of it (more than two-third).

However, the analysis of horizontal aid is more informative when looking at State aid to industry and services when crisis measures are excluded. It then shows that horizontal objectives represent a share of almost 88% for aid granted in 2008 while sectoral aid stands around 12%. In absolute terms, aid earmarked for horizontal objectives amounted to roughly € 46.3 billion in 2008 and sectoral aid to about € 6.6 billion. It is worth to note with respect to sectoral aid that the trend shows a slight decrease of sectoral aid between the period 2003-2005 and 2006-2008, mainly due to lower aid granted to the coal sector.

2.2.2. State aid to horizontal objectives

In 21 Member States, at least three-quarters of all the aid awarded in 2008 was for horizontal objectives of common interest

Aid earmarked for horizontal objectives accounted for almost 88% of total aid to industry and services in 2008. The remaining 12% was aid directed at specific sectors[36]: financial services other than the crisis measures (2%), coal (5%), other services (1%), manufacturing sectors (2%) and other non-manufacturing sectors (less than 2%).

In seventeen Member States, 90% or more of all the aid awarded in 2008 was earmarked for horizontal objectives. In Ireland, Hungary, Slovakia and Spain, the share of horizontal aid was between 70% and 85% while the share was significantly lower in Romania (53%), Portugal (16%) and Malta (2%). The low share of horizontal aid (and thus relatively high share of sectoral aid) in Malta can be explained by a tax relief measure under the Business Promotion Act,[37] while in Portugal it is due to a large regional aid tax scheme (being phased out) in Madeira which in practice benefits a limited number of sectors. In Romania, a significant proportion of aid continues to be awarded to the manufacturing sector as well as to the mining industry.

In absolute terms, aid to horizontal objectives amounted to around € 46.3 billion in 2008. Compared with 2007, it increased by roughly € 7 billion. Regardless of the individual horizontal objective to which aid was earmarked, individual Member States contributed differently to this increase. For instance, Belgium's and Italy's contribution were around € 400 million, Germany and Hungary contributed roughly € 1 billion each, Spain allocated € 200 million and Poland contributed € 1.5 billion. The remainder is dispersed among many other Member States. In this respect, only in few Member States were aid levels reduced for horizontal objectives (e.g. Sweden and United Kingdom) whereby sectoral aid also decreased in these Member States i.e. the reduction of horizontal aid was not set off by an increase of sectoral aid.

The additional amounts granted were found in Germany, where a large part was used for regional development (roughly € 900 million)[38] and a smaller share for research and development (about € 160 million). For Spain, the increase of about € 200 million was largely due to an increase in aid for regional development. Hungary also substantially increased aid (about € 1 billion), mostly favouring regional development and employment. Poland granted aid of approximately € 500 million for *inter alia* employment[39].

Large disparities between Member States in the share of aid awarded to various horizontal objectives

When comparing Member States, it is important to bear in mind that aid measures are classified according to their primary objective at the time the aid was approved and not according to the final recipients of the aid[40].

The largest proportion of aid was earmarked for regional development (roughly 26% of total State aid for industry and services), which were in the EU-12 countries widely used (around 44%), but also in Greece (75%), France and Spain (roughly 40% each).

[36] These percentages exclude those measures with a horizontal objective that are nevertheless earmarked for the manufacturing and services sectors.

[37] Case MT/6/2002. Accession Treaty 2003, OJ L 236 of 23.9.2003, p. 797, OJ C 227 E, 23.9.2003, p. 2.

[38] For instance N357a/2006 *Investitionszulagengesetz 2007*

[39] For instance XE 11/2004 *Compensation des coûts liés à l'insertion des personnes handicapées dans les PME*, N 575/2007 *Secteur du charbon 2008-2015*

[40] With respect to GBER measures which have objectives but no primary objective, groups of these objectives have been mapped into the corresponding primary objective in order to receive the total aid earmarked for horizontal objectives.

The second largest proportion of aid concerning horizontal objectives was allocated to the environment (roughly 24% of all total State aid for industry and services). Sweden (86%), the Netherlands (65%), Austria (42%), the United Kingdom (41%) and Germany (40%) devoted a substantial part of aid to these objectives. In contrast, the average for the EU-12 countries was 6%.

In third position was aid to R&D&I activities with a share of 16%. It was favoured mostly by Belgium (46%), Luxembourg (36%), Finland (29%), Romania (26%) and France (25%).

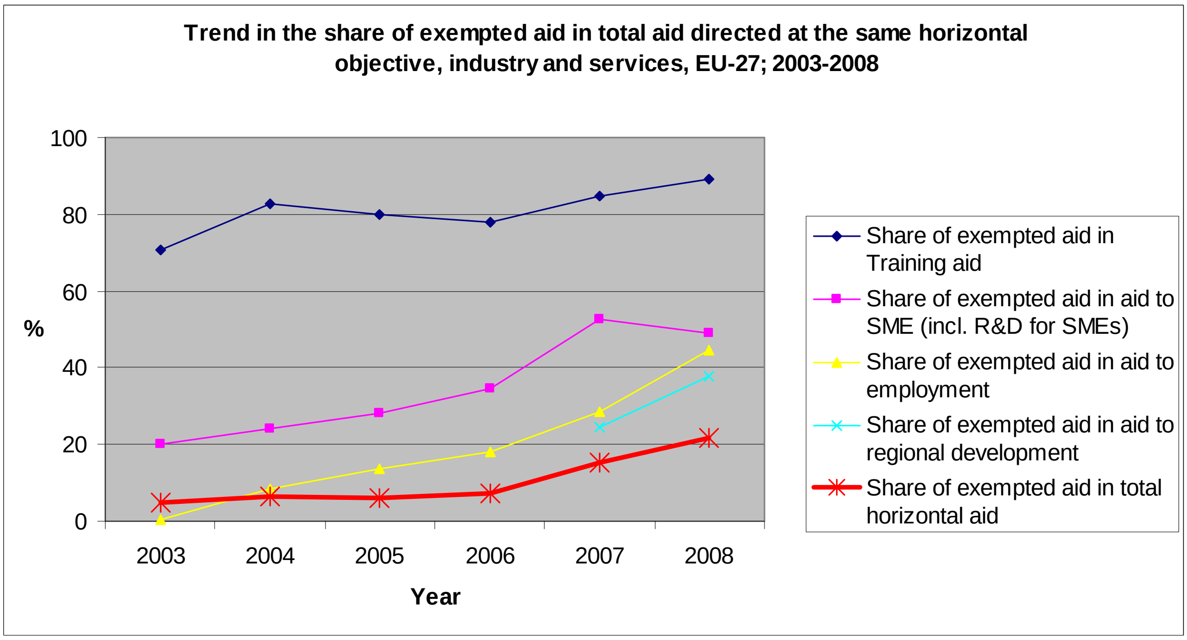
Together, these three objectives represent two-third of total aid to industry and services in the EU-27 and hence are the most widely used horizontal objectives of common interest.

All other objectives taken together account for roughly one quarter of total aid to industry and services: SMEs (9% of total aid)[41], employment (6%), culture and heritage conservation (3%), training (2%), risk capital (1%), and other horizontal objectives (roughly 1%) which include objectives such as commerce and internationalisation and natural disasters.

The relative share of objectives is considerably different in the EU-12 countries where the predominant objective is aid for regional development (44%), followed by employment aid (19%), R&D&I (6%), environmental aid (6%) and SMEs (4%). The relatively high share of employment aid in EU-12 is due mainly to a Polish block exempted scheme for disabled people.[42]

Block exempted measures

Table 10[43]: Block exempted measures as % of total horizontal aid to industry and services



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[41] This figure only captures aid exclusively earmarked for SMEs for which there was no other primary objective. For example, risk capital aid which accounts for 1.0 % of total aid (included in "other horizontal objectives") is also exclusively directed to SMEs. Indeed total aid granted to SMEs is much higher since most schemes for other horizontal objectives such as environment, regional development, research and development are open to companies regardless of their size.

[42] XE 11/2004 *Compensation des coûts liés à l'insertion des personnes handicapées dans les PME*

[43] Source: DG Competition

Figure 11: Trend in the share of block exempted aid in total aid directed at the same horizontal objective, industry and services (EU-27; 2003-2008)

Year **Horizontal objectives in € billion** **Share of exempted aid in %**	2003	2004	2005	2006	2007	2008
Aid for SME (incl. R&D for SMEs)	5.9	6.0	5.8	5.3	4.5	5.3
Share of exempted aid in aid for SME (incl. R&D for SMEs)(in %)	20	24	28	34	53	49
Employment	2.2	2.2	3.4	3.7	2.9	3.2
Share of exempted aid in Employment (in%)	1	9	14	18	28	44
Training	0.9	0.9	0.6	0.9	0.7	0.9
Share of exempted aid in Training (in %)	70	83	80	78	85	89
Regional development	10.0	9.3	9.6	10.3	9.8	13.7
Share of exempted aid in regional development (in %)	-	-	-	-	25	38
Total horizontal aid	**38.2**	**38.8**	**41.8**	**44.6**	**41.0**	**46.3**
Share of exempted aid in total horizontal aid (in%)	**5**	**6**	**6**	**7**	**15**	**22**

Member States awarded a total of roughly € 10 billion aid under block exemptions for industry and services in 2008. Under the Block Exemption Regulations (hereinafter "BER"), aid is earmarked for employment, regional investment aid, SME and training. For aid awarded under the General Block Exemption Regulation (hereinafter "GBER")[44], much of the aid was earmarked for the same objectives as the BERs provide.

In relative terms, block exempted aid represented a share of approximately 22% of total horizontal aid to industry and services in 2008.

For instance, almost 89% of training aid was granted through block exemption in 2008. When looking at the trend, training aid had been granted at a high rate through block exemption over the entire period under review. In absolute terms, training aid amounted to roughly € 0.8 billion.

In 2008, € 5.1 billion of aid was awarded for regional investment aid. Compared with 2007, the figure represents an increase of € 2.7 billion. The main contributing factor here was a regional investment scheme of around € 1 billion in Germany.[45] Although only introduced in 2007, block exempted aid earmarked for regional investment aid reached a share of almost 38% of total aid awarded under the same objective only one year later.

Member States awarded block exempted aid to employment amounting to around € 1.4 billion in 2008. It is an increase by € 0.6 billion compared to 2007. Employment aid exempted under block exemption represents a share of 44% of total aid award to the same objective.

Finally, block exempted aid for SMEs amounted to € 2.6 billion in 2008, an increase of € 0.2 billion compared to 2007. Block exempted SME aid has a share of roughly 50% of total aid award to the same objective.

The main reason for the comparatively low percentage of block exempted aid for employment and SME in total aid for the same objective can be explained by ongoing high expenditure under a few large schemes authorised prior to the entry into force of the block exemption regulations[46]. In addition, large French SME schemes that do not meet all criteria for block

[44] Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (OJ L 214, 9.8.2008, p. 3)

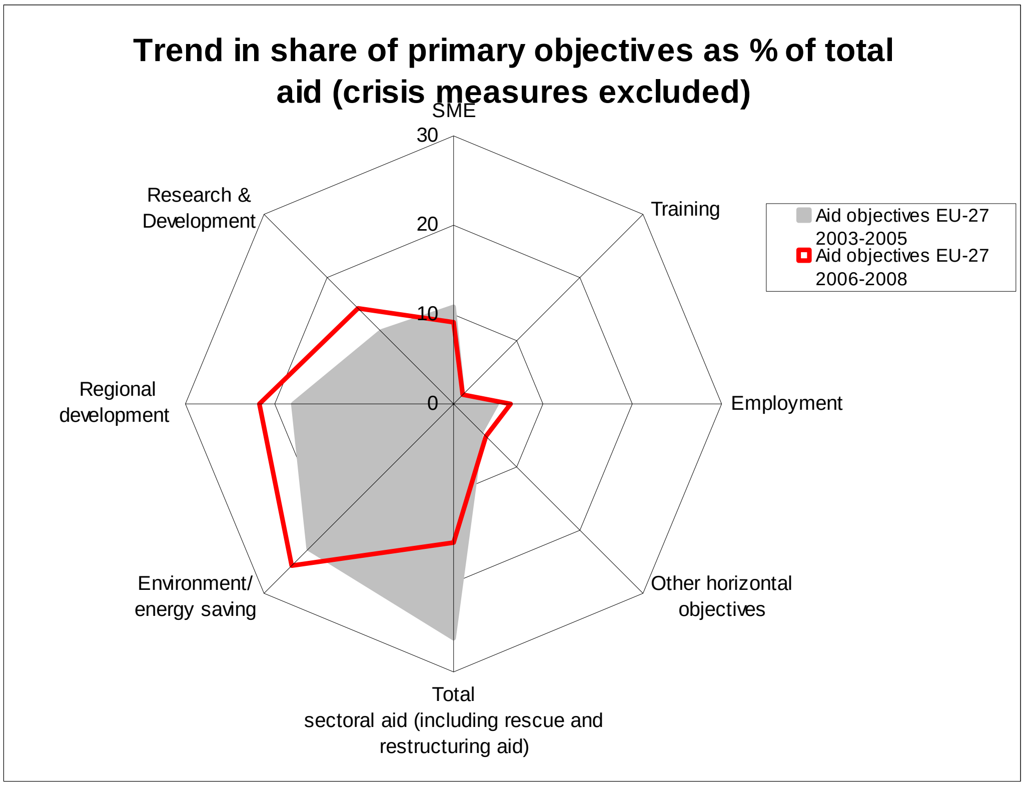
[45] XR 31/2007 *Gemeinschaftsaufgabe „Verbesserung der regionalen Wirtschaftsstruktur" (GA); 36. Rahmenplan: Teil II A – Gewerbliche Wirtschaft*

[46] In particular a Danish scheme for social measures in the employment sector (NN 10/2002, ex N 425/2001) and an Italian scheme to promote industrial production in less-favoured regions (N 715/1999, amended by N 440/2006).

exempted aid account for almost half of aid to SME granted outside block exempted measures[47].

2.2.3. Trend in State aid for horizontal objectives and sectoral objectives

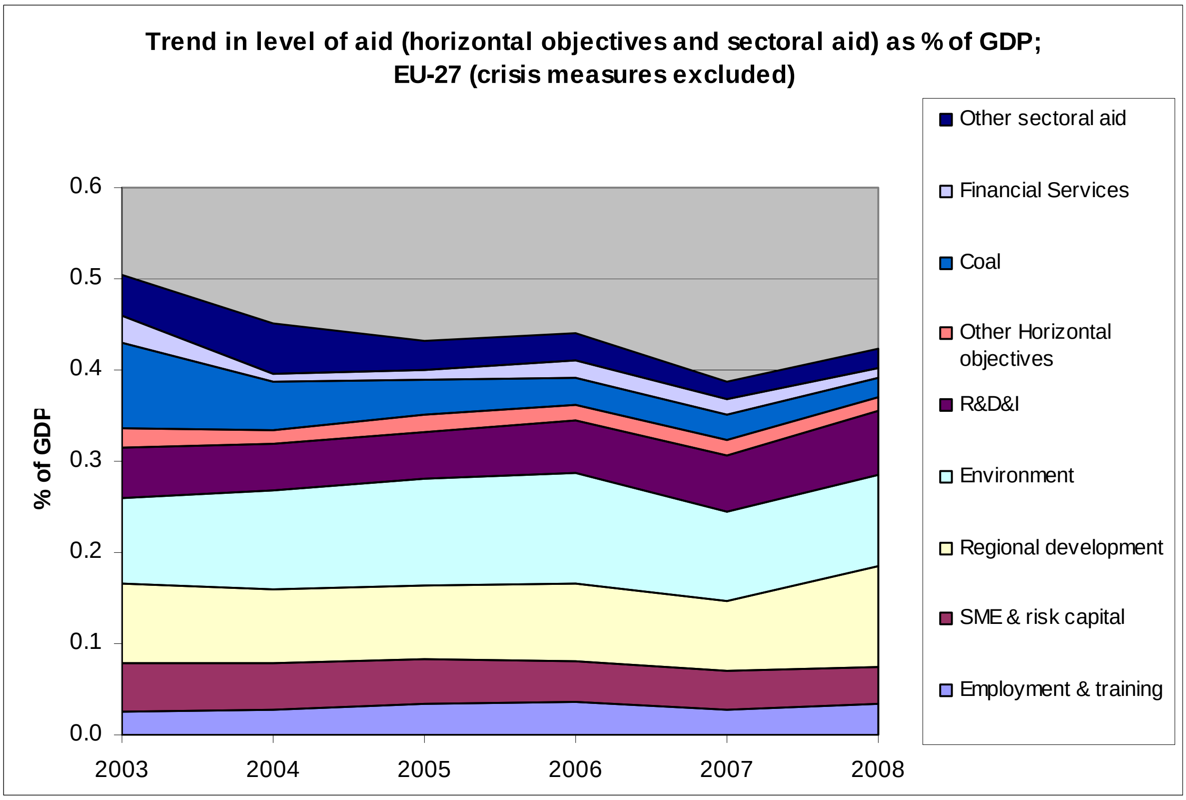
Figure 12: Trend in share of primary objectives as % of total aid (2006-2008 compared with 2003-2005)[48]



[47] N 596a/2007 (approved on 11.03.2008), N 70a/2006 (22.06.2006), N 211/2003 (16.12.2003)

[48] Source: DG Competition. Note: Data cover industry and services only.

Figure 13: Trend in level of aid by primary objective, EU-27, 2003-2008[49]



When looking at the trend with respect to aid earmarked for horizontal objectives in 2008, it has been broadly stable, now representing almost 88% of total aid to industry and services. Compared with previous periods, 74% in 2004 and around 50% in the mid-Nineties, it confirms a clear upward move. The underlying trend also confirms the upward move on aid oriented to horizontal objectives. During the period 2003-2005 on average 72% of aid were earmarked for horizontal objectives while during 2006-2008 it increased to 84%[50].

Nevertheless, the long-term trend still shows that Member States direct a relatively high level of aid towards horizontal objectives. A clear positive trend was observed, to varying degrees, in many Member States. In particular, all EU-12 Member States are progressively redirecting aid towards horizontal objectives.

Looking at individual objectives, the orientation of aid at EU-27 level shifted in favour of regional development, environmental protection and research and development. Expenditure on other horizontal objectives was relatively stable while sectoral aid decreased[51].

2.2.4. State aid for research and development and innovation

Overall Research and Development spending

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[49] Source: DG Competition. Note: Data cover industry and services only.

[50] It should be noted that the average share of horizontal aid in the period 2006-2008 is slightly higher since rescue and restructuring aid granted to the banking sector prior to the entry into force of the crisis-related Communications were classified as sectoral aid but not qualified as crisis measures[50]. By excluding them retrospectively, the share of horizontal aid as % of total aid to industry and services slightly increase for 2007.

[51] Crisis measures excluded

Investment in research and development (hereinafter "R&D") is a crucial factor to strengthen the competitiveness of the EU economy and to ensure sustainable growth. The Barcelona European Council in 2002 recognised this by setting a 3% of GDP target for expenditure on R&D by 2010. Two thirds of this expenditure should be funded by the private sector and the other third by public funding.

Figures for 2007 show that investment in R&D is not sufficient to meet the Barcelona objectives: for the EU as a whole, overall R&D investment stood at 1.85% of GDP, with public R&D funding amounting to 0.62 % of GDP. Sweden and Finland are the only Member States to reach the 3% level with 3.6% and 3.47% respectively. Public R&D funding is highest in Austria, Sweden, Finland, France, Germany, Denmark and Portugal, with all seven Member States above the EU average. Drawing conclusions from the so far sluggish development of R&D investment, it is clear that with growth remaining at the current level, the European economy will not achieve the Barcelona targets by 2010. Rather, growth needs to be accelerated and new impetus given to investment in R&D.

State aid for research, development and innovation

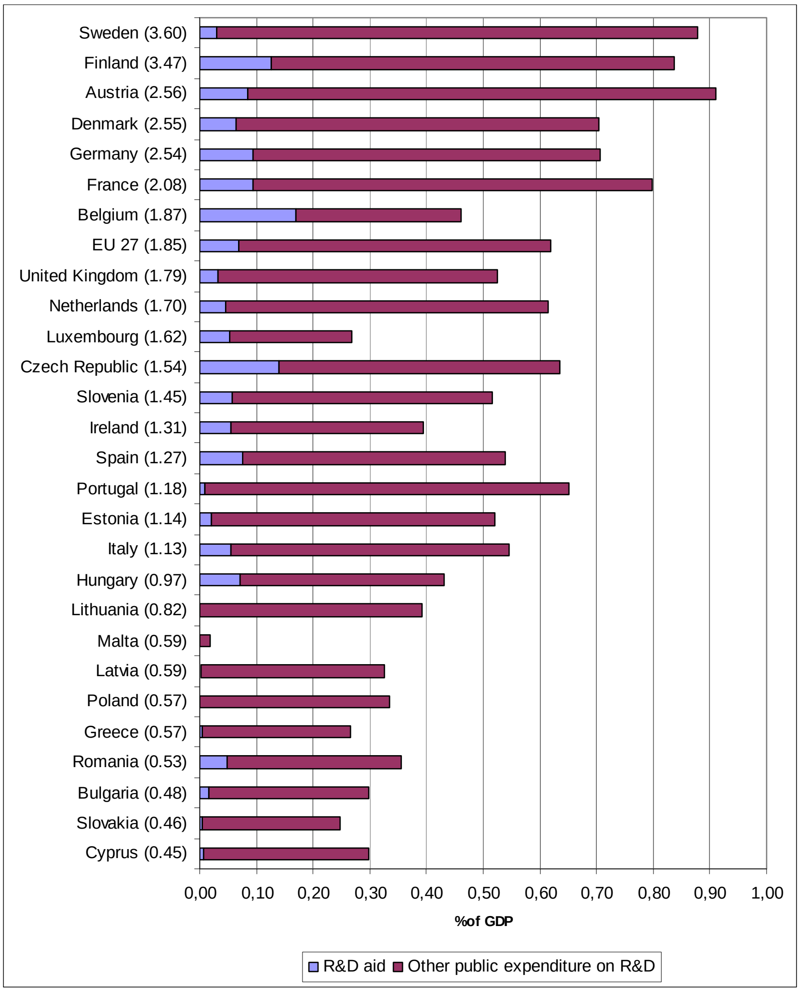
National governments have a range of measures to choose from to fund and consequently trigger R&D&I, the exact range and balance of which depend on the national context and form the policy mix. These public measures might contain State aid that could distort competition by favouring some enterprises over others. On the other hand, State aid may in certain circumstances be the best available option to provide incentives for additional private R&D&I investment. The Commission thus tries to strike a balance through the application of the framework on R&D&I aid thereby ensuring that R&D&I is furthered to the largest extent while minimising distortions of competition.

EU-wide, State aid expenditure on R&D&I amounted to € 8.6 billion in 2008. This represented a relatively small share in public R&D funding although there are significant differences between Member States (Figure 10): while State aid to R&D&I accounted for 0.07% of GDP in 2008, the overall public funding for R&D was 0.62% of GDP[52]. Eight Member States awarded R&D&I aid above the average level: Belgium (0.17% of GDP), the Czech Republic (0.14%), Finland (0.13%), France (0.10%), Germany (0.09%), Austria (0.09%) and Hungary (0.07%) while Cyprus, Slovakia, Greece, Poland, Latvia, Malta, Lithuania and Portugal granted less than 0.01% of GDP.

For the Union as a whole, the level of R&D&I aid increased from 0.05% of GDP to 0.07% comparing two consecutive periods 2003-2005 and 2006-2008.

[52] Public R&D expenditure in 2007 – data for 2008 not available

Figure 14: Public expenditure on R&D as % of GDP, 2008[53] [54]



2.2.5. State aid for SMEs including risk capital

Aid to SMEs including risk capital amounted to approximately € 5.3 billion in 2008 of which risk capital represents € 0.4 billion. In relative terms, roughly 10 % of horizontal aid was exclusively earmarked for SMEs, with risk capital contributing less than 1% to this sum.

Aid expenditure to SMEs has been relatively stable over time. Expressed in % of GDP, it remained at a level of around 0.04% of GDP (on average).

2.2.6. State aid for environmental protection

Aid earmarked for environmental protection amounted to roughly € 12.7 billion in 2008, of which € 2.9 million was granted through the GBER[55]. In relative terms, it represents roughly 24% of total horizontal aid[56].

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[53] Source: DG Competition and Eurostat. Note: Figures on R&D public expenditure are not directly comparable with State aid expenditure data as i) the source is different and ii) for many countries, data are not available for 2008. Nevertheless, the graph provides an indication as to the approximate share of State aid in total R&D public expenditure. While the graph itself shows public expenditure on R&D, the figure presented next to a Member State' name indicates total R&D expenditure (public and private) as a percentage of GDP. This shows progress towards the Barcelona target of 3% of GDP.

[54] Member States sorted by the overall (public and private) R&D expenditure – presented in brackets as % of GDP

For the European Union as a whole, the trend of aid for environment increased from 23% to 26% of total horizontal aid between the periods 2003-2005 and 2006-2008.

Environmental aid encompasses a wide range of objectives, including support measures for renewable energy, energy-saving, waste management, rehabilitation of polluted industrial sites and improvement of production processes. For these types of measures, aid granted by Member States pursues a direct benefit to the environment. State aid expenditure data for such cases can therefore be taken as a proxy measure for the intended environmental benefit, regardless of the form in which the aid may be awarded (grant, tax exemption, guarantee, etc.). This represented approximately 38% of total environmental aid expenditure in 2008 (around € 4.9 billion).

A second category of State aid measures assessed under the environmental aid guidelines are reductions or exemptions from environmental taxes. Here, the environmental objective of the measure is pursued by the tax itself. Any reduction or exemption from environmental taxes, i.e., the part of the measure constituting aid, has an indirect environmental objective by facilitating the introduction or modification of such taxes. Expenditure data currently available for this category of aid schemes indicate the amount of tax revenue foregone and can therefore not serve as a proxy measure of the environmental benefit the taxes themselves have brought. In 2008, about 62% of total environmental aid expenditure (around € 7.8 billion) fell under this category.

The overall level of expenditure in environmental aid measures in the EU is strongly influenced by the largest aid grantors, Germany, Netherlands and Sweden, whereby in Germany and Sweden tax exemptions account for a large share of total environmental aid in each country. A CO_2 tax reduction for industry and a tax exemption from the energy tax on electricity led to a remarkable rise in aid expenditure for Sweden from 2003 onwards. In Germany, expenditure rose steadily up to 2006 following the approval in 2002 of measures that prolonged several tax exemptions from the German energy taxation on electricity and mineral oils. Following modifications to these tax exemptions, environmental aid expenditure fell significantly by more than € 2 billion between 2006 and 2008. Moreover, aid granted through tax exemptions usually benefits energy intensive industries including sometimes big polluters which had to be accepted in order to allow for certain types of environmental taxes to be introduced.

The Commission's Climate Change/Energy Package of January 2008 implemented a series of targets for the year 2020[57]: 20% CO_2 emissions reduction, 20% share for renewable energy in EU energy consumption and 20% increase in energy efficiency. The package included a policy mix of regulatory measures, including new *Community Guidelines on State aid for Environmental Protection.*[58] These have since been complemented by the new GBER adopted in July 2008 which included specific provisions for environmental protection.

2.2.7. State aid supporting regional development and cohesion

Aid earmarked for regional development

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[55] The GBER entered into force only on 29 August 2008.

[56] Expenditure data currently available for this category of aid measures indicate the amount of tax revenue foregone and can therefore not serve as a proxy measure for the environmental benefit the taxes themselves have brought. In 2008, around 79% of total expenditure (around € 9.9 billion) was aid granted through tax exemption.

[57] Targets set by the March 2007 Council.

[58] OJ C 82 of 01.04.2008, p. 1.

The Commission Guidelines on national regional aid for 2007-2013[59], applicable as of 1 January 2007, clarify the general approach taken by the Commission to consider whether aid granted to promote the economic development of certain disadvantaged areas within the European Union is compatible with single market rules The aim of regional aid is to develop the economic, social and territorial cohesion of a Member State and of the EU as a whole.

The Commission encourages Member States to grant regional aid on the basis of multi-sectoral schemes, which form part of a national regional policy. These schemes provide the general conditions under which a Member State can grant regional aid, normally without the need to notify their individual cases to the Commission. In October 2006, the Commission adopted a block exemption regulation concerning national regional investment aid[60] which remains applicable until end 2013 though Member States may also notify regional aid measures under GBER.

Member States granted aid earmarked for regional development of about € 13.7 billion in 2008, which includes € 4.9 billion aid granted through block exemption. It represents approximately 26% of total horizontal aid for industry and services or 0.1% of EU-27 GDP.

The long-term trend has increased from 18% to 22% between the periods 2003-2005 and 2006-2008. Greece, Poland, Portugal, Sweden and the Czech Republic were the largest contributors to this increase while the increase and decrease in other Member States balanced each other out.

Aid pursuant to Article 87(3)(a) and (c)

Aid for regional development can also be looked from the perspective of aid in relation with provisions of Article 87(3)(a) and Article 87(3)(c) EC Treaty. Article 87(3)(a) provides for aid that promotes the economic development of areas where the standard of living is abnormally low or where there is a serious underemployment, so-called category 'a' regions. The regional aid angle under Article 87(3)(c) refers to aid to facilitate the development of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, so-called category 'c' regions.

It is worth to recall that aid earmarked for category 'a' or 'c' regions may not have necessarily regional development as horizontal objective but it can be earmarked for other objectives. Due to this effect, the figures presented on the basis of the category, which follows below, are different from those above.

In 2008, almost € 14 billion of aid was directed to 'a' regions in 2008. While many EU-15 Member States have identified some 'a' regions within their country, the entire territory of the EU-12 Member States is eligible as 'a' region with the exception of Cyprus and the cities of Prague, Bratislava and Budapest. For several EU-12 Member States, almost all State aid for industry and services was granted as regional aid.

Aid to 'a' regions increased in 2008 by one quarter compared to 2007 (€ 11 billion to € 14 billion), with Poland, Germany, Spain and France as main contributors. However, the long-term trend shows a decrease from € 17 billion to € 13 billion on average between 2003-2005 and 2006-2008. Disparities between the Member States in the levels of aid reserved for assisted 'a' regions may reflect not only differences in regional policy but also the size of each country's eligible population as well as the extent to which each Member State grants aid at a sub-central level.

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[59] OJ C 54/13 of 4.3.2006
[60] Commission Regulation (EC) No 1628/2006 of 24 October 2006; OJ L 302, 01.11.2006 p.29

Around € 7.4 billion has been reported as aid for assisted 'c' regions in 2008. All EU-15 Member States have identified some 'c' regions in their country as well as some EU-12 countries. Aid to 'c' regions decreased in 2008 by 23%[61]. Main contributors to this decrease were Germany and France.

In some instances, Member States reported aid aggregated for 'a' and 'c' regions which amounted to € 2 billion.

2.3. State aid earmarked for specific sectors

2.3.1. State aid for rescue and restructuring firms in difficulty

Disregarding the recent crisis–related cases, € 576 million was granted as rescue and restructuring aid in 2008. This strengthened a downward trend observed in the last years. On average, in the period 2003-2005 the total rescue and restructuring aid amounted to € 3.4 billion per year while in the period 2006-2008 only to € 845 million.

In the last six years, the extent to which Member States have (or have not) used State aid to rescue and restructure their ailing firms has varied considerably. Eight Member States accounted for 96% of the rescue and restructuring aid. Romania made up 23% of the total followed by France (20%), the Czech Republic (18%), Poland (16%), the United Kingdom (9%), Austria (6%), Italy (2%) and Spain (2%). This does not necessarily reflect a regular recourse to State aid for rescue and restructuring in each of these countries as one large rescue case may be sufficient to place them in this group. At the other end of the scale are seven Member States (Estonia, Ireland Cyprus, Latvia, Luxembourg, Hungary and Sweden) who did not award any ad hoc rescue and restructuring aid to ailing firms (in the industry and services sectors) between 2003 and 2008[62].

Over this six-year period, the banking sector (excluding the crisis measures) accounted for, on average, 22% of all rescue and restructuring aid.

Chapter 3 includes an overview of the recent rescue and restructuring aid cases in the banking sector.

2.3.2. State aid to the shipbuilding sector

In 2008, an estimated € 466 million was granted to the shipbuilding sector mainly by Poland (€ 194 million), Spain (€ 86 million), Germany (€ 79 million), Italy (€ 26 million) and Denmark (€ 24 million). The amount of State aid to the shipbuilding sector fell from an annual average of € 736 million for the period 2003-2005 to € 387 million for the period 2006-2008.

2.3.3. State aid to the steel sector

Since the European Coal and Steel Community (ECSC) Treaty expired on 23 July 2002, general State aid rules have been applied for the steel sector, with the exception that no investment or restructuring aid may be granted to steel production unless it is closure aid.[63] In 2008, no new aid was authorised by the Commission for the steel sector. Ongoing expenditure however, amounted to € 142 million; this was principally granted by the United

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[61] 2007: € 10 billion

[62] It is worth noting that rescue and restructuring aid granted to the financial sector in these Member States has been covered under the aid volumes of the crisis measures.

[63] Aid under the Commission Regulation (EC) No 800/2008 of 6.August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (OJ L 214, 9.8.2008, p. 3-47) remains possible with the exception of regional aid favouring activities in the steel sector (Article 1(3)(e)).

Kingdom (€ 100 million - climate change levy) as environmental aid, by Slovakia as sectoral aid (€ 41 million) and by Ireland (€ 0.6 million) as regional aid. There is a clear decreasing trend in the aid to the steel sector from an annual average of € 656 million in the period 2003-2005 to € 160 million in the period 2006-2008. The downward trend can be largely explained by the fact that some Member States such as Poland, Romania and Sweden stopped or reduced considerably (e.g. the Czech Republic) granting State aid after the year 2003 or 2004 to companies in the steel sector.

2.3.4. State aid to the coal sector

Again, as the ECSC Treaty expired on 23 July 2002, a Council Regulation established a new legal framework for state aid to the Community coal industry thereafter.

The overall amount of State aid to the coal sector in the Union (EU-27) stood at € 2.7 billion in 2008, a 15% reduction compared to 2007 (€ 3.4 billion) and both the absolute amount and the share of aid related to current production continued to decline. More generally, as from 2001, aid to current production decreased significantly and steadily in line with the agreement on the reduction of volumes of aid to the coal industry. As stipulated by Regulation 1407/2002, the total amount of aid to current production to be granted annually should in any event not exceed the amount of aid authorized by the Commission for the reference year 2001 (for new Member States – the year of accession to the EU).

Reduction of the aid to current production was mainly achieved through a gradual closure of the least competitive mines, accompanied by considerable reductions in the number of persons employed in the EU's coal sector. Relatively high coal prices in 2008 played a role as well. Nearly all the aid not related to current production was directed at covering the costs incurred in the process of (partial) mine closures and at financing so-called inherited liabilities.

Eight Member States granted aid to the coal sector in 2008. Germany and Spain continue to account for the bulk of it (around 90%). Broadly speaking, coal mining in the EU-12 Member States is more competitive than in the EU-15 Member States. For more information on the EU's coal sector and coal subsidies, please refer to the Report on State aid to the coal industry published in May 2007[64] as well as to the Commission's web-page devoted to coal issues[65]. Commission decisions on coal-related state aids can also be found on the web[66].

In view of the forthcoming expiry of Regulation 1407/2002 (on 31 December 2010), the Commission has recently carried out a public consultation on the future policy options with respect to aid to the coal industry[67]. Future updates on this subject will be available at the coal page of the Commission's web-site.

2.3.5. State aid to the transport sector

Introduction

State aid to the transport sector is governed by special rules in the Treaty, as well as secondary legislation and rules of soft law (see table 5 in Annex). Member States spend

[64] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0253:FIN:EN:PDF

[65] http://ec.europa.eu/energy/coal/index_en.htm

[66] http://ec.europa.eu/energy/coal/state_aid/decisions_en.htm (EN or FR versions) and http://ec.europa.eu/comm/competition/state_aid/register/ii/by_sector_b.html (authentic language versions)

[67] http://ec.europa.eu/energy/coal/consultations/2009_07_15_en.htm

considerable resources for the provision of Services of General Economic Interest (SGEI) in the transport sector and for the construction, management and maintenance of infrastructure. The amount of State aid granted for environmental measures, such as aid for the acquisition of new transport vehicles which go beyond Community standards or which increase the level of the environmental protection in absence of Community standards, has increased in recent years.

With regard to public resources for the provision of SGEI, Community law foresees a number of mechanisms allowing for and encouraging the provision of such services. Member States must, however, ensure that the public financing granted complies with the rules laid down and in particular avoids overcompensation and the distortion of competition.

Over the years, the public financing of transport infrastructure has raised more and more questions about the application of State aid rules, as many infrastructures are operated on a commercial basis and either by private undertakings or under public-private-partnerships.

Expenditure and trend

For the transport sector as a whole across the EU (excluding railways - see below), around € 2.4 billion of aid was awarded per year over the period 2006-2008, a 3% increase compared with the annual average over the period 2003-2005 (€ 2.3 billion). With respect to the different transport sectors, the following developments can be observed:

Maritime transport

Almost two-thirds of total transport aid (around € 1.5 billion per year) was awarded to the maritime sector during the period 2006-2008.

Most cases in this sector concern the public financing of port infrastructure, social aid to seafarers and special taxation rules for shipping companies ("tonnage tax" schemes).

Land transport

Railways

A large amount of public financing for railways does not need to be notified to the Commission, either because it does not constitute State aid within the meaning of Article 87(1) of the EC Treaty or because it is exempted from notification in accordance with Regulations 1191/69 and 1192/69. Member States are however required to report to the Commission overall public expenditure to this sector. Over € 46 billion was reported by Member States for 2008.

Disparities between Member States may reflect different interpretations of the scope of this annual reporting exercise (see table on website).

Following complaints from competitors in this sector, the Commission initiated in 2007-2008 formal investigation procedures in Germany and Denmark.

Road transport

Like in the case of the railway sector, a large amount of public financing for bus services operated under a public service contract is not notified to the Commission either because it does not constitute State aid or because it is exempted from the notification obligation. As a result, the aid amounts reported for road and combined transport sector - € 836 million per year on average during the period 2006-2008 - underestimate the amount of public financing of these services.

Following complaints from competitors in this sector, the Commission initiated formal investigation procedures in Austria, Germany, Ireland and the Czech Republic between 2006 and 2008. In 2008, it took final positive decisions concerning public service contracts for public passenger transport by bus in Austria and the Czech Republic. Further investigations in these and other Member State are ongoing.

In the environmental area, the Commission maintains its policy of approving aid to favour the uptake of cleaner technology, in particular on old vehicles. In 2008 the Commission approved several State aid measures for the acquisition of lorries satisfying the Euro V pollution standard.

Aviation

Since the entry into force of the 2005 guidelines on financing of airports and start-up aid to airlines departing from regional airports, the Commission has adopted a number of positive decisions (including Germany, Poland, Ireland, Malta, Cyprus and the United Kingdom), relating to the two main types of State aid defined by the guidelines – State aid to airports and start-up aid to airlines.

The Commission has also assessed several cases concerning the public financing of the construction of new airports, the extension of existing ones and the purchase of equipment to comply with safety and security standards. Since the operation of airports constitutes an economic activity, the Commission must assess whether the public financing has an impact on competing airports in particular. In most cases, the Commission considers that the planned investments have a positive impact on the accessibility of the region, which outweighs the potentially negative impact on competition.

The Commission is also examining a large number of complaints concerning investment aid and start-up aid. In some of these cases, the Commission has opened a formal investigation procedure. It is possible that the public financing of new routes is in accordance with the behaviour of a private investor acting under normal market conditions and in such cases there is no State aid. In other cases, the public investment does constitute State aid but can still be declared compatible if the conditions laid down in the 2005 guidelines are fulfilled.

In 2008 the Commission also dealt with cases concerning the privatisation and liquidation of the Italian and Greek flag carriers.

Over the period 2006-2008, an annual average of € 100 million of aid was reported by Member States for the air transport sector.

2.3.6. State aid to the agricultural sector

New cases registered and decisions taken in 2008

When looking at cases registered in 2008 by DG Agriculture, 144 new measures were notified to the Commission and 146 were decided.

Based on the primary objective, it appears that almost 16% of the 140 decisions involved aids for investment in agricultural holdings, followed by 12.6% of aid to compensate damages caused by natural disasters or exceptional occurrences, 9.8% of aid for advertising of agricultural products, 7.7% of aid to compensate farmers for losses caused by adverse weather conditions, 7% of aids for the forest sector and 6.3% of aid in favour of environmental protection. Aid for combating animal diseases, for research and development and provision of technical support represented 4% on average (or 12.6% regrouped together).

Of the new aid measures, 27.8% were notified by Italy, followed by Spain (15.3%), Germany (11.8%) and France (7%). The breakdown by country is marginally different when looking at block exempted measures: 20.5% of the 433 measures were communicated by Italy, followed by Spain (20%), Slovenia (10.8%) and France (9.5%), Germany and United Kingdom both with more than 4%.

Expenditure

The results of the annual reporting exercise, introduced for the first time in 2004, show that the total amount of State aid awarded to the agricultural sector in 2008 is € 11.76 billion compared with € 12.5 billion in 2007. The discrepancy with the total for 2007 (€ 12,79 billion) published in the autumn 2008 Scoreboard is due to corrections made by Member States in their annual reports submitted in 2009 for the period 2003-2008. The highest expenditure was reported by France (€ 2 billion), followed by Germany (€ 1.3 billion), Ireland (€ 1.2 billion) and Finland (€ 1.2 billion).

In almost all Member States, the vast majority of aid[68] was granted for investment in agricultural holdings (around € 2391.4 million), followed by € 1074.2 million of aid for the livestock sector, € 692 million of aid linked to tax exemptions under Directive 2003/96/EC, provision of technical support (€ 556.3 million), aid for animal diseases (€ 487.5 million), agri-environmental commitments (€ 431.9 million) and environmental protection (€ 410.3 million). With respect to investment in processing & marketing, aid amounted to € 174.9 million. In this amount, a portion represents marketing aid which is granted to the industry processing agricultural products[69].

By comparing figures of 2007 with 2008, the seven Member States which increased their State aid expenditure are in descending order: Ireland, Slovakia, Poland, Portugal, the Czech Republic, Estonia and Germany; all other Member States spent less.

Block exempted aid

The total of aid granted under BERs amounted to € 1.5 billion in 2008, corresponding to 12.4% of the total State aid expenditure in agriculture. In 2007, this figure was 8.55%. By analysing the results per country, it was found that 89% of the Latvian aid expenditure concerned measures granted under BERs, followed by Greece (72%), Cyprus (45%), Italy (34%), France and Spain (16.6%).

2.3.7. State aid to the fisheries sector

Expenditure

The total amount of State aid awarded to the fisheries sector was estimated at more than € 290 million in 2008[70]. The data are based on the figures received from Member States' annual reports on existing aid schemes. Spain reported the highest figures with € 113 million, followed by France (more than € 75 million), Netherlands (€ 34 million), the Czech Republic and Ireland (both € 20 million). Further breakdown of expenditure figures are not available for the fisheries sector.

Block exemption

The total amount of paid block-exempted aids in 2008 is about € 4.2 million, with Italy accounting for 65% of this total.

[68] Block exempted aid excluded

[69] A further mining of the data is not possible as the relevant detail which would be necessary for such purpose is not part of the scope of reporting.

[70] Estimation

Eight aid measures have been block-exempted under the new block exemption regulation in force since 19 August 2008[71]: XF 1/2009, 2/2009, 4/2009, 5/2009, 6/2009, 7/2009, 8/2009 and 9/2009. These aids amount to € 16.7 million, among which Spain accounts for € 16 million.

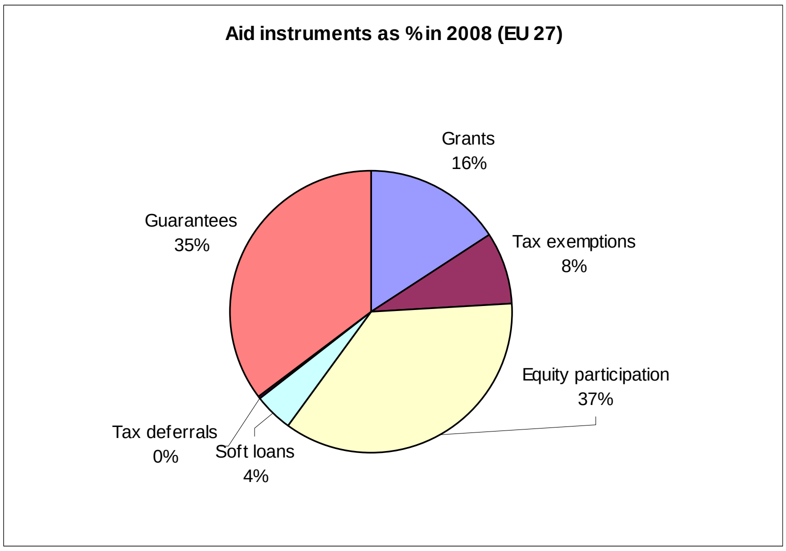
2.4. State aid instruments

All State aid represents a cost or a loss of revenue to the public authorities and a benefit to recipients. It should also be noted that with respect to subsidised loans or guarantees the actual aid element may significantly differ i.e. be lower than the nominal amount.

The choice of aid instruments which Member States may use in a particular aid scenario largely depends on the aim of the aid measure. In this respect, the crisis measures certainly distort the picture on the preference for aid instruments. The analysis therefore distinguishes between all measures and those excluding the crisis measures.

2.4.1. State aid instruments and aid volumes in 2008

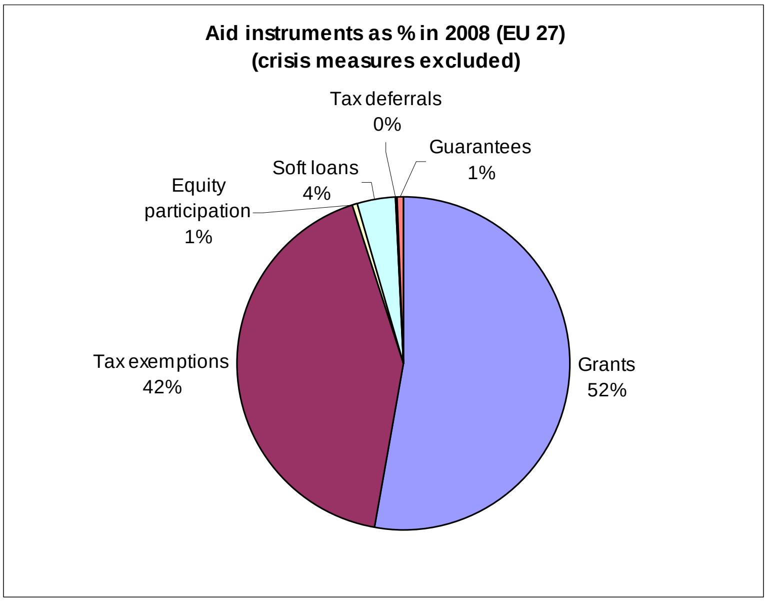
Figure 15[72]: Share of aid instruments in total aid for industry and services, EU27, 2008



[71] Commission Regulation (EC) No 736/2008 of 22 July 2008 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of fisheries products

[72] Source: DG Competition

Figure 16[73]: Share of aid instruments in total aid for industry and services (crisis measures excluded), EU27, 2008



When regarding total State aid granted for industry and services (all cases) in 2008, the aid instrument used the most frequently was the equity participation (roughly 37%), followed by guarantees (35%) and grants (16%). Less frequently used were the other instruments like tax exemptions (8%) and soft loans (around 4%). It comes as no surprise that equity participation was the most prominent instrument used in 2008, given the predominance of the crisis measures whereby Member States often entered as share holder in banks.

When excluding crisis measures from total aid to industry and services in 2008, the aid instrument most frequently used by Member States was grants (roughly 52%), followed by tax exemptions (approximately 42%). Much less used were the other instruments i.e. soft loan (4%), guarantee (around 1%), and equity participation (less than 1%).

Many Member States, e.g. the Netherlands, Belgium, Luxembourg, Denmark, Ireland and Finland gave 50% or more of aid through grants. The remainder is relatively small, whereby soft loans represented 4% and guarantees 1% whereas equity participations don't play an important role.

[73] Source: DG Competition

2.4.2. Trend in the use of aid instruments (crisis measures excluded)

Figure 17[74]: Aid instruments EU-27 as % of 3 year average (2003-2005)

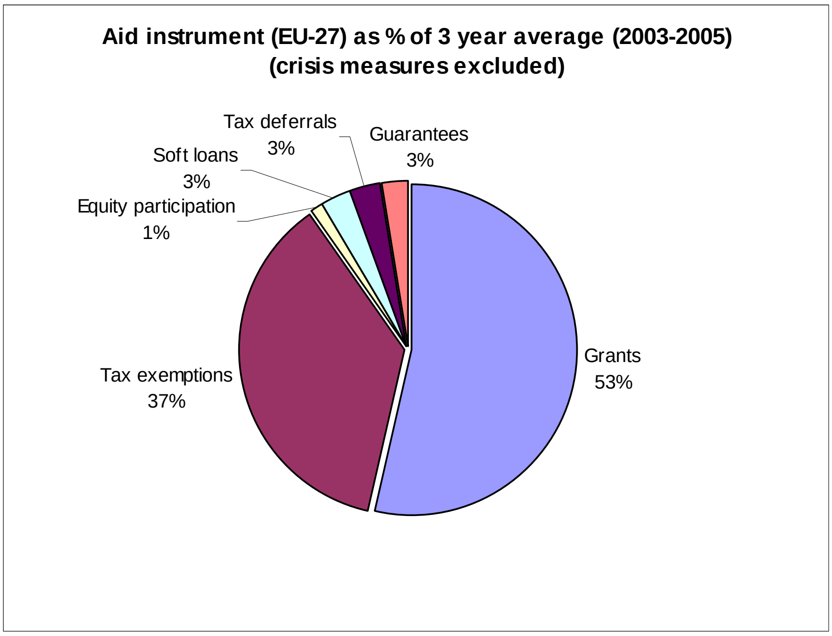
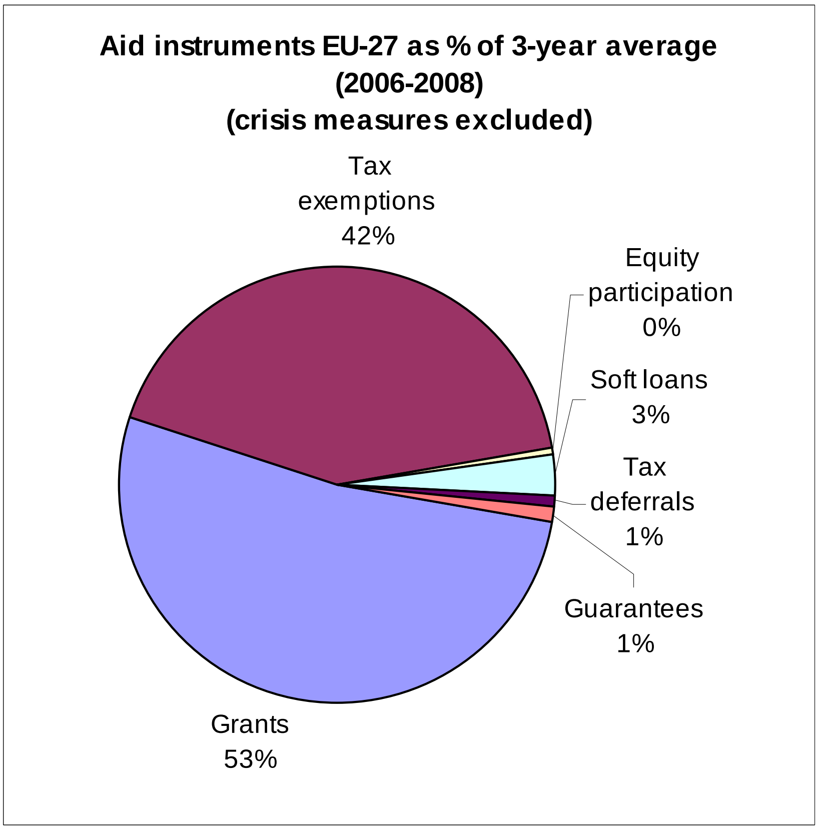


Figure 18[75]: Aid instruments EU-27 as % of 3 year average (2006-2008)



[74] Source: DG Competition
[75] Source: DG Competition

The comparison between the periods 2003-2005 and 2006-2008 shows a slight shift on the use of aid instruments by Member States. On average, the use of grants was stable while Member States increasingly made use of tax exemptions. The latter can partly be explained by the fact that some Member States ran tax schemes where a relatively large amount of aid is granted by tax reductions.

When looking to the period 2006-2008 in isolation, grants accounted for roughly 53% of total aid in the manufacturing and service sectors. Many Member States, e.g. the Netherlands, Luxembourg, Denmark, Ireland and Finland even 50% or more of their aid through grants. State aid awarded through tax exemption represents the 2nd largest use of aid instruments, roughly 42%. The remainder is relatively small, whereby soft loans represent 3% and guarantees 1% whereas equity participations don't play an important role.

This situation on the use of aid instruments varies from Member State to Member State however. While the above trend for the period 2006-2008 broadly follows the pattern displayed in many Member States, there are of course deviations in a few Member States, e.g. in Sweden, where roughly 83% of the aid is granted through tax exemptions and only 17% through grants. In Portugal, the situation is broadly similar whereby only one aid measure, the Madeira tax regime, accounts for most of the aid volume granted.

3. STATE AID IN THE CONTEXT OF THE FINANCIAL AND ECONOMIC CRISIS

3.1. General economic background

One year after the first rescue measures adopted in favour of individual banks, there are signs of economic recovery in the European Union. The EU's latest Interim Forecast of September 2009[76] sees improvements in the economic situation of the European economy where financial conditions have improved over the summer with several financial indicators returning to pre-crisis levels.

The contraction in overall economic activity slowed significantly in the second quarter of 2009 and after a cumulative decline of more than 4% in the fourth quarter of 2008 and the first quarter of 2009, GDP contracted by a mere 0.2% q-o-q in the EU (and 0.1% in the euro area) in the second quarter of this year. However, despite the new outlook, the fall in GDP remains unchanged at -4% in both the EU and the euro area for the year as a whole.

The labour market situation remains difficult with an unemployment rate in July of 9.0% in the EU which is expected to deteriorate further in the second half of 2009. Public finances in 2009 are equally expected to be strongly affected by the downturn, due in part to the discretionary fiscal stimulus measures taken by many EU governments within the framework of the Recovery Plan.

The application of the State aid rules and, in a broader context, the regulatory, monetary, and fiscal policies put in place by the Union, the European Central Bank and the Member States are providing tangible support and stimulus for economic activity. However, there are substantial uncertainties regarding the economic situation and the sustainability of the recovery remains to be tested. Several of the temporary factors that are set to boost growth in the short term are likely to diminish over time. A lasting and sustainable recovery might therefore need more time to materialise.

[76] European Commission, Directorate General for Economic and Financial Affairs, Interim forecast September 2009.

Building on the recommendations of the *de Larosière*[77] report and the discussions in the *G20* context, the Commission presented a proposal[78] for reforming the way financial markets are regulated and supervised which should facilitate a return to market conditions. The proposal for a European structure for supervision and a European body to oversee the stability of the financial system as a whole will establish a new regulatory framework for banking operations in the European Union. At the same time, the global system will undergo substantial changes, subsequent to the European and US developments and the discussions in the *G20* framework.

In the meeting of 18-19 of June 2009, the European Council[79] reaffirmed its commitment to restoring confidence and the proper functioning of financial markets. It stressed also that all policy measures at EU level must be consistent with single market principles, ensure a level playing field and provide for a credible exit strategy.

3.2. Chronology of the crisis and the Commission's response

The purpose of this chapter is to provide an overview of the Commission's response to the financial and economic crisis from a State aid control perspective. More detail is provided for the Restructuring Communication for financial institutions as all other crisis instruments were already presented comprehensively in the special Scoreboard edition on the financial and economic crisis in spring 2009.[80]

The first signs of the financial crisis arriving in the EU were seen in early autumn 2008. Some banks, e.g. Northern Rock[81], Sachsen LB[82], IKB[83], required state intervention to stabilise their business. State aid was granted under the existing rescue and restructuring rules.[84]

The Banking Communication

With the worldwide collapse of interbank lending markets in September 2008, mainly caused by the overall loss of confidence following the bankruptcy of *Lehman Brothers*, the main priority for state intervention was to secure and re-stabilise the financial system. The Commission in its Banking Communication of October 2008 (hereinafter "the Banking Communication")[85] laid down the basic rules and conditions under which financial institutions in difficulty could receive State aid in the form of (i) guarantees to cover their liabilities and (ii) recapitalisation measures. The framework furthermore provided for measures in case of controlled winding-up of operations.

The Recapitalisation Communication

Since credit lending conditions deteriorated further in autumn 2008 and threatened to affect the real economy, many Member States considered supporting financial institutions with

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[77] The High Level Group on Financial Supervision in the EU, chaired by Jacques de Larosière, Report, Brussels 25 February 2009.

[78] On 27 May 2009 the Commission adopted a Communication on the European financial supervision, COM (2009) 252 final, describing its plans for putting into effect the recommendations of the de Larosière report. This Communication will be followed by legislative proposals in the autumn.

[79] See point II of the Presidency's Conclusions of the Brussels European Council 18/19 June 2009.

[80] See Spring 2009 Scoreboard, pages 11-13. (http://ec.europa.eu/competition/state_aid/studies_reports/archive/scoreboard_arch.html).

[81] NN 70/2008 *Northern Rock*

[82] C 9/2008 *Restructuring aid to Sachsen LB*

[83] C 10/2008 *Restructuring aid to IKB*

[84] See autumn 2008 Scoreboard, chapter 5, p. 51 (http://ec.europa.eu/competition/state_aid/studies_reports/archive/scoreboard_arch.html).

[85] Commission Communication: The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis, adopted on 13 October 2008; OJ C 270, 25.10.2008, p. 8–14.

capital injections. The overall aim was to ensure that financial institutions continue lending to the real economy. In its Recapitalisation Communication of December 2008 (hereinafter "the Recapitalisation Communication"),[86] the Commission provided detailed guidance on recapitalisation measures, building on the criteria already set out in the Banking Communication. The Communication aims to ensure that such measures shall be designed in a way to take the individual situation of the financial institution concerned fully into account.

The Temporary Framework for the real economy

In parallel with the recapitalisation measures directly addressing financial institutions, the Commission by introducing the Temporary Framework for State aid measures[87] (hereinafter "the Temporary Framework") saw the need to counteract the increasing difficulty of the real economy to obtain credit and other types of financial support. Member States were allowed to grant aid under existing instruments for all sectors of the economy through higher limits on grants, credit guarantees, loans and risk capital. The rules established by the Commission on the design of the measures have aimed to support access to finance thereby maintaining levels of investment.

The Impaired Assets Communication

While temporary rescue measures have proven to be an important tool in coping with the crisis, they are not viable in the long term/sufficient to support long term viability. Deep structural reforms of some individual banks are unavoidable and State aid cannot be used to delay the process. Cleaning up impaired assets is an additional measure that many banks will need to undertake, often in combination with restructuring measures. The Commission Communication on the Treatment of impaired assets in the Community banking sector (hereinafter "the Impaired Assets Communication"),[88] adopted in February 2009, provides guidance for state interventions in the context of efforts of financial institutions to clean their balance sheets of 'toxic assets'.

The Restructuring Communication for financial institutions

Finally, the Commission adopted the Restructuring Communication on 23 July 2009[89] (hereinafter "the Restructuring Communication"). This Communication complements the three previously issued communications on State aid to banks: the Banking Communication, the Recapitalisation Communication and the Impaired Assets Communication, and outlines the criteria that the Commission will apply to restructuring aid for banks in the current period in order to ensure long-term viability of financial institutions in the EU.

Where a financial institution has received State aid, the Member State should submit a viability plan, or a more fundamental restructuring plan, in order to confirm or re-establish individual bank's long-term viability without reliance on State support. Criteria have already been established to delineate the conditions under which a bank may need to be subject to more substantial restructuring and when measures are needed to cater for distortions of competition resulting from the aid. Member States must provide a restructuring plan where it has recapitalised a distressed bank or when a bank, in connection with the crisis, has received

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[86] Commission Communication: Recapitalisation of financial institutions in the current financial crisis, adopted on 5.12.2008; OJ C 10, 15.1.2009, p. 2-10.

[87] Commission Communication: Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, adopted on 17 December 2008; OJ C 16, 22.1.2009, p.1; consolidated version OJ C83 of 07.04.2009 .

[88] C 72, 26.03.2009, pages 1-22

[89] "The return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules"; OJ C 195, 19.8.2009, p.9

aid (except for participation in a guarantee scheme) exceeding 2% of the bank's total risk-weighted assets. For banks that are not distressed, i.e. fundamentally sound and have received a limited amount of aid, no restructuring plan would be required. However, Member States would have to submit a viability review enabling the Commission to assess viability of these banks and the Communication explains what type of information the Commission would expect to receive in these cases.

With the Restructuring Communication the Commission has explained its approach to assessing aid for the restructuring of banks in the current crisis.

The Restructuring Communication of 14 August 2009[90]

The Restructuring Communication is based on the same basic principles set out in the Community Guidelines on State aid for rescuing and restructuring firms in difficulty[91]:

- Restructuring aid should lead to the restoration of viability of the undertaking in the longer term without State aid;
    - Restructuring plan shall provide information on the business model of the beneficiary
    - Stress test of the bank's business
    - Aid shall be granted for the minimum period and, in any event, for no longer than five years
    - Viability could also be achieved through sale of the bank
- Adequate sharing of the restructuring costs;
    - Limitation on the restructuring costs and use of own resources in the first place
    - Burden-sharing may also be required at a later stage
- Measures must be taken to minimise distortions of competition;
    - Taylor-made measures to ensure effective and proportionate aid with a view to limiting distortions of competition
    - Avoiding the use of State aid to fund anti-competitive behaviour
- Monitoring of the restructuring
    - Detailed reports on the progress of restructuring, first report after six months
- Commission applies the Communication under which Member States notify restructuring aid until 31 December 2010

The new guidelines explain how the Commission will apply these principles in light of the nature and the global scale of the current systemic crisis.

In order to devise sustainable strategies for the restoration of viability, banks will be required to stress test their business and to include a thorough *diagnosis* of the bank's problems. Special attention will be given to the design of a restructuring plan, and in particular to ensuring a sufficiently flexible and realistic timing of the necessary implementation steps.

Costs associated with the restructuring must be borne not only by the State but also by capital holders. Nonetheless, thresholds concerning burden sharing are not fixed *ex ante*. Where significant burden sharing is not immediately possible due to market circumstances at the time of the rescue, this should be addressed at a later stage.

[90] Commission Communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules OJ C 195/2009 of 19/8/2009.

[91] Communication from the Commission -Community guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 244/2004 of 1/10/2004.

Measures to limit distortion of competition by a rescued bank in the same Member State or in other Member States should be designed in a way that limits any competitive disadvantage to other banks while taking into account the systemic nature of the current crisis.

The "one time last time" rule for banks in crisis would not necessarily apply if such non-application is justified.

The Commission's intervention in crisis cases

Regarding the above-mentioned Communications, the Commission has been and will continue playing a key role in coordinating Member States' action with a view to maintaining a level playing field, preserving the integrity of the common market and fighting harmful protectionism. The Commission will continue to monitor closely the situation in the market and review Member States' support measures in order to ensure that they are designed in a way to limit as much as possible competition distortions and to maintain the functioning of the single market. In addition, the Commission has particularly emphasised that support measures must be designed considering the medium-to-long term perspective, in particular in the effort of swiftly returning to a competitive environment. Finally, the Commission will support restructuring processes in the context of State aid monitoring.

For example, the Irish announcement to cover only six Irish banks by a state guarantee scheme presented a serious risk of a large outflow of capital from non-eligible competitors operating in Ireland. Upon the Commission's insistence the Irish Government confirmed within days that the guarantee scheme would be available to all banks with subsidiaries or branches in Ireland with a significant presence in the domestic economy.

Similarly, when France announced its planned aid to the automotive sector which originally raised concerns concerning State aid and single market rules, the Commission stated without ambiguity that any aid granted under additional non commercial conditions concerning the location of investments (and/ or the geographical distribution of potential restructuring measures) could not be regarded as compatible. After intensive discussion between the Commission and the French authorities, France gave undertakings to avoid any conditions contrary to the single market rules.

In Bradford&Bingley[92], the Commission ensured that the beneficiaries of the aid will be the retail depositors of the bank. The State intervention allowed continuing the retail business of the bank through selling of the retail branch whereas the distressed part of the bank was allowed to discontinue.

It is important that State aid rules are properly applied in order to ensure a level playing field between Member States and between banks which receive aid and those which do not and in order to restructure banks in a way to enable them to resume their function of lending to the real economy. Besides ensuring an adequate burden sharing and minimising distortion of competition, when assessing restructuring plans the Commission aims to ensure that proposed divestments do not negatively affect the achieved integration of the financial markets. For example, KBC has received a first recapitalisation amounting to € 3.5 billion, a second recapitalisation amounting to another € 3.5 billion and an asset relief measure, which covers the CDO portfolio of € 20 billion. The latter measures were subject to the submission of an in-depth restructuring plan for KBC Group. The restructuring concept ensured KBC's return to viability even in difficult economic conditions and presented a convincing exit strategy of the state capital. The Commission found that KBC's restructuring plan also adequately addressed distortion of competition issues. The Restructuring Communication requires the

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[92] NN 41/2008 *Rescue aid to Bradford & Bingley*

implementation of measures which would facilitate effective competition in the core markets of the beneficiary. In this context, the Commission assessed positively that KBC committed to divest two subsidiaries acting in Belgium. In the case of Central and Eastern European countries, which represent a significant part of KBC's core business, the Commission noted positively that the bank intended to limit its expansion in certain countries, whilst on the whole maintaining its main activities in the region. The Commission found that it could be potentially damaging to the financial stability in the CEE countries and to the lending to the real economy, as well as to the Internal Market, should KBC be forced to withdraw from the region completely.

ING has received € 10 billion of capital injection and an impaired asset measure for a portfolio of USD 39 billion. In addition ING has received about € 12 billion of liability guarantees and foresees another € 10 billion of liability guarantees under its restructuring plan. The presented restructuring plan foresees a pro forma balance sheet reduction of about 45% by deleveraging and divesting a number of businesses, such as the whole of ING insurance. In addition, the plan foresees that ING will carve out a viable entity in the Dutch market which will be sold to an investor with the aim of creating a viable additional competitor. The Commission has assessed the plan and found that the proposed measures foreseen in the plan, including also a temporary acquisition ban as regards other businesses, raise no objections as the plan demonstrates that ING is able to return to long term viability, includes a significant contribution to the restructuring effort and addresses competition distortions to a sufficient extent.

The effectiveness of bank support schemes as well as the overall situation regarding the stability and functioning of financial markets has recently been assessed by the Council[93], concluding that public measures taken since the third quarter of 2008 have contributed to the stabilisation of the extremely tense financial market conditions. However, the operating environment for banks is likely to remain challenging, in particular in respect of credit losses linked to their loan portfolios.

[93] Annex to the Council (Ecofin) Report to the 18-19 June European Council on the effectiveness of financial support schemes: Report of the Task Force on reviewing the effectiveness of financial support measures.

3.3. Measures approved, take-up and review

Figure 19[94]: Overview on the type of measures, decided in 2008 and 2009, which Member States made use in crisis cases (approved amounts in Euro billion)

Member State	Guarantee schemes	Recapitalisation schemes	Liquidity interventions	Asset relief interventions	Individual cases
Belgium					288.3
Denmark	580	13.5			6.3
Germany	400	80	1.5	X	107.6
Ireland	376[95]				12.5
Greece	15	5	8		
Spain	200		50		
France	265	21.5			59.5
Italy	n. a.	20			
Cyprus	3				
Latvia	4.24				3.2
Luxembourg					7.3
Hungary	4.99	1.0			
Netherlands	200				40.5
Austria	70.6	13.8	4.4	1.2	0.1
Poland	10		X		
Portugal	20	4			0.5
Slovenia	12		X		
Finland	50	4			n. a.
Sweden	150	4.8			0.5
United Kingdom	376.75	63	11.3		61.2
Total[96] EU-27	**2737.6**	**230.6**	**75.2**	**1.2**	**587.4**

94 Source: DG Competition.
95 For approved amount of Irish guarantees: data source is Council Report of 9.06.2009
96 Certain totals include estimates and approximations.

Maximum volume of approved crisis measures

The total maximum volume of crisis measures so far approved by the Commission, schemes and *ad hoc* measures taken together, amounted to around € 3,632 billion. This corresponds to around 29% of the EU GDP[97]. This figure represents the overall maximum amount of guarantee umbrellas, rescue and restructuring packages and other measures set up by Member States. This figure should, however, not be mistaken as being the State aid element of the measures i.e. the amount which was actually handed-over to beneficiaries. The aid expenditure of these measures can only be assessed *ex post* in future Scoreboard editions depending on the actual implementation of the measures. For 2008, a first estimate is made in section 3.4.

In regard of guarantee schemes authorised by the Commission, the approximate maximum volume amounted to € 2,738 billion, which corresponds to around 22% of the EU GDP. Recapitalisation schemes amounted to approximately € 231 billion[98] which corresponds to around 2% of the EU GDP. General liquidity measures and asset relief interventions amounted together to around € 76 billion and represent around 0.6% of the EU GDP. Figure 19 above presents a general overview of aid measures by Member State[99].

In addition to the schemes approved under the Banking and Recapitalisation Communications, the Commission took decisions in several *ad hoc* interventions in favour of individual financial institutions amounting to a total volume of around € 587 billion[100].

Time line of the approved crisis measures

Most of the general schemes were approved by the Commission during the first months following the publication of the Banking and Recapitalisation Communications[101] i.e. October 2008 to March 2009. The total volume of these measures amounted to around € 3,457 billion.

Since April 2009, Member States have only adopted eight new general schemes, which amounted to roughly € 86 billion: six schemes based on the Banking Communication[102] as well as one scheme based on the Impaired Assets Communication[103] and one specific scheme[104]. When looking at all additional measures, the overall maximum volume amounts to € 175 billion.

Take-up rate

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97 EU-27 GDP of 2008

98 It includes recapitalisation schemes and schemes combining recapitalisation with other measures. Discrepancies with the amounts published in the spring 2009 Scoreboard are due to the different classification of the schemes. The present edition considers liquidity interventions as a separate category.

99 Aid measures have been classified following the same criteria as in Ecofin's Report made for the 18-19 June European Council on the effectiveness of financial support schemes: Report of the Task Force on reviewing the effectiveness of financial support measures. It explains certain discrepancies with the classification published in the spring 2009 Scoreboard.

100 Data with respect to Sachsen LB and Northern Rock, both decided in 2007, were not or only partially (as to Northern Rock) included.

101 The spring 2009 Scoreboard was focused on State aid interventions in the current financial and economic crisis and an overview on measures reviewed by the Commission until 31 March 2009.

102 The *UK's Asset-Backed Securities Guarantee Scheme* (N232/2009), the *Portuguese recapitalization scheme* (N556/2008), the *Finish recapitalisation scheme* (N329/2009), the *German refinancing scheme for export loans* (N456/2009) and the *Polish bank guarantee scheme* (N208/2009) and the *Cypriot scheme to support credit institutions* (N511/2009).

103 The *German asset relief scheme* (N314/2009).

104 The *Hungarian Mortgage Support Scheme* (N358/2009) approved under Article 87(2)(a), social character.

The take-up rate by banks is defined as the actual use of the measure relative to the notified approved amounts. The take-up rate can only be a preliminary indicator for the functioning of the schemes. A high take-up rate in a given Member State is not necessarily an indication of whether the measure is adequate or not. Low guarantee take-up rates in certain Member States are partly due to the fact that the amounts announced under the schemes are higher than actual need. Moreover, in some Member States banks were able to access the funds easily on the market, often at a lower price.

The maximum total aid volume as indicated above has not been actually implemented. According to the Commission's report of August 2008[105], the take-up rate on the crisis measures amounts to roughly 33% with respect to guarantees and for recapitalisation it is roughly 55%.

Limitation on application of the crisis measures

The Commission also introduced time limitations into the various frameworks in order to ensure that crisis measures are in force only as long as they are needed to support the financial sector and with respect to the Temporary Framework the real economy[106]. As for the Banking Communication, it foresees that Member States review guarantee schemes every six months. This allows the Commission to verify whether a continuation of a particular scheme is still justified. The same rule applies with respect to the prolongation of recapitalisation measures. In other words, crisis measures are subjected to close monitoring to avoid their application beyond the time necessary.

Six months after the adoption of the early crisis measures, Member States have carried out a review of the approved guarantee and recapitalisation schemes and most of them asked the Commission to extend the schemes validity for an additional six month period. So far, eighteen schemes from fourteen Member States (Denmark, Germany, Greece, Spain, France, Italy, Latvia, Hungary, the Netherlands, Austria, Slovenia, Finland, Sweden and the United Kingdom) have been prolonged.[107]

Review of the crisis measures

In the context of the renewal process, the Directorate-General for Competition has also issued a review of the aid schemes introduced by Member States and approved by the Commission with respect to their objectives of ensuring financial stability and restoring lending to the real economy while safeguarding the internal market and minimising distortion of competition[108].

The assessment emphasises the important role of rescue measures in avoiding a financial market meltdown and restoring market confidence. However, there are still concerns about the quality of assets on the balance sheets of financial institutions. Equally, rescue measures have contributed to support the flow of credit to the real economy although financial market tensions continue to have a negative impact on the lending capacity of banks. As to the impact on the functioning of the internal market, the review concludes that the Commission

[105] For more detail, see DG Competition's review of guarantee and recapitalisation schemes in the financial sector in the current crisis, 7 August 2009 http://ec.europa.eu/competition/state_aid/legislation/review_of_schemes_en.pdf

[106] The Temporary Framework is valid until December 2010, so as the provisions outlined in the Communication on restructuring measures.

[107] For more detail, see http://ec.europa.eu/competition/state_aid/overview/tackling_economic_crisis.html and http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/09/499&format=HTML&aged=0&language=EN&guiLanguage=en

[108] DG Competition's review of guarantee and recapitalisation schemes in the financial sector in the current crisis; 7 August 2009

framework helped to prevent major threats to the internal market notably in the early phase of the crisis and provided a co-ordination tool in order to ensure maximum of coherence across national interventions.

As a result and in order to ensure consistency and effectiveness, the Commission has consolidated the requirements common to all schemes and identified new additional elements which are been incorporated in the prolonged and new schemes[109].

3.4. State aid[110] granted in 2008

[109] See paragraph 33 of the DG Competition's review of guarantee and recapitalisation schemes in the financial sector in the current crisis. "…The Commission has identified in its decisions five additional elements which should be present in prolonged and new schemes in order to ensure consistency and effectiveness; The first three elements (limitation of the amount of recapitalisation, reporting obligation and the lending to the real economy) have already been introduced into the schemes in the context of the latest approvals and the notification of the prolongation of recapitalisation schemes. The last two (limitation of coupon payments on hybrid capital and individual notification for the second recapitalisation) are relatively new elements that may call for adjustments already in the ongoing round of prolongations…"

[110] Data on aid volumes refer to the aid element and not to the nominal amount. While aid element and nominal value normally coincide for grants, the actual aid element may significantly differ i.e. be lower than the nominal amount for other aid instruments like guarantees or subsidized loans.

Figure 20: State aid related to crisis measures (2008; figures in billion €) – Source: DG Competition

	Total volume approved in 2008	***Total volume approved 1.1. - 31.03.2009***	**Total volume approved from 2008 to 31.3.2009**	***Total volume approved 1.4. - 11.11.2009***	**Total volume approved from 2008 to 11.11.2009**	**Grants**	**Equity participation**		**Soft loans**		**Guarantees**		**Total crisis aid reported for 2008**		**Total crisis aid granted as % of GDP**	**Share of banking sector as % of total economy**
							Nominal value	Aid granted	Nominal value	Aid granted	Nominal value	Aid granted	Nominal value	Aid granted	%	%
Belgium	255.15	*7.80*	262.95	*25.36*	288.31		16.40	11.70			30.40	6.08	46.80	17.78	5.17	5.4
Denmark	585.44	*13.50*	598.94	*0.82*	599.75		0.50	0.50	2.35	2.35	0.00	0.00	2.85	2.85	1.22	5.4
Germany	545.23	*20.00*	565.23	*23.90*	589.13	8.86	11.20	11.20	23.78	3.17	137.10	27.90	180.94	51.14	2.05	3.6
Ireland	376.00	*5.00*	381.00	*7.50*	388.50						355.76	35.58	355.76	35.58	19.16	10.9
Greece	28.00		28.00		28.00											4.0
Spain	250.00		250.00		250.00		-	-			99.13	0.93	99.13	0.93	0.09	5.1
France	341.25	*4.70*	345.95		345.95		11.50	11.50			31.40	4.98	42.90	16.48	0.85	4.7
Italy	20.00		20.00		20.00											4.8
Cyprus				*3.00*	3.00											7.8
Latvia	7.44		7.44		7.44				0.96	0.96			0.96	0.96	4.17	6.2
Luxembourg	7.00		7.00	*0.26*	7.26		2.50	2.50			1.50	0.30	4.00	2.80	7.64	29.1
Hungary		*5.99*	5.99	*0.04*	6.03											4.0
Netherlands	217.75	*22.79*	240.54		240.54		10.75	10.75	3.00	3.00	3.34	0.33	17.09	14.08	2.37	5.6
Austria	90.00		90.00	*0.10*	90.10											5.6
Poland				*10.00*	10.00											5.1
Portugal	20.00	*0.45*	20.45	*4.00*	24.45						4.30	0.43	4.30	0.43	0.26	8.2
Slovenia	12.00		12.00		12.00											4.3
Finland	50.00		50.00	*4.00*	54.00						0.12	0.00	0.12	0.00		2.9
Sweden	150.52	*4.80*	155.32		155.32		0.25	0.25	0.00	0.00	1.14	0.11	1.39	0.36	0.11	3.6
United Kingdom	405.15	*11.25*	416.40	*95.77*	512.17	5.02	46.47	46.47	2.86	0.43	146.93	16.83	201.28	68.75	3.79	7.6
Total EU-27	**3360.92**	***96.28***	**3457.20**	***174.74***	**3631.94**	**13.89**	**99.57**	**94.87**	**32.95**	**9.92**	**811.12**	**93.48**	**957.52**	**212.15**	**1.70**	**-**

This section analyses measures implemented by Member States in the current crisis during 2008. It covers both individual early cases[111] during the first phase of the crisis in which the Commission applied Article 87 (3) (c) of the EC Treaty and the *Community Guidelines on State aid for rescuing and restructuring firms in difficulty* ('R&R Guidelines')[112] and measures approved under the Banking and Recapitalisation Communications adopted in 2008.

Measures related to the real economic crisis approved under the Temporary Framework are not covered since those measures only started implementation in 2009 and will be reported in the Scoreboard of next autumn. In sectoral terms, this means that all State aid measures referred in this section are related to the financial services sector.

As set out above, the maximum volume of Commission approved measures set up by Member States in 2008 to stabilise the financial markets amounted to € 3361 billion. According to the annual reports submitted by Member States, Member States implemented measures amounting to a nominal value of € 958 billion. This corresponds to a take-up rate of 29%. According to first estimates, the aid element of the support measures put in place in 2008 – as proxy for the benefits passed by the State to the benefitting financial institutions – amounted to € 212.15 billion[113], which represents 1.7% of EU-27 GDP. The Commission approved in 2008 crisis measures notified by seventeen Member States. Only thirteen Member States reported that these measures were already implemented in 2008.

While the Commission approved in 2008 measures in seventeen Member States (see figure 20) in 2008, only thirteen countries aid related to the crisis actually granted in that year. In the case of Greece, and Austria, the Commission made its decision regarding a number of general schemes at the end of 2008 but implementation at national level took place only during the first months of 2009. In other countries such as Italy, guarantee schemes have been implemented, but no bank had during 2008 availed itself of such instruments. This partially explains why certain Member States did not report any crisis-related aid volume for 2008 in relation to crisis cases.

In absolute terms, the United Kingdom granted the most aid (€ 69 billion) followed by Germany (€ 51 billion), Belgium (€ 18 billion), the Netherlands (€ 18 billion) and France (€ 16 billion). The amounts comprise aid granted under general schemes and aid granted with *ad-hoc* measures outside schemes.

In relative terms, State aid crisis measures amounted to around 1.7% of EU GDP in 2008. This average hides significant disparities between Member States: for Ireland, it represents around 19.2% of GDP, followed by Luxembourg 7.6%, Belgium with 5.2%, and Latvia 4.2% respectively.

On average, aid earmarked for crisis measures, accounted for around 80% of total aid for industry and services in 2008. In Luxembourg, Latvia, the United Kingdom, Belgium and Ireland, aid for crisis measures represented more than 90% of the total aid for industry and services.

Concerning the aid instruments used by Member States in the context of the financial crisis, aid granted in the form of state equity participation was the most used and represented around

[111] See Section 1 of the spring 2009 Scoreboard.
[112] OJ C 244, 1.10.2004, p. 2.
[113] The figure reported for Spain includes an estimated aid element of € 934 million attributable to the Fondo para la Adquisición de Activos Financieros (FAAF). The FAAF, pursuant to a competitive reverse auction, buys (outright and/or repo) high quality assets from eligible credit institutions in order to provide them with liquidity.

45% of the total crisis aid. This instrument corresponds to recapitalisation measures implemented by Member States.

The use of guarantees made up 44% of crisis aid. This figure is relatively small compared to the total guarantee volumes approved by the Commission. This is due, in part to the fact that the aid element is generally much lower than the nominal amounts guaranteed and to the fact that amounts announced under the schemes were higher than actual need. Moreover, concerns relating to the strict temporal scope of the liabilities covered by guarantees and the pricing of guarantees raised by some Member States might have contributed to the reduced use of this instrument[114].

Finally, grants and soft loans represented together around 11% of crisis related aid.

In relative terms, aid granted in 2008 through *ad-hoc* measures was considerably higher than aid granted through general schemes. In countries such as Belgium and Luxembourg where no general scheme has been adopted, total State aid related to the crisis was awarded to *ad-hoc* cases (*Dexia, Fortis, KBC and Ethias*). In the Netherlands, Denmark, Latvia, Sweden and Finland, despite the approval of general guarantee schemes, most of the aid (98% of aid granted in the Netherlands, 100% in Denmark, Latvia, Luxembourg, Belgium and Finland and 69% in Sweden) was also granted to individual financial institutions out of schemes (*Dexia, Fortis, Aegon and SNS Reaal/New* in the Netherlands, *Roskilde* in Denmark, *Parex* in Latvia and *Carnegie* in Sweden*)*. In another group of countries including Ireland, Spain and Portugal, aid related to the crisis was granted exclusively through general schemes. Finally, in the United Kingdom, Germany and France, although *ad-hoc* measures were significant (*Bradford & Bingley, Dexia, Bayern, IKB, Sachsen, Hypo Real Estate)* most of the aid was granted through general schemes.

3.5. Measures adopted under the Temporary Framework

Since the adoption of the Temporary Framework[115] in December 2008, Member States have made much use of the new facilities offered to support access to finance in the current financial and economic crisis. As these measures have been implemented by Member States during 2009, the information on aid granted in application of these schemes will be reported and analysed in coming editions of the State aid Scoreboard. This section provides an overview[116] of State aid measures undertaken by EU Member States in the context of the current crisis and reviewed by the Commission until 30 September 2009.

Before the end of the year 2009, based on the information provided by the Member States, the Commission will have to evaluate the functioning of the Temporary framework and decide whether adjustments would be needed. The Commission prepared a questionnaire for the purpose of providing guidance as to what issues should be addressed in the report from Member States. Interested parties were also offered the possibility of providing comments until 15 September 2009.

It is necessary to stress that measures taken under the Temporary Framework are not intended to remedy pre-existing structural problems and therefore do not apply to companies in difficulties before the crisis. In the present circumstances, it is also essential not to delay the

[114] See Sections 3.2 and 3.3 of the DG Competition's review of guarantee and recapitalisation schemes in the financial sector in the current crisis.

[115] OJ C 16, 22.1.2009 p. 1-9. The consolidated version, integrating the amendments adopted by the Commission on 25 February 2009, is published in OJ C 83, 7.4.2009, p. 1-15.

[116] See also chapter 5 "Real economy and financial crisis: The 'Temporary Framework'" of the spring 2009 Scoreboard .

necessary restructuring of the economy, absence of which could exacerbate the recession and its long term effects. At the same time, it is important to continue to target aid measures on investments which contribute to a sustainable economy in line with the post-Lisbon objectives.

So far, the Commission has authorized 61 schemes under the Temporary Framework:

- 21 schemes for aid up to € 500,000 per company proposed by Czech Republic, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherland, Austria, Poland, Portugal, Slovenia, Slovak, Finland and the United Kingdom;
- 16 guarantee measures in Belgium, Czech Republic, Germany, Greece, France, Italy, Latvia, Luxembourg, Hungary, Romania, Slovenia, Finland, Sweden and the United Kingdom;
- 7 schemes for subsidised loan interests in Germany, Greece, France, Italy, Hungary and France;
- 5 schemes offering reduced interest loans to businesses investing in the production of green products in Germany, Spain, France, Italy and the United Kingdom;
- 5 risk-capital schemes in Germany, France, Italy and Austria;
- 7 export-credit schemes in Belgium, Denmark, Germany, France, Luxembourg, Netherlands and Finland.

Of the 27 Member States, so far only Bulgaria and Cyprus have not used any of the possibilities offered under the Temporary Framework while Germany, at the other extreme, is the Member State that has approved the highest number of measures. By the end of September 2009, Germany had adopted 7 schemes covering all the instruments (two different schemes have been adopted for reduced-interest rate loans as well as two amendments to the scheme for aid up to € 500,000 per company). The Commission has also authorised several measures for France, Italy and the United Kingdom. Another group of countries which includes Belgium, Denmark, Estonia, Ireland, Lithuania, Malta, Netherland, Poland, Portugal, Romania, Slovakia and Sweden have put in place only one of the different possibilities offered in the Temporary Framework (8 of the 12 measures were schemes for aid up to € 500,000 per company proposed). For more detail, see table 3-1 in Annex.

3.6. Special reference to the car sector

Concerning State aid to the car industry, the Commission has continued to enforce a strict policy in order to ensure that any State aid granted to this industry complies fully with State aid and internal market rules. In this context, the Temporary Framework for the real economy constitutes an important State aid instrument also for the car sector. Under this framework only companies that were not in difficulty on 1 July 2008 can benefit from State support. Companies whose difficulties had started before the crisis can only receive aid on the basis of the Rescue and Restructuring Guidelines and subject to a restructuring plan that shows the company's return to viability. By way of example, the Commission approved guarantees to be issued by the Swedish state as collateral for a loan from the European Investment Bank to finance green projects by *Volvo* cars, after concluding that this company was not in difficulty on 1 July 2008 (N80/2009). The Commission, following a notification by the United Kingdom, also approved rescue aid to *LDV Group.* Since that company had been in difficulties for some time, the measure was based on the R&R Guidelines (NN 41/2009).

In the context of a number of cases, including aid granted by France to its car industry earlier in the year, the Commission has clearly indicated[117] that it will not accept that State aid granted under the Temporary Framework is subject - *de jure* or *de facto* – to protectionist conditions, such as conditions concerning the geographic location of investments. The Commission carefully examines every case that raises this type of additional non commercial concerns, in order to ensure that the aid is not biased by non-commercial considerations and can contribute to the future viability of this industry.

The schemes offering reduced interest loans to businesses investing in the production of green products have been used by Member States so far largely in favour of the automotive sectors (manufacturers and suppliers) although this possibility is open to all sectors.

3.7. Special reference to the air transport sector

The current crisis seriously affected the air transport sector, which overall is registering substantial losses: several air carriers have gone bankrupt and others are facing severe financial trouble.

Following its decision to approve rescue aid in the form of a State loan guarantee in favour of *Austrian Airlines* in January 2009 (NN72/2008), in August 2009 the Commission decided to close the formal investigation procedure into the privatisation and restructuring of *Austrian Airlines* concluding that the restructuring following its sale to *Lufthansa* is compatible with Community law (C6/2009). The Commission has concluded that the price to be paid by *Lufthansa* involves State aid but that such aid is compatible in accordance with the Community framework for rescue and restructuring of firms in difficulty.

As regards land transport, the Commission also approved in August a measure notified by France (N362/2009) in the context of the national economic recovery plan. This measure, which was found compatible with the common market under Article 86(2) EC Treaty (service of general economic interest), foresees an extension of certain motorway concessions for a duration of one year, as a counterpart of the funding by the licensors of works aimed at improving the safety and reducing the environmental impact of their motorway network.

4. SIMPLIFICATION OF THE STATE AID RULES

4.1. A new architecture for State aid control

The SAAP adopted in June 2005, announced the Commission's intention to improve a number of aspects of State aid policy, and thereby transform State aid into a more effective policy tool for growth and jobs. The plan launched a review of almost all the State aid rules and procedures.

Four guiding principles underpinned the reform programme:

- less and better targeted State aid;
- a refined economic approach;
- more effective procedures, better enforcement, higher predictability and enhanced transparency;
- a shared responsibility between the Commission and Member States.

[117] See Commission statements IP/09/318, on Opel: MEMO/09/460, MEMO/09/411, MEMO/09/389 and about the French car aid: MEMO/09/90.

In order to make procedures and decision-making faster and more efficient, the Commission introduced substantial changes to the architecture of its State aid control. This was achieved by subjecting the various aid measures to a level of control which reflects their respective potential effects on competition and trade. The new architecture is based on a "3–stream system": block exemption, standard assessment and detailed assessment.

Following the Action Plan's proposals, implementation of the SAAP has introduced besides the block exemption mechanism the individual assessment with two basic levels of scrutiny of State aid notified to the Commission. In principle, State aid measures notified to the Commission are scrutinised through applying a standard assessment. It allows making a judgement on whether aid measures can be considered to be compatible with the Treaty. Only in instances where doubts cannot be removed is a detailed assessment carried out. Through adopting this two-way approach, the Commission focuses its analysis on the most distortive aid measures, while also ensuring effective State aid control through the standard assessment.

By applying a level of assessment proportionate to the impact of the aid measure, the new State aid architecture assures a strict and practical form of State aid control in an EU of 27, where it is impossible to assess every notification of national aid measures in full detail. Furthermore, the new architecture facilitates and considerably accelerates the implementation of compatible aid and, thus, provides an incentive for Member States to introduce better targeted aid measures that contribute to growth and employment, notably through R&D&I aid and risk capital.

Regarding the assessment of cases, the majority of aid measures were scrutinised under a standard assessment rather than a detailed economic assessment. A detailed assessment was carried out in 14% of R&D&I cases[118] and in 20% of risk capital cases between 2007 until mid 2009[119], most noticeably in areas of particular relevance for tackling major societal challenges. That was for the example the case of a €68 million aid for the development of fuel cell power modules and decentralised hydrogen production systems in an integrated hydrogen energy chain (programme "H_2E"[120]), and a €90 million aid for the development of personalised medicine for infectious diseases, cancer and genetic diseases through a combination of in vitro diagnosis, gene-based therapeutic vaccines and immunotherapy products for some types of cancer and orphan diseases (programme "ADNA"[121]). In these cases, roughly two thirds concerned aid granted through schemes or the individual application of aid within a scheme as well as some ad hoc cases. In regard of environmental cases, they were all dealt with under the standard assessment.

Simplified procedure

An additional novelty was introduced in 2009 with the Notice on a Simplified Procedure[122], which is part of the Commission's simplification package that entered into force on 1 September 2009[123]. The Commission aims to ensure that clearly compatible aid is approved

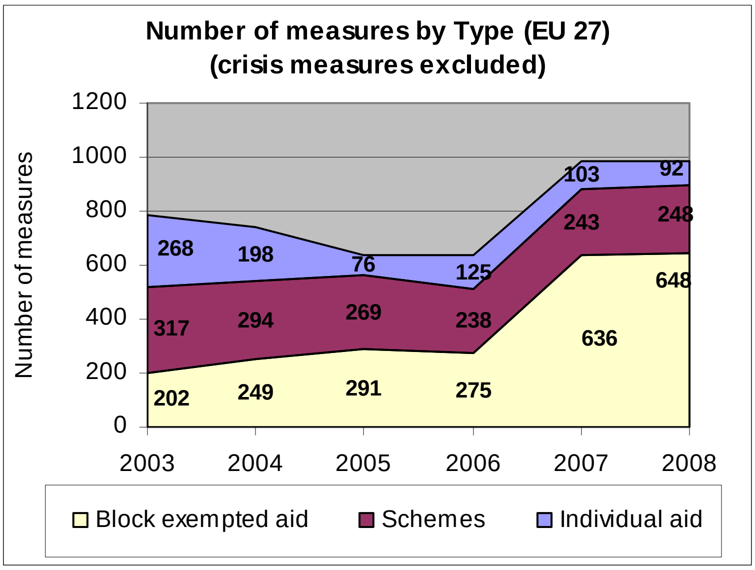
[118] 25 out of 177 R&D&I cases
[119] 10 out of 49 risk capital cases
[120] N 1/2008
[121] N 709/2007
[122] Commission Notice on a Simplified procedure for the treatment of certain types of State aid; OJ C136, 16.06.2009, p. 3-12
[123] On the same day, the Commission adopted a Best Practices Code on the conduct of State aid proceedings (OJ C 136, 16.06.2009, p. 13-20). Its objective is to improve the handling of State aid cases by encouraging the use of pre-notification contacts and streamlining the exchange of information between the Commission and Member States. As a result, the quality of Member State notifications should be improved and the treatment of cases accelerated.

within an accelerated time period of one month, based on a complete notification from the Member State. In order to ensure more transparency and predictability of the procedure, the following features have also been introduced: in principle mandatory pre-notification and the publication of a summary of the notification on the website of the Commission.

4.2. Types of aid measures used by Member States

An increasing number of aid measures are exempted from ex ante Commission scrutiny, either by the *de minimis* regulation[124] or by the new GBER. The rationale behind this change is that such measures are unlikely to have a significant negative impact on competition at the Community level while contributing to objectives of common interest and may thus be granted without prior notification to the Commission provided they fulfil the criteria of the respective legal instruments. For State aid measures that remain subject to Commission scrutiny prior to their implementation, Member States can notify aid schemes. After a scheme has been approved, a Member State may generally grant individual awards of aid without further notice to the Commission. Only large individual applications of aid schemes exceeding certain thresholds and individual aid (also known as 'ad hoc' aid) awarded outside a scheme need to be notified individually. In this context, changes to the state aid architecture have been under way since the entry of force the various block exemption regulations. They have continued with a further increase in the share of block exempted aid measures observed in 2008.

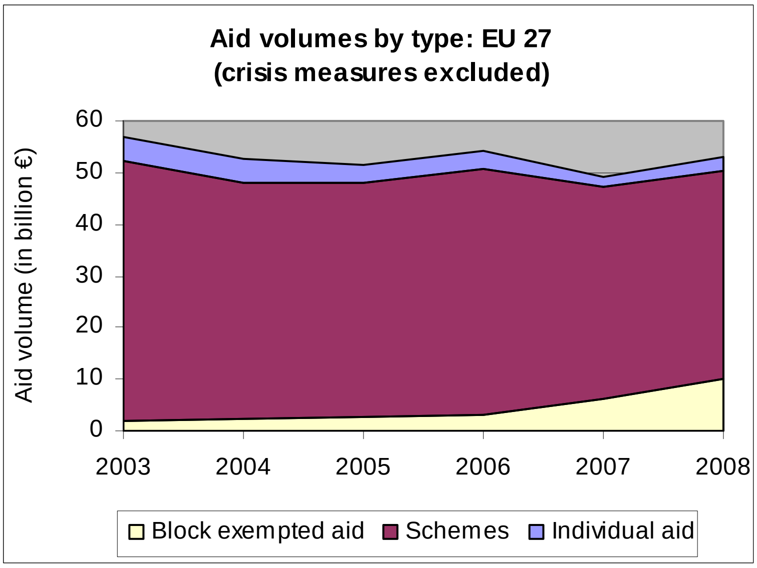
Figure 21[125]: Trend by type of aid measures (numbers); EU-27



[124]Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid, OJ L 379, 28.12.2006, p. 5

[125] Source: DG Competition. Data refer to industry and services only. Note: The "number of measures" is based on the number of decisions taken by the Commission in a given year whereas the number of block exempted aid corresponds to the measures reported by Member State. Due to differences in the nomenclature of aid measures, data for EU-12 are not included prior to accession. However, it has no significant impact on the graph. Note: Individual aid comprises *ad hoc* aid and notified individual application within a scheme. Block exempted aid comprises measures notified under the BERs and the GBER.

Figure 22[126]: Trend by type of aid measures (volume); EU-27



In order to obtain a true picture on the trend in terms of numbers and volume for the different types of measures (e.g. block exempted aid, schemes and individual applications and ad hoc aid) the distorting effect of the crisis measures will be put aside for the purpose of the analysis.

Numbers of aid measures

A sharp increase in the share of block exempted aid measures (66% compared with 40% in 2002) was observed in 2007 and this remained similarly high in 2008 (again, at 65% of measure). 2008 also saw a significant rise in the share of expenditure awarded under the block exemption regulations which stood at around 19% in 2008 (see below). Notified aid accounted for about 25% of all aid measures in 2008, of which the proportion of individual aid was rather lower i.e. accounting for approximately 9%.

Over long-term, the trend shows a steady increase in the use of block exempted aid by Member States. It steadily increased between 2003 and 2006 from 25% to 41%. In 2007, it sharply increased to 65%, mainly due to the entry into force of the new regional aid framework from 2007-2013 which triggered block exempted aid earmarked for regional investment aid. This level of block-exempted aid was roughly maintained in 2008.

This development is accompanied by a significant reduction of aid measures which were under individual scrutiny by the Commission. With respect to notified schemes, the rate which they represent of all aid measures declined from 40% in 2003 to 25% in 2008. An even sharper decrease was seen for individual aid measures, whether individual applications within a scheme or ad hoc measures, both of which dropped from 34% in 2003 to around 9% in 2008.

As the numbers clearly show, more aid measures are exempted from ex-ante Commission scrutiny, either by the *de minimis* Regulation or by block exemption. In this context, changes to the state aid architecture have already begun to show an impact.

Volume of aid measures

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[126] Source: DG Competition. Data refer to industry and services only. Note: Individual aid comprises *ad hoc* aid and notified individual application within a scheme. Block exempted aid comprises measures notified under the BERs and the GBER.

Block exempted aid represented almost one fifth of total aid volume to industry and services

On the basis of 2008 data, about 19% of the total aid volume to industry and services was awarded through block exemption, which corresponds in absolute terms to around € 10 billion. Aid granted through schemes which were under scrutiny, represent the bulk of measures in terms of volume, roughly 76% (around € 40 billion). Individual aid accounted for only 4.8% (around € 2.5 billion).

The situation seen in 2008 is the result of a positive evolution over the period under review. As to block exempted aid, its share of the aid volume to industry and services rose steadily from 6% in 2006 to 13% in 2007 and stood at 19% in 2008 (which in absolute terms corresponds to € 3 billion, € 6 billion and € 10 billion respectively). The main reasons for the increase were the introduction of block exemption for regional aid in 2007 and the new GBER in 2008. With respect to the latter, a high take up rate is mainly due to the replacement of previous BERs. With the exception of Malta, Sweden, Latvia, Portugal, Spain and the United Kingdom, most Member States granted more aid under block exemption than in previous years. In particular, Germany, Belgium, the Czech Republic and Poland granted substantially more aid under block exemption regulations.

As already seen with the BERs and block exempted regional aid in particular, Member States positively included block exemption in their national designs of aid measures. The newly GBER follows this development whereby it is now largely replacing aid measures awarded under the BERs. Aid objectives which have been newly introduced with the GBER represent a potential of future growth in terms of numbers and volume of block exempted aid.

During the same period, aid volumes granted under notified schemes and individual aid were on a downward path. With respect to notified schemes, the corresponding aid volume fell from 86% in 2003 to 76% in 2008. While ten Member States reduced aid volumes granted through schemes, the majority granted more aid through this type of aid measure.

Even more positive is the downward trend of aid volumes granted under individual aid (either the individual application of schemes or ad hoc aid which both are almost equal in terms of aid volumes involved), which stood at 10% in 2003 and came down to 4.8% in 2008. Expenditure on ad hoc aid is quite balanced among Member States. Since the increase of ad hoc aid is rather small in 2008 (around € 10 million), individual expenditure gave a rather dispersed picture.

This overall positive development, i.e. increasing numbers and volumes in block exempted aid combined with a downward trend on notified aid, allows the Commission to focus on examination of individual applications of a scheme and ad-hoc measures since both may potentially distort competition most and allow to focus on unlawful aid. However, they represent only a small fraction of State aid in the EU (4.8% in relative terms and € 2.5 billion in absolute terms). Due to the low numbers of notifications representing such aid, they are under effective State aid control since the Commission is freed from examination of "routine" State aid cases.

Numbers and volume of crisis measures

Crisis measures comprise eighteen aid schemes and twenty-three individual applications and ad hoc aid cases in 2008[127]. In regard of their aid volume granted, it amounted in 2008 to € 134.4 billion and € 77.7 billion for individual applications of schemes and ad hoc measures.

[127] Including those approved in 2009 but granted in 2008

As argued in chapter 1 and 2, the crisis measures represent aid addressing an exceptional situation due to the financial and banking crisis which begun in 2007 and continued in 2008. They represent aid schemes and largely ad hoc aid. See chapter 3 for more detail.

5. ENFORCEMENT THE STATE AID RULES

5.1. Unlawful aid

Article 88(3) of the EC Treaty obliges Member States to not only notify state aid measures to the Commission before their implementation but also to await the outcome of the Commission's investigation before implementing notified measures. When either of these obligations is not respected, the state aid measure is considered to be unlawful.

In the period 2000-2008, the Commission took 811 decisions on unlawful aid. In 22.8% of unlawful aid cases (187 cases) the Commission intervened by taking a negative decision on an incompatible aid measure. This negative decision normally requests the Member State concerned to recover the illegally awarded aid. In further 2% of unlawful aid cases (15 cases), the Commission took a conditional decision.

In addition, there are roughly 140 pending unlawful aid cases which are still under Commission scrutiny. These cases are usually taken up by the Commission in reaction to a complaint or *ex officio* (case started at the Commission's own initiative). The figures also include cases notified by a Member State, but for which the measure was fully or partially implemented by the Member State before the Commission's final decision (i.e. cases where the standstill clause was not respected).

The need for the Commission to intervene with a negative or conditional decision for at least a part of the aid unlawfully implemented by the Member State concerned is around ten times higher than for notified aid decisions. The share of unlawful cases in where Commission has found it necessary to intervene varies considerably across the sectors: approximately 56% of all unlawful aid cases in the industry and services sectors, followed by agriculture (around 24%), transport and coal (11%) and fisheries (around 9%).

5.2. Recovery of unlawful aid

Recovery in industry and services

The SAAP underlines that the effectiveness and credibility of state aid control presupposes a proper enforcement of the Commission's decisions. The Commission therefore announced that it will seek to achieve a more effective and immediate execution of the recovery decisions, which will ensure equality of treatment of all beneficiaries.

State of play

The latest figures indicate that significant progress has been made in the execution of recovery decisions since the SAAP in 2005. By the end of June 2009, there were only 43 pending recovery decisions compared with 94 at the end of 2004. This improvement in the Commission's enforcement record of its decisions should contribute to a higher state aid discipline by Member States.

In the first half of 2009, three pending recovery cases were closed and three new recovery decisions were taken. As of 30 June 2009, Spain had the highest number of pending cases (14 which represents 25 % of the EU total), although nine cases refer to Basque fiscal schemes for which the Commission has initiated infringement proceedings against Spain for failure to implement the Decisions and the ECJ judgment. Italy had 13 pending cases followed by Germany (9) and France (6). It is also worth noting that there were no pending cases in 14 of the 27 Member States. Table 4-3 in Annex provides the complete list of outstanding recovery decisions.

Recovery of illegal incompatible State aid is still a lengthy process: Of the 43 pending recovery cases, 22 were adopted more than four years ago, and 6 more than eight years ago. Significant efforts have and are being made to implement the oldest recovery decisions.

Amounts from recovery

Table 4-1 in Annex provides data on the amounts of aid to be recovered under the 136 recovery decisions adopted since 2000. For 130 of these decisions, relatively accurate information exists on the amount of aid involved. This information shows that the total amount of aid to be recovered on the basis of decisions adopted between 1 January 2000 and 30 June 2009 is more than € 10.3 billion.

Of the € 10.348 billion of aid to be recovered under decisions adopted since 2000, some € 8.130 billion of aid had been effectively recovered by 30/06/2006. A further € 1.277 billion of illegal and incompatible aid was "lost" in bankruptcy proceedings. This means that recovery has been completed in relation to a total amount of € 9.407 billion of illegal and incompatible aid (i.e. € 8.130 billion of aid effectively recovered and € 1.277 billion of aid lost in bankruptcy proceedings). This represents 90.9% of the total amount of illegal and incompatible aid to be recovered under recovery decisions adopted since 1/1/2000 (compared to 90.7% on 31/12/2008). Taking into account the further € 214 million of illegal and incompatible aid that has been registered in ongoing bankruptcy proceedings (which represent 1.7% of total aid to be recovered), we can therefore conclude that, in money terms, the recovery decisions adopted since 1/1/2000 have been executed for close to 92.6%.

Another important step towards better execution of recovery decisions in the future was the adoption in October 2007 of the Notice on the Implementation of recovery decisions. The Notice emphasises that improving the enforcement of State aid decisions is a shared responsibility between the Commission and the Member States. It recalls the principles applying to the recovery of State aid as confirmed by the Community Courts and defines the respective role of the Commission and the Member States in the recovery procedures.

The Commission is monitoring the execution of recovery decisions by Member States more closely. Where Member States do not take all measures available to implement such decisions, the Commission has taken the line to systematically initiate infringement proceedings against the Member State concerned in accordance with Articles 88(2), 226 and 228(2) of the EC Treaty. A complete list of these cases is available on the DG Competition website[128] and in Table 4-4 in Annex.

Recovery in the agricultural sector

While the Commission has taken 14 recovery decisions since 1999, as of 30 June 2009, there were 10 pending recovery cases with around € 1.3 billion of aid yet to be recovered. One Italian case and one new French case have been added in comparison to the former scoreboard. No cases have been closed in the first semester of 2009.

As indicated in the previous editions of the Scoreboard, the availability of information on amounts to be recovered is limited in the case of aid schemes. The Commission continues its efforts to obtain information from the Member States on the aid amounts involved.

[128] http://ec.europa.eu/competition/state_aid/studies_reports/recovery.html

So far, no infringement procedures have been brought before the ECJ on the basis of article 88(2) EC Treaty.

Recovery in the fisheries sector

In the area of fisheries, there were 3 recovery decisions involving France (2 in 2004 and 1 in 2008) and 3 recovery decisions involving the United Kingdom in 2007. The total amount was significantly less than € 1 million. More detail can be found in Table 4-2 in Annex.

Recovery in the transport sector

As regards the air transport sector, the Commission has taken a number of recovery decisions involving Italy (Alitalia) and Greece (Olympic Airways, Olympic Airways Services and Olympic Airlines) since 2000. The exact amount to be recovered in each case is not known due to a lack of precise data from the national authorities but the total exceeds € 1.5 billion. Some recovery has already taken place and, with regard to the outstanding amounts, the recovery claims are/will be included in the liquidation processes of the respective companies.

In the case of Alitalia, the Italian authorities are required to recover EUR 300 million from the company in accordance with the Commission Decision of 12 November 2008. Italy has informed the Commission that this amount has been registered before the relevant judicial authority responsible for the liquidation of Alitalia

In the case of Olympic Airways, in December 2002 the Commission found that Greece had granted illegal restructuring aid to the company between 1998 and 2002. On 12th May 2005, the European Court of Justice confirmed that the Greek authorities had failed to recover EUR 161 million of illegal aid from the airline. On 7th July 2009 the ECJ therefore imposed a lump sum penalty of EUR 2 million and a periodic penalty of EUR 16,000 per day on Greece for its partial failure to comply with the earlier judgement of 12 May 2005. The decision of the Court to impose both a lump sum payment and a periodic penalty payment was taken in view of the seriousness and duration of the infringement.

5.3. Enforcement of State aid Law: Cooperation with national courts

The Commission considers that State aid enforcement by national courts can play an important role in the overall system of State aid control. National courts are often well placed to protect individual rights affected by violations of the State aid rules and can offer quick and effective remedies to third parties.

In order to develop the potential of private State aid enforcement, the Commission has recently adopted a new Notice on the Enforcement of State Aid Law by National Courts[129]. This new Notice replaces the existing 1995 Notice on Cooperation with National Courts[130] and has two main objectives:

- The new Notice seeks to give clear guidance to national courts and to potential claimants on the different issues which can arise in the context of domestic State aid litigation. This guidance is based on the jurisprudence of the Community courts and covers issues such as the remedies available to third parties, procedural matters (such as legal standing), the circumstances in which a national court should issue interim measures and the conditions for claiming damages in the event of a breach of the State aid rules.

[129] Commission Notice on the enforcement of State aid law by national courts (OJ C 85, 9.4.2009, p. 1).

[130] Commission Notice on cooperation between national courts and the Commission in the State aid field (OJ C 312, 23.11.1995, p. 8).

- In addition, the Commission seeks, through the new Notice, to intensify its co-operation with national courts in individual cases. This appears necessary given that the generic cooperation mechanism referred to in the 1995 Cooperation Notice has not been used extensively. The Commission has therefore now decided to introduce more practical and user-friendly co-operation mechanisms along the lines of those already available in the antitrust area[131].

Following the adoption of the New Notice the Commission plans to intensify its advocacy efforts in the area of private State aid enforcement. This will include, amongst other initiatives, making dedicated State aid resources available to national judges and the publishing selected State aid materials.

5.4. Ex-post monitoring

With the entry into force, in August 2008, of the GBER an increasing number of aid measures are no longer subject to the notification obligation. By August 2009, about 2000 state aid measures have been implemented on the basis of this Regulation. Article 10 of that regulation constitutes the basis for realising ex-post monitoring on a sample basis. The purpose of such exercises is to ensure a continued proper enforcement of the State aid instruments allowing Member States to grant aid without prior notification and subsequent individual prior approval of the Commission.

In the light of the above, DG Competition has run in the years 2006, 2007 and 2008, a series of sample-based monitoring exercises covering both approved aid schemes and measures adopted under BERs. As already indicated in the Autumn 2008 Scoreboard (point 3.4), the Commission has, with these three combined exercises, covered significant sections of the different substantive areas of aid. Monitoring exercises currently take place at two levels: a first check takes place at the level of the scheme, with a view to examining whether the national legislation is in line with the approval decision/BER; a second level of check concerns important individual decisions implementing such schemes. DG Competition has now addressed aid measures adopted by almost all Member States.

The analysis of the results of the first three exercises shows that overall, existing state aid architecture allowing for the approval of aid schemes and allowing Member States to implement aid measures under BERs functions in a satisfactory manner. In a small minority of cases, substantive problems or procedural issues have been identified. The cases where no appropriate solution has yet been found with the Member State concerned are still under investigation.

[131] Commission Notice on the cooperation between the Commission and the courts of the EU Member States in the application of Articles 81 and 82 EC (OJ C 101, 27.4.2004, p. 54).

METHODOLOGICAL NOTES[132]

The Scoreboard covers State aid as defined under Article 87(1) of the EC Treaty that Member States granted up to the end of 2008. All State aid data refer to the implementation of Commission decisions but exclude cases which are still under examination. Figures may be different from those published in previous Scoreboards: firstly, finalised data may now replace provisional figures or estimates; second, when the Commission takes a decision on a non-notified aid measure, the aid in question is attributed to the year(s) in which it was awarded. In cases resulting in expenditure over a number of years, the total amount is generally attributed to each of the years in which expenditure took place. All data are provided in million (or billion where appropriate) Euro at constant 2000 prices but have been re-referenced on the year 2008. In this respect, expenditure figures published in 2007 may change in the 2008 edition due to taking into account inflation. Community funds and instruments are excluded.

It is important to bear in mind that some aid measures pose difficulty when quantifying[133]. In particular tax schemes may involve substantial amounts of aid which may, if corrected at a later stage, contribute to a small shift in the distribution of horizontal or sectoral aid.

With respect to figures expressed in % of GDP, these are measured in reference to the year to which expenditure data relate.

As comparable data on transport and agriculture are not available to the necessary degree, in particular from EU-12, observations on the underlying trend are based on data for total aid for industry and services (i.e. total aid less agriculture, fisheries and transport).

Aid measures qualify as crisis measures if they were adopted under sector specific State aid rules introduced in the context of the current global financial crisis (for more detail on the individual Communications, see chapter 3). Measures which respond to the financial crisis but were approved prior the State aid rules aforementioned do also count as crisis measures. In this respect, such aid measures classify as sectoral aid. For the purpose of the analysis above, the volumes on crisis measures may be excluded from the total of sectoral aid with a view to achieve a true picture on State aid expenditure without the distorting effect of the crisis measures.

Where actual expenditure data were not available, Member States provided an estimate on the aid element for measures implemented during 2008. In the absence of these estimates and only for the purpose of producing the Scoreboard, the Commission services have used the standard method of assessing the aid element. With respect to the crisis measures, the standard method has been applied as follows:

Guarantees:

- For guarantee schemes the aid element has been estimated at 10% of the guaranteed amount.

[132] More details on methodological remarks provide the online-version of the Scoreboard: http://ec.europa.eu/competition/state_aid/studies_reports/conceptual_remarks.html

[133] For instance, the aid element of tax exemptions is difficult to determine since the exact number of beneficiaries or amounts may not be known and authorities in the Member States appear to work with estimates.

- For ad hoc measures for sound banks the aid element has been estimated at 10% of the guaranteed amount.
- For banks in difficulty, usually notified as individual cases (rescue and restructuring cases) the aid element has been estimated at 20% of the guaranteed amount.
- The basis for the estimation has been the average outstanding guarantee volume for 2008.

Recapitalisation and liquidity measures:

- The aid element estimated corresponds to the full recapitalisation amount for 2008.

Presentation of data in tables

Where data show in tables, they may use the symbols:

n.a.	not available
-	real zero
0	less than half the unit used

ANNEX: STATISTICAL TABLES

Table 1-1[134]: Key figures and trend on State aid as percentage of GDP and share of horizontal objectives as percentage of total aid for industry and services and their trend (all cases; 2008)

FIGURES INCLUDE CRISIS MEASURES	State aid in billion EUR		State aid as % of GDP		Share of aid to horizontal objectives as % of total aid for industry and services	Trend in the share of aid to horizontal objectives as a % of total aid, 2003 - 2008 in % points (1)
	Total State Aid less railways	Total State Aid for industry and services[135]	Total State Aid less railways	Total State Aid for industry and services		
EU 27	**279.6**	**265.0**	**2.2**	**2.1**	**17**	**-38.1**
EU 15	**268,3**	**256.9**	**2.3**	**2.2**	**16**	**-47.0**
EU 12	**11.3**	**8.1**	**1.14**	**0.8**	**77**	**43.5**
Belgium	19.4	19.0	5.63	5.52	6	-84.5
Bulgaria	0.4	0.04	1.30	0.12	91	38.4
Czech Republic	1.4	1.2	0.97	0.78	94	65.3
Denmark	4.7	4.5	2.02	1.93	34	-34.5
Germany	66.8	65.3	2.68	2.62	19	-37.7
Estonia	0.05	0.05	0.29	0.09	100	0.0
Ireland	37.5	36.3	20.20	19.53	2	-66.8
Greece	1.0	0.8	0.42	0.33	98	1.5
Spain	6.2	5.3	0.56	0.48	65	2.8
France	26.8	24.1	1.37	1.23	30	-21.6
Italy	5.5	4.5	0.35	0.29	85	-10.4
Cyprus	0.1	0.1	0.65	0.47	95	61.1
Latvia	1.2	1.0	5.05	4.37	5	-78.0
Lithuania	0.3	0.2	0.82	0.53	100	54.2
Luxembourg	2.9	2.9	7.83	7.78	2	-95.0
Hungary	2.5	1.9	2.38	1.81	81	19.0
Malta	0.1	0.1	2.00	1.74	2	-2.1
Netherlands	16.2	15.6	2.73	2.62	9	-69.9
Austria	1.3	1.1	0.46	0.38	99	-20.7
Poland	3.7	2.9	1.02	0.80	93	67.1
Portugal	2.0	2.0	1.19	1.18	13	-4.5
Romania	0.9	0.3	0.64	0.18	53	15.6
Slovenia	0.2	0.2	0.66	0.47	89	8.7
Slovakia	0.4	0.3	0.53	0.42	84	21.1
Finland	2.1	0.8	1.13	0.44	98	-0.3
Sweden	3.4	3.1	1.03	0.94	88	-4.3
United Kingdom	72.5	71.8	4.00	3.96	4	-84.3
Norway	2.3	1.7	0.74	0.56	n.a. (2)	n.a.
Iceland (3)	0.02	0.02	0.21	0.21	n.a.	n.a.
Liechtenstein (3)	0.001	0.001	0.03	0.03	n.a.	n.a.

[134] Data cover all State aid measures as defined under Article 87(1) of the EC Treaty that Member States awarded and the Commission examined. The Community rules on agricultural and fisheries policies are not covered by the EEA Agreement. Hence, aid to these sectors is not included for the EFTA countries. (1) Change in percentage points between annual average of 2003-2005 and 2006-2008. Source: DGs Competition, Energy and Transport, Agriculture, Maritime Affairs and Fisheries and EFTA Surveillance Authority. (2) Not available (3) The EFTA Surveillance Authority assesses crisis aid granted in the EFTA countries. Crisis measures are not yet included in this amount.

[135] i.e. less agriculture, fisheries and transport

Table 1-2: Key figures and trend on State aid as percentage of GDP and share of horizontal objectives as percentage of total aid for industry and services and their trend (excl. crisis measures)

FIGURES EXCLUDE CRISIS MEASURES	State aid in billion EUR, 2008		State aid as % of GDP, 2008		Trend in the share of aid to GDP, 2003 - 2008 in % points of GDP(1)		Share of aid to horizontal objectives as % of total aid for industry and services, 2008	Trend in the share of aid to horizontal objectives as a % of total aid, 2003 - 2008 in % points (1)
	Total State Aid less railways	Total State Aid for industry and services (i.e. less agriculture, fisheries and transport)	Total State Aid less railways	Total State Aid for industry and services (i.e. less agriculture, fisheries and transport)	Total aid less railways	Total state aid for industry and services		
EU 27	**67.4**	**52.9**	**0.54**	**0.42**	**-0.05**	**-0.05**	**88**	**10.8**
EU 15	**57.1**	**45.8**	**0.50**	**0.40**	**-0.03**	**-0.02**	**88**	**4.3**
EU 12	**10.3**	**7.1**	**1.05**	**0.72**	**-0.46**	**-0.50**	**87**	**48.1**
Belgium	1.6	1.2	0.46	0.36	0.08	0.09	99	-1.0
Bulgaria	0.4	0.04	1.30	0.12	0.60	-0.20	91	38.4
Czech Republic	1.4	1.2	0.97	0.78	-0.47	-0.51	94	65.3
Denmark	1.9	1.7	0.80	0.71	0.01	0.02	94	1.2
Germany	15.7	14.2	0.63	0.57	-0.09	-0.08	87	7.5
Estonia	0.05	0.01	0.29	0.09	0.00	-0.02	100	0.0
Ireland	1.9	0.7	1.05	0.38	0.30	0.06	85	11.4
Greece	1.0	0.8	0.42	0.33	-0.04	0.06	98	1.5
Spain	5.2	4.4	0.48	0.40	-0.02	-0.04	79	8.1
France	10.3	7.6	0.53	0.39	-0.04	-0.01	96	18.7
Italy	5.5	4.5	0.35	0.29	-0.07	-0.06	85	-10.4
Cyprus	0.1	0.1	0.65	0.47	-1.12	-0.90	95	61.1
Latvia	0.2	0.0	0.88	0.20	0.32	0.03	100	10.1
Lithuania	0.3	0.2	0.82	0.53	0.18	0.10	100	54.2
Luxembourg	0.1	0.1	0.20	0.15	-0.11	-0.04	100	0.0
Hungary	2.5	1.9	2.38	1.81	-0.10	0.21	81	19.0
Malta	0.1	0.1	2.00	1.74	-0.78	-0.86	2	-2.1
Netherlands	2.2	1.5	0.36	0.25	-0.04	0.03	98	3.0
Austria	1.3	1.1	0.46	0.38	0.06	0.07	99	-20.7
Poland	3.7	2.9	1.02	0.80	-0.84	-0.82	93	67.1
Portugal	1.6	1.5	0.93	0.92	0.15	0.19	16	-3.5
Romania	0.9	0.3	0.64	0.18	-0.55	-0.99	53	15.6
Slovenia	0.2	0.2	0.66	0.47	-0.10	-0.09	89	8.7
Slovakia	0.4	0.3	0.53	0.42	-0.04	-0.07	84	21.1
Finland	2.1	0.8	1.13	0.44	-0.13	0.02	98	-0.2
Sweden	3.0	2.7	0.92	0.82	0.15	0.16	100	-0.3
United Kingdom	3.8	3.1	0.21	0.17	-0.04	-0.02	91	-4.8
Norway	2.3	1.7	0.74	0.56	n.a.	n.a.	n.a.	n.a.
Iceland	0.02	0.02	0.21	0.21	n.a.	n.a.	n.a.	n.a.
Liechtenstein	0.001	0.001	0.03	0.03	n.a.	n.a.	n.a.	n.a.

Table 1-3[136]: State aid for primary objectives and sectoral aid as % of total aid (crisis measures excluded); 2008

	Total of horizontal objectives	Environment	Regional development	Research and development	SME	Training	Employment aid	Other horizontal objectives (e.g. culture, natural disaster, social aid, etc.)	**Total Sectoral Aid[137]**	Coal	Financial Services	Manufacturing Sectors	Other Non Manufacturing Sectors	Other Services
EU-27	**87.6**	**24.1**	**25.8**	**16.3**	**9.1**	**1.7**	**6.1**	**4.5**	**12.4**	**5.2**	**2.4**	**1.7**	**1.7**	**1.4**
EU-15	**87.7**	**26.8**	**22.9**	**18.0**	**9.8**	**1.6**	**4.0**	**4.6**	**12.3**	**5.7**	**2.8**	**0.7**	**1.8**	**1.4**
EU-12	**87.2**	**6.4**	**44.4**	**5.6**	**4.5**	**2.8**	**19.3**	**4.2**	**12.8**	**2.1**	**0.0**	**8.7**	**1.0**	**0.9**
Belgium	99.0	11.0	9.8	47.5	18.8	3.6	4.0	4.3	1.0	0.0	0.0	1.0	0.0	0.0
Bulgaria	91.3	0.0	13.3	14.5	61.5	1.9	0.0	0.0	8.7	0.0	0.0	0.0	8.7	0.0
Czech Republic	93.8	0.5	68.2	18.0	6.4	0.6	0.1	0.0	6.2	0.0	0.0	0.0	6.0	0.2
Denmark	93.7	15.5	0.0	9.2	0.3	0.3	65.7	2.6	6.3	0.0	0.0	1.4	0.0	4.9
Germany	86.9	40.3	22.8	16.6	4.7	0.7	0.0	1.9	13.1	12.6	0.0	0.3	0.0	0.1
Estonia	100.0	15.4	5.8	22.5	13.1	5.0	0.7	37.4	0.0	0.0	0.0	0.0	0.0	0.0
Ireland	84.5	5.5	16.9	14.8	17.6	10.0	4.2	15.6	15.5	0.0	0.0	7.5	0.0	8.1
Greece	97.6	2.3	75.6	1.5	16.4	0.1	0.0	1.6	2.4	0.0	0.0	0.8	0.9	0.8
Spain	78.9	11.7	39.9	18.8	3.4	1.4	0.8	3.0	21.1	18.5	0.0	2.0	0.0	0.7
France	95.6	2.2	40.8	24.6	19.3	0.4	1.8	6.5	4.4	0.0	0.0	0.2	0.0	4.2
Italy	85.3	2.4	18.3	19.3	25.8	6.8	7.3	5.2	14.7	0.0	0.0	0.8	11.7	2.2
Cyprus	95.0	6.2	1.2	1.3	15.4	9.8	1.4	59.7	5.0	0.0	0.0	0.0	0.0	5.0
Latvia	99.9	21.3	46.7	1.5	14.5	2.3	0.7	12.9	0.1	0.0	0.0	0.1	0.0	0.0
Lithuania	100.0	12.6	73.0	0.0	1.2	9.7	3.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Luxembourg	100.0	15.1	10.2	35.9	24.4	0.0	0.0	14.3	0.0	0.0	0.0	0.0	0.0	0.0
Hungary	81.2	4.7	41.3	3.9	3.0	2.9	18.4	6.9	18.8	2.0	0.0	16.8	0.0	0.0
Malta	2.3	0.0	0.0	0.0	0.7	0.5	0.0	1.1	97.7	0.0	0.0	61.6	0.0	36.2
Netherlands	97.8	65.1	1.1	18.5	6.0	0.0	3.0	4.1	2.2	0.0	0.1	0.7	0.0	1.3
Austria	98.7	42.4	7.8	22.7	20.0	2.3	1.1	2.4	1.3	0.0	0.0	0.0	0.0	1.3
Poland	93.3	8.4	39.1	0.7	4.5	3.6	34.7	2.2	6.7	0.0	0.0	6.7	0.0	0.0
Portugal[138]	16.3	0.0	6.5	1.0	4.6	0.5	3.6	0.1	83.7	0.0	83.7	0.0	0.0	0.0
Romania	52.9	6.0	14.7	25.7	0.0	0.1	0.1	6.3	47.1	36.5	0.0	1.9	0.0	8.7
Slovenia	89.2	15.1	46.8	12.2	1.3	0.4	1.2	12.2	10.8	10.1	0.0	0.0	0.0	0.7
Slovakia	83.9	12.8	64.2	1.3	3.5	0.8	0.2	1.1	16.1	1.3	0.0	14.7	0.0	0.0
Finland	98.4	38.2	6.3	29.0	7.2	1.3	6.3	10.1	1.6	0.0	0.0	1.5	0.0	0.2
Sweden	99.6	85.9	6.0	3.7	0.2	0.0	0.1	3.8	0.4	0.0	0.0	0.0	0.4	0.0
United Kingdom	91.0	40.8	10.4	18.6	3.5	2.1	0.1	15.5	9.0	0.0	0.0	0.0	8.7	0.3

[136] Source: DG Competition, DG Energy and Transport

[137] Aid for specific sectors awarded under measures for which there was no horizontal objective as well as aid for rescue and restructuring.

[138] Aid which continues to be paid out under the aid scheme E 19/94 Zona Franca da Madeira (OJ C 290, 3.10.1996, p. 13), as reviewed by the Commission, is classified as sectoral aid. Aid granted under the aid scheme N 222/A/2002 Aid scheme for Zona Franca da Madeira for the period 2003-2006 (OJ C 65, 19.3.2003, p.23 as corrected by OJ C134, 7.6. 2003, p. 10) is classified as regional aid.

Table 1-4[139]: Trend in share of primary objectives in total aid between 2003-2005 and 2006-2008 as percentage point difference (crisis measures excluded)

	Total of horizontal objectives	Environment	Regional development	Research and development	SME	Training	Employment aid	Other horizontal objectives (e.g. culture, natural disaster, social aid, etc.)	**Total Sectoral Aid**	Coal	Financial Services	Manufacturing Sectors	Other Non Manufacturing Sectors	Other Services
EU-27	**10.8**	**2.7**	**3.7**	**3.7**	**-1.7**	**0.1**	**1.5**	**0.8**	**-10.8**	**-6.9**	**-0.1**	**-3.8**	**1.2**	**-1.2**
EU-15	**4.3**	**1.6**	**1.3**	**3.1**	**-2.8**	**-0.3**	**0.5**	**0.9**	**-4.3**	**-4.7**	**1.2**	**-2.6**	**1.4**	**0.4**
EU-12	**48.1**	**2.3**	**22.5**	**4.4**	**4.4**	**2.6**	**11.2**	**0.8**	**-48.1**	**-20.2**	**-9.1**	**-7.8**	**-0.3**	**-10.8**
Belgium	-1.0	12.1	-10.5	10.9	-11.7	-0.7	-0.9	-0.1	1.0	0.0	0.0	1.0	0.0	0.0
Bulgaria	38.4	-1.0	15.3	15.6	22.0	1.3	-9.8	-5.0	-38.4	-2.3	0.0	-15.3	-8.0	-12.9
Czech Republic	65.3	-3.1	38.6	14.9	7.3	3.0	1.9	2.8	-65.3	-0.4	-61.5	-5.7	2.6	-0.3
Denmark	1.2	-16.9	-0.2	4.4	0.2	-0.8	14.7	-0.2	-1.2	0.0	0.0	-1.0	0.0	-0.2
Germany	7.5	1.6	0.7	4.5	0.4	0.2	-0.3	0.4	-7.5	-5.3	-0.4	-1.1	0.0	-0.6
Estonia	0.0	4.4	-6.9	2.5	-4.9	6.2	1.6	-2.9	0.0	0.0	0.0	0.0	0.0	0.0
Ireland	11.4	1.1	-4.3	2.8	10.3	3.9	-8.6	6.2	-11.4	0.0	-6.2	-7.7	0.0	2.5
Greece	1.5	-1.7	1.6	-0.4	10.2	0.1	-6.4	-1.8	-1.5	0.0	0.0	-2.2	0.4	0.3
Spain	8.1	4.5	7.3	6.2	-3.4	-0.5	-0.3	-5.3	-8.1	-10.7	0.0	0.1	0.0	2.5
France	18.7	0.0	18.1	6.6	-9.5	0.1	2.5	0.9	-18.7	-9.1	0.0	-12.3	0.0	2.6
Italy	-10.4	0.5	-6.3	-0.7	-0.9	-0.3	-2.7	0.0	10.4	0.0	1.0	-0.8	10.2	0.0
Cyprus	61.1	1.9	2.7	1.8	14.9	7.5	1.0	31.2	-61.1	0.0	-0.6	-25.0	-11.1	-24.4
Latvia	10.1	14.8	-16.6	0.9	0.5	2.8	0.3	7.4	-10.1	0.0	0.0	-1.4	0.0	-8.7
Lithuania	54.2	15.5	20.4	-0.2	2.7	12.7	3.6	-0.5	-54.2	0.0	0.0	-33.1	-10.6	-10.6
Luxembourg	0.0	5.7	-22.2	15.6	8.6	0.0	0.0	-7.7	0.0	0.0	0.0	0.0	0.0	0.0
Hungary	19.0	2.3	4.5	1.5	-1.4	1.4	11.5	-0.8	-19.0	-2.5	0.0	-16.0	0.0	-0.5
Malta	-2.1	0.0	0.0	0.0	-1.1	0.7	0.1	-1.7	2.1	0.0	0.0	-12.8	0.0	14.9
Netherlands	3.0	6.5	-1.4	-3.6	-2.4	0.0	3.1	0.8	-3.0	0.0	0.2	-2.6	0.0	-0.6
Austria	-20.7	-11.2	-4.5	-0.6	-1.0	-2.1	-1.0	-0.4	20.7	0.0	21.1	0.0	0.0	-0.3
Poland	67.1	3.5	26.8	0.8	5.8	3.4	24.5	2.1	-67.1	-49.5	0.0	-4.6	-0.3	-12.7
Portugal	-3.5	0.0	0.8	-1.2	-3.1	-0.8	0.8	0.0	3.5	0.0	4.3	-0.6	0.0	-0.3
Romania	15.6	2.0	1.3	9.4	-0.4	0.0	-0.3	3.7	-15.6	21.7	0.0	-23.4	4.0	-18.0
Slovenia	8.7	-8.0	22.9	-5.0	1.2	-0.5	-7.5	5.7	-8.7	0.6	0.0	-7.9	-0.9	-0.5
Slovakia	21.1	9.5	3.7	1.0	5.2	0.8	0.7	0.1	-21.1	0.4	0.0	-21.4	0.0	0.0
Finland	-0.2	-2.0	-2.4	0.9	-0.4	1.0	0.5	2.1	0.2	0.0	0.0	1.3	0.0	-1.1
Sweden	-0.3	1.8	0.7	-0.5	-0.5	0.0	0.0	-1.7	0.3	0.0	0.0	0.0	0.1	0.1
United Kingdom	-4.8	4.4	-12.8	-0.6	-8.4	-2.0	0.2	14.3	4.8	-0.9	0.0	-0.1	5.6	0.1

[139] Source: DG Competition, DG Energy and Transport

Table 2: Main set of rules adopted since the launch of the SAAP in 2005

As outlined in the SAAP roadmap in 2005, the Commission has revised a large number of its guidelines, frameworks and communications. The following table shows the main legislative acts adopted to date.

Legislative act	Validity	Full title and official text
2009		
Communication on public service broadcasting	From 28.10.2009*	Communication from the Commission on the application of State aid rules to public service broadcasting. OJ C 257 of 27.10.2009, p. 1; press release: IP/09/1072
Guidelines on broadband networks	From 01.10.2009* *Review no later than 2012*	Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks. OJ C 235 of 30.09.2009, p. 7; press release: IP/09/1332, MEMO/09/396
Communication on aid for large regional investment projects	From 16.09.2009*	Communication from the Commission concerning the criteria for an in-depth assessment of regional aid to large investment projects. OJ C 223 of 16.09.2009, p. 3; press release: IP/09/993, MEMO/09/292
Best Practice code	From 01.09.2009*	Code of Best Practice for the conduct of State aid control procedures. OJ C 136 of 16.06.2009, p. 13; press release: IP/09/659, MEMO/09/208
Notice on simplified procedure	From 01.09.2009* *Review in 2013*	Notice from the Commission on a simplified procedure for treatment of certain types of State Aid. OJ C 136 of 16.06.2009, p. 3; press release: IP/09/659, MEMO/09/208
Communication on employment aid for disadvantaged and disabled workers	From 11.08.2009*	Communication from the Commission — Criteria for the analysis of the compatibility of State aid for the employment of disadvantaged and disabled workers subject to individual notification. OJ C 188 of 11.08.2009, p. 6; press release: IP/09/863, MEMO/09/260
Communication on training aid	From 11.08.2009*	Communication from the Commission — Criteria for the analysis of the compatibility of State aid for training subject to individual notification. OJ C 188 of 11.08.2009, p. 1; press release: IP/09/863; MEMO/09/260
Prolongation of rescue and restructuring aid guidelines	09.07.2009 - 09.10.2012	Commission Communication concerning the prolongation of the Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty. OJ C 156, 9.7.2009, p. 3
Notice on enforcement by national courts	From 09.04.2009* *Review in 2014*	Commission notice on the enforcement of State aid law by national courts. OJ C 85 of 09.04.2009, p. 1; press release: IP/09/316, Memo/09/82
Cinema Communication	07.02.2009 – 31.12.2012 *Extension of applying the current criteria until 31.12.2012*	Communication from the Commission concerning the State aid assessment criteria of the Commission Communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001. OJ C 31 of 07.02.2009, p. 1; press release: IP/09/138, Memo/09/33

2008		
General block exemption regulation	29.08.2008 – 31.12.2013	Commission Regulation (EC) No 800/2008 of 6 August 2008 on the application of Articles 87 and 88 of the Treaty declaring certain categories of aid compatible with the common market. OJ L 214, 09.08.2008, p. 3; press release IP/08/1110
Guarantee notice	From 20.06.2008*	Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees. OJ C 155, 20.06.2008, p. 10; press release IP/08/764
Amendment of procedural regulation	From 14.04.2008*	Commission Regulation (EC) No 271/2008 of 30 January 2008 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty. OJ L 82, 25.03.2008, p.1
Environmental guidelines	02.04.2008 – 31.12.2014	Community guidelines on state aid for environmental protection. OJ C 82, 01.04.2008, p. 1; press release IP/08/80
2007		
Communication on interest rates	From 01.07.2008*	Communication from the Commission on the revision of the method for setting the reference and discount rates. OJ C 14, 19.01.2008, p. 6; press release IP/07/1912
Recovery Notice	From 15.11.2007*	Notice from the Commission – Towards an effective implementation of Commission decisions ordering Member States to recover unlawful and incompatible State aid. OJ C 272, 15.11.2007, p. 4; press release IP/07/1609
2006		
De minimis regulation	01.01.2007 – 31.12.2013	Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid. OJ L 379, 28.12.2006, p. 5, press release IP/06/1765
RDI Framework	01.01.2007 – 31.12.2013	Community Framework for State aid for Research and Development and Innovation. OJ C 323, 30.12.2006, p. 1; press release IP/06/1600
Block exemption regulation for regional aid	21.11.2006 – 31.12.2013	Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid. OJ L 302, 01.11.2006, p. 29; press release IP/06/1453
Risk capital guidelines	18.08.2006 – 31.12.2013	Community guidelines on state aid to promote risk capital investments in small and medium-sized enterprises. OJ C 194, 18.08.2006, p. 2; press release IP/06/1015
2005		
Regional aid guidelines	From 01.01.2007*	Guidelines on national regional aid for 2007-2013. OJ C 54, 4.03.2006, p. 13; press release IP/05/1653
Short-term export-credit insurance	01.01.2006 – 31.12.2010	Communication of the Commission to Member States amending the communication pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export-credit insurance. OJ C 325, 22.12.2005, p. 22
SGEI Package	From 19.12.2005 (points (c), (d) and (e) of Article 4 and Article 6 from 29.11.2006)*	Commission Decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest. OJ L 312, 29.11.2005, p. 67; press release IP/05/937
	29.11.2005 –	Community framework for State aid in the form of public service

29.11.2011	compensation OJ C 297, 29.11.2005, p. 4; press release IP/05/937
From 19.12.2005*	Commission Directive No 2005/81 of 28 November 2005 amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings. OJ L 312, 29.11.2005, p. 47; press release IP/05/937; cf. codified version of 16 November 2006, OJ L 318, 17.11.2006, p. 17

* No end of validity is specified in the text

In addition to the legislative changes foreseen in the SAAP, the Commission adopted also a set of temporary rules being a response to the crisis in the financial sector and the real economy, the table below presents their overview.

Legislative act	Validity	Full title and official text
Financial sector		
Communication on restructuring aid in the financial sector	19.08.2009 – 31.12.2010	Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules. OJ C 195 of 19.08.2009, p. 9; press release: IP/09/1180, MEMO/09/350
Communication on impaired assets	From 25.02.2009*	Communication from the Commission on the treatment of impaired assets in the Community banking sector. OJ C 72 of 26.03.2009, p. 1; press release: IP/09/322, MEMO/09/85
Communication on the recapitalization of financial institutions	From 15.01.2009*	Communication from the Commission — The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition. OJ C 10 of 15.01.2009, p. 2; press release: IP/08/1901
Communication on application state aid rules to the financial sector	From 25.10.2008*	Communication from the Commission — The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis. OJ C 270 of 25.10.2008, p. 8; press release: IP/08/1495
Real economy		
Temporary Framework	28.10.2009 – 31.12.2010	Communication from the Commission amending the Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis (limited amounts of aid for farmers) OJ C 261 of 31.10.2009, p. 2
	25.02.2009 – 31.12.2010	Communication from the Commission amending the Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis). OJ C 83 of 07.04.2009, p. 1 (consolidated version of the Temporary Framework adopted on 17 December 2008, as amended on 25 February 2009).
	17.12.2008 – 31.12.2010	Communication from the commission - Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis. OJ C 16 of 22.01.2009, p. 1; press release: IP/08/1993, MEMO/08/795;

* No end of validity is specified in the text

Table 3-1: Overview of measures reviewed by the Commission under the Temporary Framework until 9 November 2009

Member State	EUR 500.000 per under-taking	Guarantee	Reduced-interest rate loans	Reduced-interest rate loans for green products	Risk capital aid	Simplification of requirements of the Export Credit Communication
Germany	N668/2008 30/12/2008 N299/2009 [140] 04/06/2009 N411/2009 [141] 17.07.2009	N27/2009 27/02/2009	N661/2008 30/12/2008 N38/2009 19/02/2009	N426/2009 04.08.2009	N39/2009 3/02/2009	N384/2009 05.08.2009
France	N7/2009 19/01/2009	N23/2009 27/02/2009	N15/2009 04/02/2009	N11/2009 03/02/2009	N119/2009 16/03/2009 N36/2009 30/06/2009	N 449/2009 05/10/2009
Italy	N248/2009 28/052009	N266/2009 28/05/2009	N268/2009 29/052009	N 542/2009 26/10/2009	N279/2009 20/052009	
United Kingdom	N43/2009 04/02/2009	N71/2009 27/02/2009	N257/2009 15/05/2009 N460/2009[142] 14.08.2009	N72/2009 27/02/2009		
Hungary	N77/2009 24/02/2009	N114/2009 10/03/2009 N203/2009 24/04/2009 N341/2009 01.07.2009	N78/2009 24/02/2009			
Greece	N304/2009 15.07.2009	N308/2009 03/06/2009	N309/2009 03/06/2009			
Luxembourg	N99/2009 27/02/2009	N128/2009 11/03/2009				N50/2009 20/04/2009
Finland	N224/2009 03/06/2009	N82b/2009 09/06/2009				N258/2009 22/062009
Czech Republic	N236/2009 07/05/2009	N237/2009 06/05/2009				

[140] Amendment to the scheme N 668/2008
[141] Second amendment to the scheme N 668/2008
[142] Amendment to the scheme N 257/2009

Member State	EUR 500.000 per under-taking	Guarantee	Reduced-interest rate loans	Reduced-interest rate loans for green products	Risk capital aid	Simplification of requirements of the Export Credit Communication
Spain	N307/2009 08/06/2009			N140/2009 30/03/2009		
Latvia	N124/2009 19/03/2009	N139/2009 22/04/2009				
Austria	N47a/2009 20/03/2009 N317/2009 [143] 18/06/2009				N47d/2009 26/03/2009	
Slovenia	N228/2009 12/06/2009	NN34/2009 12/06/2009				
Belgium		N117/2009 20/03/2009				N 532/2009 06/11/2009
Denmark						N198/2009 06/05/2009 N 554/2009 [144] 29/10/2009
Estonia	N387/2009 13.07.2009					
Ireland	N186/2009 15/04/2009					
Lithuania	N272/2009 08/06/2009					
Malta	N118/2009 18/05/2009					
Netherlands	N156/2009 01/04/2009					N 409/2009 02/10/2009
Poland	N408/2009 17.08.2009					
Portugal	N13/2009 19/01/2009					
Romania		N286/2009 05/06/2009				
Slovakia	N222/2009 30/04/2009					

[143] Amendment to the scheme N47a/2009
[144] Amendment to the scheme N198/2009

Member State	EUR 500.000 per under-taking	Guarantee	Reduced-interest rate loans	Reduced-interest rate loans for green products	Risk capital aid	Simplification of requirements of the Export Credit Communication
Sweden		N80/2009 05/06/2009				

Table 4-1: Trend in the number of recovery decisions and amounts to be recovered (1) 2000- 2009 (by 30 June 2009)

	Date of Decision										Total
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009 (as of 30 June)	
Number of decisions adopted	16	20	23	10	24	12	6	9	13	3	136
Total aid known to be recovered (in mio €)	239	1268	1272.8	1027.95	5040.89	54.35	255.42	275.81	912.77	1.4	10348.39
Amounts recovered: (in mio €) Of which:	217.7	1274.8	1561.6	1258.67	6388.96	28.98	295.1	64.8	691.29	0	11781.9
(a) Principal reimbursed/or in blocked account	16.7	1069.2	1094.7	902.31	4160.57	20.46	199.41	49.19	618.38	0	8130.92
(b) Aid lost in bankruptcy	201	76.3	63.3	21.25	871.09	0	45	0	0	0	1277.94
(c) Interest		129.3	403.6	335.11	1357.3	8.52	50.69	15.61	72.91	0	2373.04
Aid registered in bankruptcy	15.6	16.9	0	127.82	0	7.5	0	8.12	0	0	175.94
Amount outstanding (2)	21.3	122.5	114.8	104.39	9.23	33.89	11.01	226.62	294.39	1.4	939.53
% still pending to be recovered (2)	**8.9%**	**9.7%**	**9.0%**	**10.2%**	**0.2%**	**62.4%**	**4.3%**	**82.2%**	**32.3%**	**100%**	**9.1%**

Source: DG Competition.

Notes: (1) Only for decisions for which the aid amount is known.

(2) Total aid known to be recovered less principal reimbursed and aid lost in bankruptcy. Amount excluding interest.

Table 4-2: Recovery in the fisheries sector

Cases in France

2 in 2004 - amounts unknown not recovered yet (C 76/2001 et C 91/2001)

1 in 2008 - € 87 millions to be recovered in 2009 (C 9/2006)

Cases in the United Kingdom

- £ 132 000 to be recovered in 2009 (C 39/2006)
- £ 29 000 covered by *de minimis* aids (C 37/2006)
- £ 100 000 recovered in 2008 (C 38/2006)

Table 4-3: Pending recovery decisions (by 30 June 2009)

Case number	Working title of the case	Member State	Date of the decision	Number of the decision	Official Journal of the European Union
CR 47/2005	Aid to ELVO (Hellenic Vehicle Industry, S.A.)	Greece	24/03/2009		Not yet published
CR 5/2000	Alleged aid for SNIACE	Spain	10/03/2009		Not yet published
CR 55/2007	BT Group plc	UK	11/02/2009		Not yet published
CR 19/2005	Restructuring aid for Szczecin Shipyard	Poland	06/11/2008		Not yet published
CR 17/2005	Restructuring aid for Gdynia shipyard	Poland	06/11/2008		Not yet published
CR 48/2006	DHL Leipzig Halle	Germany	23/07/2008	2008/948/EC	OJ L 346 of 23.12.2008, p. 1
CR 1/2004	Regional law nr 9/98	Italy	02/07/2008	2008/854/EC	OJ L 302 of 13.11.2008, p. 9
CR 16/2004	Hellenic Shipyard	Greece	02/07/2008		Not yet published
CR 41/2005	Hungarian Stranded Cost	Hungary	04/06/2008		Not yet published
CR 56/2006	Bank Burgenland	Austria	30/04/2008	2008/719/EC	OJ L 239 of 06.09.2008, p. 32
CR 13/2007	Rescue aid to New Interline	Italy	16/04/2008		Not yet published
CR 38/2007	Alleged aid to Arbel Fauvet Rail SA	France	02/04/2008	2008/716/EC	OJ L 238 of 05.09.2008, p. 27
CR 36a / 2006	Terni Companies	Italy	20/11/2007	2008/408/EC	OJ L 144 of 4.6.2008, p. 37
CR 23/2006	Technologie Buczek	Poland	24/10/2007	2008/344/EC	OJ L 116 of 30.4.2008, p. 26
CR 37/2005	Tax-exempt reserve fund for certain companies	Greece	18/07/2007	2008/723/EC	OJ L 244 of 12/09/2008, p. 11
CR 16/2006	Restructuring aid to Nuova Mineraria Silius	Italy	21/02/2007	2007/499/EC	OJ L 185 of 17/07/2007, p. 18
CR 79/2001	Exemption from excise duty for the production of alumina in Gardanne	France	07/02/2007	2007/375/EC	OJ L 147 of 8/06/2007, p. 29
CR 78/2001	Exemption from excise duty for the production of alumina in Shannon	Ireland	07/02/2007	2007/375/EC	OJ L 147 of 8/06/2007, p. 29
CR 80/2001	Exemption from excise duty for the production of alumina in Sardinia	Italy	07/02/2007	2007/375/EC	OJ L 147 of 8/06/2007, p. 29
CR 38/2005	Biria Gruppe	Germany	24/01/2007	2007/492/EC	OJ L 183 of 13/07/2007, p. 27
CR 52/2005	Digital Decoders - Italy	Italy	24/01/2007	2007/374/EC	OJ L 147 of 8/06/2007, p. 1

Case number	Working title of the case	Member State	Date of the decision	Number of the decision	Official Journal of the European Union
CR 30/2005	Restructuring aid to Kliq NV	Netherlands	19/07/2006	2006/939/EC	OJ L 366 of 21/12/2006, p. 40
CR 2/2004	Ad hoc financing of Dutch public broadcasters	Netherlands	22/06/2006	2008/136/EC	OJ L 49 of 22/272008, p.1
CR 25/2005	Measures in favour of Frucona Kosice	Slovakia	07/06/2006	2007/254/EC	OJ L 112 of 30/04/2007, p. 14
CR 37/2004	Aid to Componenta Corporation	Finland	20/10/2005	2006/900/EC	OJ L 353 of 13/12/2006, p. 36
CR 8/2004	Fiscal incentives for newly listed companies	Italy	16/03/2005	2006/261/EC	OJ L 094 of 1/04/2006, p. 42
CR 43/2001	Aid to Chemische Werke Piesteritz GmbH	Germany	02/03/2005	2005/786/EC	OJ L 296 of 12/11/2005, p. 19
CR 12/2004	Fiscal incentives for outward FDI	Italy	14/12/2004	2005/919/EC	OJ L 335 of 21/12/2005, p. 39
CR 57/2003	Tremonti bis	Italy	20/10/2004	2005/315/EC	OJ L 100 of 20/04/2005, p. 46
CR 13b/2003	France Telecom - Taxe professionnelle	France	02/08/2004	2005/709/EC	OJ L 269 of 14/10/2005, p. 30
CR 95/2001	Aid to Siderurgica Anon	Spain	16/06/2004	2005/827/EC	OJ L 311 of 26/11/2005, p. 22
CR 62/2003	Urgent measures in support of employment	Italy	30/03/2004	2004/800/EC	OJ L 352 of 27/11/2004, p. 10
CR 57/2002	Article 44 septies CGI	France	16/12/2003	2004/343/EC	OJ L 108 of 16/04/2004, p. 38
CR 39/2001	Aid to Minas Rio Tinto sal	Spain	27/05/2003	2004/300/EC	OJ L 098 of 2/04/2004, p. 49
CR 62/2000	Aid to Kahla (Porzellan GmbH)	Germany	13/05/2003	2003/643/EC	OJ L 227 of 11/09/2003, p. 12
CR 94/2001	Export aid scheme Mecklenburg-Vorpommern	Germany	05/03/2003	2003/595/EC	OJ L 202 of 9/08/2003, p. 15
CR 70/2001	Aid to Hilados y Tejidos Puigneró S.A.	Spain	19/02/2003	2003/876/EC	OJ L 337 of 23/12/2003, p. 14
CR 35/2002	Fiscal aid scheme – Açores	Portugal	11/12/2002	2003/442/EC	OJ L 150 of 18/06/2003, p. 52
CR 27/1999	Aid to Municipalizzate	Italy	05/06/2002	2003/193/EC	OJ L 077 of 24/03/2003, p. 21
CR 44/2000	Aid to SKL Motoren- und Systemtechnik GmbH	Germany	09/04/2002	2002/898/EC	OJ L 314 of 18/11/2002, p. 75
CR 60/2000	Fiscal aid - Province of Vizcaya (III)	Spain	20/12/2001	2003/86/EC	OJ L 040 of 14/02/2003, p. 11
CR 58/2000	Fiscal aid - Province of Alava (III)	Spain	20/12/2001	2003/28/EC	OJ L 017 of 22/01/2003, p. 20
CR 59/2000	Fiscal aid - Province of Guipuzcoa (III)	Spain	20/12/2001	2003/192/EC	OJ L 077 of 24/03/2003, p. 1
CR 53/1999	Fiscal aid - Province of Guizpuzcoa (II)	Spain	11/07/2001	2002/894/EC	OJ L 314 of 18/11/2002, p. 26

Case number	Working title of the case	Member State	Date of the decision	Number of the decision	Official Journal of the European Union
CR 54/1999	Fiscal aid - Province of Vizcaya (II)	Spain	11/07/2001	2003/27/EC	OJ L 017 of 22/01/2003, p. 1
CR 52/1999	Fiscal aid - Province of Vizcaya (I)	Spain	11/07/2001	2002/806/EC	OJ L 279 of 17/10/2002, p. 35
C 50/1999	Fiscal aid - Province of Guipuzcoa (I)	Spain	11/07/2001	2002/540/EC	OJ L 174 of 4/07/2002, p. 31
CR 48/1999	Fiscal aid - Province of Alava (I)	Spain	11/07/2001	2002/820/EC	OJ L 296 of 30/10/2002, p. 1
CR 49/1999	Fiscal aid - Province of Alava (II)	Spain	11/07/2001	2002/892/EC	OJ L 314 of 18/11/2002, p. 1
CR 41/1999	Aid to Lintra beteiligungsholding Gmbh	Germany	28/03/2001	2001/673/EC	OJ L 236 of 5/09/2001, p. 3
CR 38/1998	Aid for Kimberly Clark/Scott Group	France	12/07/2000	2002/14/EC	OJ L 012 of 15/01/2002, p. 1
CR 10/1999	Salzgitter Ag	Germany	28/06/2000	2000/797/EC SC	OJ L 323 of 20/12/2000, p.5
CR 81/1997	Social security reductions - Venezia et Chioggia	Italy	25/11/1999	2000/394/EC	OJ L 150 of 23/06/2000, p. 50
CR 49/1998	Employment aid measures (Loi Nr 196/97)	Italy	11/05/1999	2000/128/EC	OJ L 042 of 15/02/2000, p. 1
CR 44/1997	Aid for Magefesa	Spain	14/10/1998	1999/509/EC	OJ L 198 of 30/07/1999, p. 15
CR 18/1996	Borotra aid scheme	France	09/04/1997	1997/811/EC	OJ L 334 of 5/12/1997, p. 25
CR 28/1994	Aid for Hamburger Stahlwerke GmbH	Germany	31/10/1995	1996/236/EC	OJ L 078 of 28/03/1996, p. 31

Table 4-4: Pending recovery cases where the Commission has decided to bring the case before the Court of Justice and where illegal and incompatible aid has not yet been recovered (30 June 2009)

Case number	Working title	Member State	Court case	State of play and recent developments
CR 38/1998	Aid for Kimberly Clark/Scott Group	France	C-232/05	05/10/06: art. 88.2 action - Judgment ECJ - ECJ rules that France has failed to fulfill its Treaty obligation 29/03/07: art. 225 ECT - Judgment CFI - Annulment of COM decision for the part of the aid related to the sale of land 11/12/08: art. 225 ECT - Judgment ECJ – ECJ annuls the CFI judgment of 29/03/2007 and sends the case back to the CFI. One appeal still pending.
CR 13b/2003	France Telecom – Business Tax Scheme	France	C-441/06	19/07/06: Commission decision to initiate Art. 88(2) action against France 18/10/07: ECJ judgment condemning France for failing to execute CEC decision Press release: IP/06/1014 30/06/08: aid amount+ interest have been paid into a blocked account.
CR 57/2002	Exonérations fiscales en faveur de la reprise d'entreprises en difficulté - Article 44 septies CGI	France	C-214/07	24/10/06: Commission decision to initiate Art. 88(2) action against France Press release: IP/06/1471 13/11/08: art. 88.2 action - Judgment ECJ - France condemned for non implementation of the decision
CR 62/2000	Thuringen Porzellan (Kahla)	Germany	C-39/06	16/02/05: Commission decision to initiate Art. 88(2) action against Germany 24/01/06: Application lodged at the ECJ pursuant to Art. 88(2) Press release: IP/05/189 19/06/2008: ECJ judgment condemning DE for failing to implement CEC decision
CR 49/1998	Employment aid measures (Loi Nr 196/97)	Italy	C-99/02	01/04/04: ECJ judgment condemning Italy for failing to implement CEC decision 19/07/07: Commission sent letter of formal notice to Italy 21/01/08:Commission decision to send a Reasoned Opinion to Italy 25/06/2009: Commission decision to initiate 228.2 Action against Italy Press release: IP/09/1028

Case number	Working title	Member State	Court case	State of play and recent developments
CR 27/1999	Aid to Municipalizzate	Italy	C-207/05	01/06/06: ECJ judgment condemning Italy for failing to execute CEC decision 19/07/07: Commission sent a letter of formal notice to Italy 21/01/08: Commission decision to send a Reasoned Opinion to Italy
CR 62/2003	Urgent employment measures	Italy	C-280/05	06/04/05: Commission decision to initiate Art. 88(2) action against Italy 11/07/05: Application lodged at the ECJ pursuant to Article 88(2) 06/12/07: ECJ judgment condemning Italy for failing to execute CEC decision Press release: IP/05/395
CR 57/2003	Tremonti Bis	Italy	C-303/09	25/01/06: Commission decision to initiate Art. 88(2) action against Italy Press release: IP/06/77 11/03/08: Commission decision to initiate Art. 88(2) action against Italy
CR 8/2004	Fiscal incentives for newly listed companies	Italy	C-304/09	19/07/06: Commission decision to initiate Art. 88(2) action against Italy Press release: IP/06/1040 11/03/08: Commission decision to initiate Art. 88(2) action against Italy Press release: IP/08/435
CR 81/1997	Social security reductions – Venezia e Chioggia	Italy	C-302/09	10/05/07: Commission decision to initiate Art. 88(2) action against Italy Press release: IP/07/648 11/03/08: Commission decision to initiate Art. 88(2) action against Italy
CR 16/2006	Restructuring aid to Nuova Mineraria Silius	Italy		13/02/08: Commission decision to initiate art. 88.2 proceedings against Italy
CR 12/2004	Fiscal incentives for outward FDI	Italy	C-305/09	11/03/08: Commission decision to initiate Art. 88(2) action against Italy Press release: IP/08/435
CR 23/2006	Technologie Buczek	Poland		11/03/08: Commission decision to initiate Art. 88(2) action against Poland Press release: IP/09/777
CR 25/2005	Measures in favour of Frucona Kosice	Slovakia	C-507/08	17/06/08: Commission decision to initiate art. 88.2 proceedings against Slovalia

Case number	Working title	Member State	Court case	State of play and recent developments
				Press release: IP/08/952
CR 44/1997	Aid to Magefesa	Spain	C-499/99	02/07/02: ECJ judgment condemning Spain for failing to implement CEC decision
CR 48/1999 CR 49/1999 CR 50/1999 CR 52/1999 CR 53/1999 CR 54/1999	Fiscal aid – Province of Alava (I) Fiscal aid - Province of Alava (II) Fiscal aid – Province of Guipuzcoa (I) Fiscal aid – Province of Vizcaya (I) Fiscal aid - Province of Guizpuzcoa (II) Fiscal aid - Province of Vizcaya (II) (Basque fiscal aid schemes)	Spain	C-485/03, C-486/03, C 487/03, C-488/03, C-489/03, C-490/03	14/12/06: ECJ judgment condemning Spain for failing to implement CEC decision 11/07/07: Commission sent letter of formal notice to Spain 26/06/08: Commission decision to send a Reasoned Opinion to Spain
CR 58/2000 CR 59/2000 CR 60/2000	Fiscal aid - Province of Alava (III) Fiscal aid - Province of Guipuzcao (III) Fiscal aid - Province of Vizcaya (III) (Basque fiscal aid schemes)	Spain	C-177/06	21/12/05: Commission decision to initiate Art. 88(2) action against Spain 04/04/06: Application lodged at the ECJ pursuant to Article 88(2) 20/09/07: ECJ judgment condemning Spain for failing to execute CEC decision Press release: IP/05/1655

Table 5: Summary of rules for the transport sector

<u>Land transport (road, rail, inland waterways)</u>

- Article 73 of the EC Treaty contains rules for the compatibility of State aid in the area of coordination of transport and public service obligation in transport. The Commission considers in its constant practice that Article 73 constitutes *lex specialis* with respect to Article 87(2) and Article 87(3), as it contains special rules for the compatibility of State aid. In addition, Article 73 of the EC Treaty constitutes a *lex specialis* also with respect to Article 86(2) of the EC Treaty, and therefore, Article 86(2) of the EC Treaty cannot be applied in the area of coordination of transport and public service obligation in the inland transport sector[145].

- Until 2 December 2009, Article 73 is in practice implemented by means of three Council Regulations which have been adopted under it - Council Regulations 1191/69[146], 1107/70[147] and 1192/69[148]. Regulation 1370/07[149] will replace Regulations 1191/69 and 1107/70 as from 3 December 2009.

- In addition, the Commission adopted on 30 April 2008 the Community guidelines on State aid for railway undertakings[150].

<u>Aviation</u>

- Communication on the Application of Articles 92 and 93 of the EC Treaty and Article 61 of the EEA agreement to State aids in the aviation sector[151].

- Community guidelines on financing of airports and start-up aid to airlines departing from regional airports[152].

<u>Maritime transport</u>

- Community guidelines on State aid to maritime transport[153].

- Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea[154].

- Communication from the Commission providing guidance on State aid to ship management companies[155].

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[145] See recital 17 of the Commission decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 312, 29.11.2005, pages 67 - 73).

[146] Regulation (EEC) No. 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway, as amended

[147] Regulation (EEC) No. 1107/70 of the Council of 4 June 1970 on the granting of aid for transport by rail, road and inland waterway, as amended.

[148] Regulation (EEC) No. 1192/69 on common rules for the normalisation of accounts of railway undertakings is particularly important from a State aid monitoring perspective as it exempts from the notification procedure a number of different compensations from public authorities to railway undertakings, as amended.

[149] Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1–13).

[150] OJ C 184, 22.7.2008, p.13

[151] OJ C 350, 10.12.1994, p.5

[152] OJ C 312, 9.12.2005, p.1

[153] OJ C 13, 17.1.2004, p.3

[154] OJ C 317, 12.12.2008, p.10

[155] OJ C 132, 11.6.2009, p.6