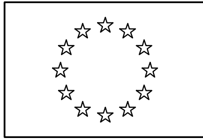

EUROPEAN COMMISSION

Brussels, 1.12.2010
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COMMISSION STAFF WORKING DOCUMENT

Facts and figures on State aid in the Member States

Accompanying the

REPORT FROM THE COMMISSION

State Aid Scoreboard

- Autumn 2010 Update -

{COM(2010) 701 final}

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INTRODUCTION

State aid in the context of the economic crisis

Until the financial crisis, the EU was experiencing steady economic growth and GDP increased on average by roughly 1.5% per annum. Between 2002 and 2007, the level of State aid to industry and services, expressed as a percentage of GDP, decreased on average by around 2% per year and stood at slightly below 0.5% in 2007. Member States continued their effort to reduce budget deficits reaching lower levels than at the beginning of the millennium. The rate of unemployment fell in line with the positive economic trend and stood at approximately 7% EU-wide in 2008.

The financial crisis brought GDP growth, low levels of State aid expenditure and decreasing budget deficits to an abrupt end. Economic activity contracted in the second half of 2008 leading to a fall in GDP of approximately 1.4% in 2008. It declined further by almost 4% in 2009. It only began to stabilise in the third quarter of 2009, mainly due to the reaction of the Commission and Member States to the financial crisis through exceptional stimulus packages. Budget deficits have increased substantially albeit with significant variations between Member States. 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.

After the break-down of the inter-bank lending in September 2008, Member States injected substantial amounts of aid into the banking sector in order to prevent the collapse of banks in the EU and with the aim of countering the systemic risk which many banks posed to the functioning of the financial markets. It is this kind of aid which still contributed mostly to the significant amount of State aid expenditure in 2009.

A stable banking system is key to provide the economy with liquidity, mainly in form of credit. This is essential for business operations but is particularly important for Small and Medium-sized Enterprises ("SME") with a view to ensuring new investments, especially in the technologies needed to achieve European objectives. Improving the business environment notably for SMEs and the development of a strong and sustainable industrial base able to compete globally is indeed one of the flagship initiatives under the Commission's Europe 2020 Strategy[1] to achieve smart, sustainable and inclusive growth. Support measures to the financial sector and aid to the real economy were put in place by Member States to ease business's financing constraints. The massive injections of aid which contributed to stabilising the banking sector should eventually reap future dividends in the form of maintaining jobs and creating new ones and ensuring that 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 coming years and budget deficits will also have to decrease. A real challenge for Member States will be the sharp rise in unemployment over the next few years. Only by returning to economic growth, can public spending be reduced over time. Current State aid contributes to stabilising the

[1] Communication from the Commission "Europe 2020 – A strategy for smart, sustainable and inclusive growth" of 3 March 2010; COM (2010) 2020.

economy in order to boost return to growth. By gradually ending crisis-induced state support over the coming years, the path of economic growth will not be jeopardised by a sudden lack of resources and a smooth transition towards sustainable growth will be ensured. Read Chapter 3 for more detail.

Scope and content

This autumn 2010 update of the State aid Commission Staff Working Document ("the Scoreboard")[2] focuses on the State aid situation in the 27 Member States for the year 2009. The Staff Working Document (available in English only) is an annex to the Report adopted by the College of Commissioners on the State Aid Scoreboard. While the Commission Report outlines the principal developments as regards State aid expenditure, this staff working document gives detail on the underlying facts and trends.

The Scoreboard is the European Commission's instrument to monitor State aid expenditure in the Member States. In recent years, the Scoreboard also made reference to the Lisbon objectives by which to assess Member States' progress towards meeting successive European Councils' call for “less and better targeted aid”. In future, the Scoreboard will continue monitoring aid expenditure with reference to the main goals of the recently introduced Europe 2020 strategy[3].

When starting to analyse State aid expenditure in 2009, a high aid volume was still expected due to aid in response to the financial and economic crisis. Many Member States continued to grant substantial aid to the financial sector, be it in the form of rescue and restructuring aid or aid directed to remedy a serious disturbance of the economy, but they also made use of the Temporary framework for State aid measures to support access to finance in the current financial and economic crisis[4] ("Temporary Framework"). By presenting State aid expenditure including the aid volumes granted to crisis-related measures, i.e. financial crisis and aid to the real economy ("crisis measures")[5], the report would probably draw the wrong conclusions since high aid volumes related to crisis measures distort the overall picture on State aid. Where appropriate the report henceforth identifies State aid volumes excluding crisis measures, thereby being able to focus on the essential developments, as if there were no crisis measures. Crisis measures will be reported on separately and will use a different reference period in order to provide a full picture of crisis-induced 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[6] ("SAAP") in 2005.

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

[3] Europe 2020 – A European strategy for smart, sustainable and inclusive growth; http://ec.europa.eu/eu2020/index_en.htm.

[4] Communication from the Commission – Temporary Framework, OJ C 83, 7.4.2009, p. 1; Modification of the Temporary Framework – to allow separate limited amount of aid to farmers, OJ C 261, 31.10.2009, p. 1; 2nd Modification of the Temporary Framework – technical modification to further facilitate access to finance and encourage long-term investment, OJ C 303, 15.12.2009, p. 6.

[5] 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 or adopted under the Temporary Framework. Measures responding to the financial crisis but which were approved prior to the adoption of these specific State aid rules also count as crisis measures. For more details see chapter 3.

[6] COM(2005) 107 final, 7.6.2005.

The Scoreboard comprises five chapters. Key statistical information on State aid awarded by each Member State in 2009 is included in Chapters 1 and 2, where detailed data show the trend of State aid expenditure. Chapter 3 provides an update of the spring 2010 Scoreboard[7] with respect to State aid cases dealing with the financial crisis. It also provides, to the extent possible, an outlook for the future, based on the latest developments. Furthermore, this chapter 3 contains for the first time the aid expenditure which Member States granted under Temporary Framework. 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 provides for an 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 the annexes show key figures concerning State aid expenditure, the follow-up on the SAAP and the case lists relating to the financial and economic crisis and on recovery.

The Directorate-General for Competition publishes this Scoreboard on its website[8], 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[9] on the volume of State aid granted in Iceland, Liechtenstein and Norway.

State aid as defined under Article 107 TFEU[10]

The Scoreboard covers State aid as defined under Article 107(1) TFEU (ex Article 87(1) of the EC Treaty) that Member States granted up to the end of 2009. All State aid data refer to the implementation of Commission decisions but exclude cases which are still under examination. General measures implemented by Member States do not constitute State aid as defined by Article 107(1) TFEU.

The economic advantage passed onto undertakings through State aid measures can be measured in different ways: for grants, the advantage passed on to 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 within the meaning of Article 107(1) TFEU. 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.

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7 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010DC0255:EN:NOT.
8 http://ec.europa.eu/competition/state_aid/studies_reports/studies_reports.html .
9 http://www.eftasurv.int/information/sascoreboard/.
10 Treaty on the Functioning of the European Union.

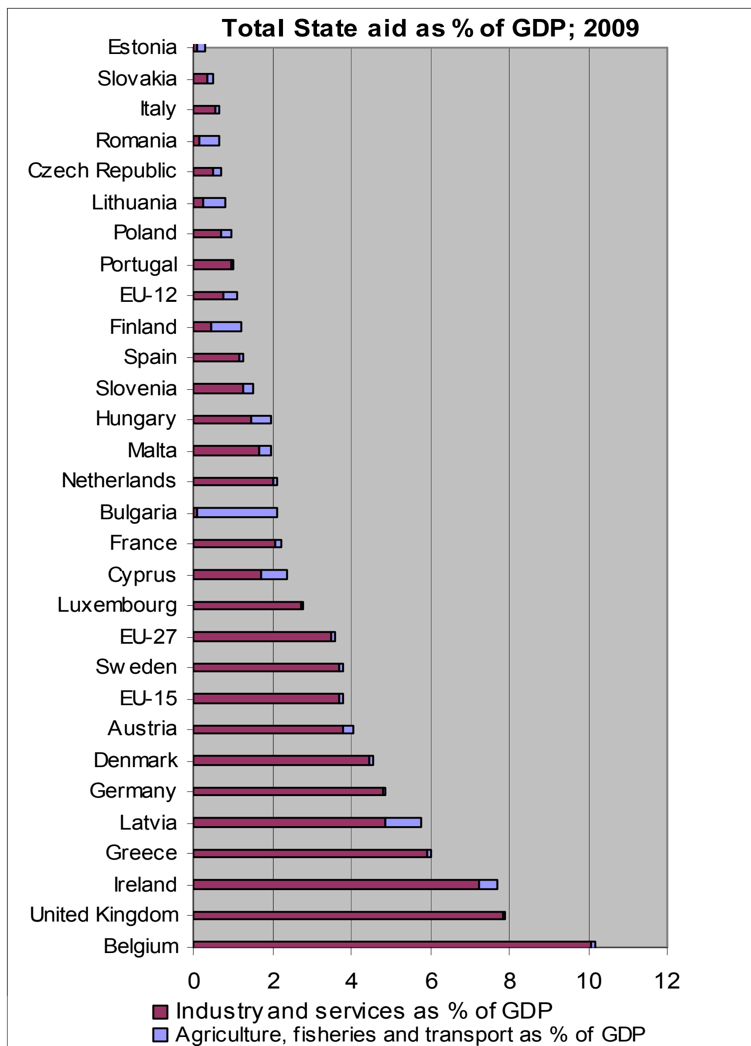
1. STATE AID IN 2009 IN ABSOLUTE AND RELATIVE TERMS

2009's State aid expenditure in the EU covers total State aid, aid to industry and services and aid granted through crisis measures. 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[11]: Total State aid as % of GDP (all sectors; crisis measures included); 2009

[11] Source: DG Competition, 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 107(1) TFEU (ex Article 87(1) TEC) that have been awarded by Member States and examined by the Commission. All sectors are included except railways and Services of General Economic Interest.



Total State aid[12] granted by the Member States amounted to approximately € 427.2 billion in 2009[13]. In absolute terms, the United Kingdom recorded the highest aid level (€ 124 billion), followed by Germany (€ 116.8 billion), France (€ 42.3 billion), Belgium (€ 34.3 billion) and Greece (€ 14.3 billion).

In relative terms, State aid amounted to 3.6% of EU-27[14] GDP in 2009. This average masks significant disparities between Member States: the share of total aid to GDP amounts to less than 1% (of GDP) in 7 countries and exceeds the average in 9 countries. The sharp increase in State aid in some of these countries was due to crisis measures.

1.2. Impact of crisis measures on total State aid

Crisis measures implemented and reported by Member States in 2009 amounted to approximately € 353.9 billion or around 3% of GDP.

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

[13] Crisis measures included.

[14] EU-27 means all Member States of the EU.

Figure 2[15]: Total State aid to industry and services as % of GDP (all cases versus crisis measures excluded); EU-27; 2009

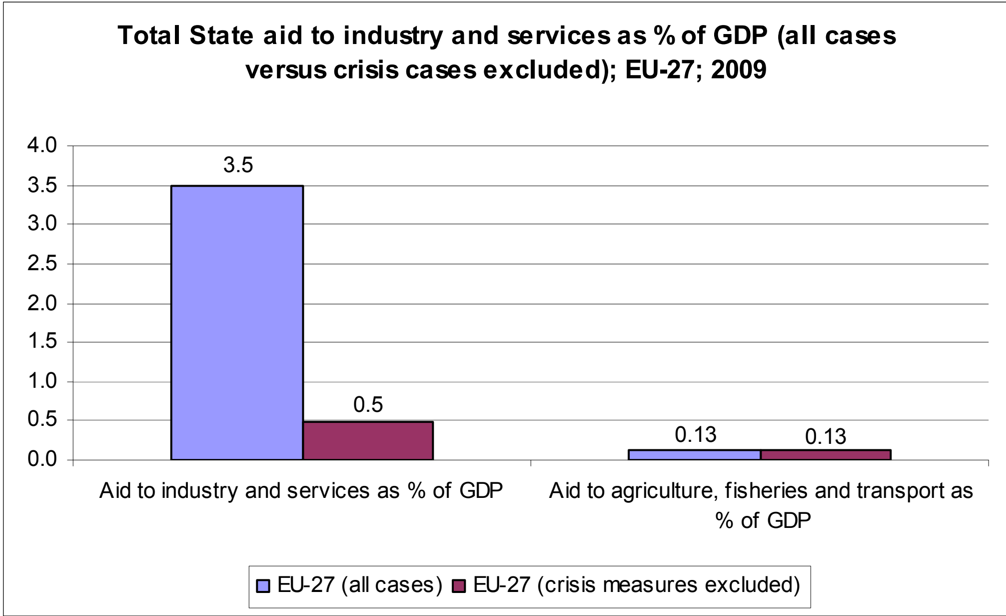


Figure 2 shows the impact the crisis measures had on total State aid granted by Member States to industry and services.

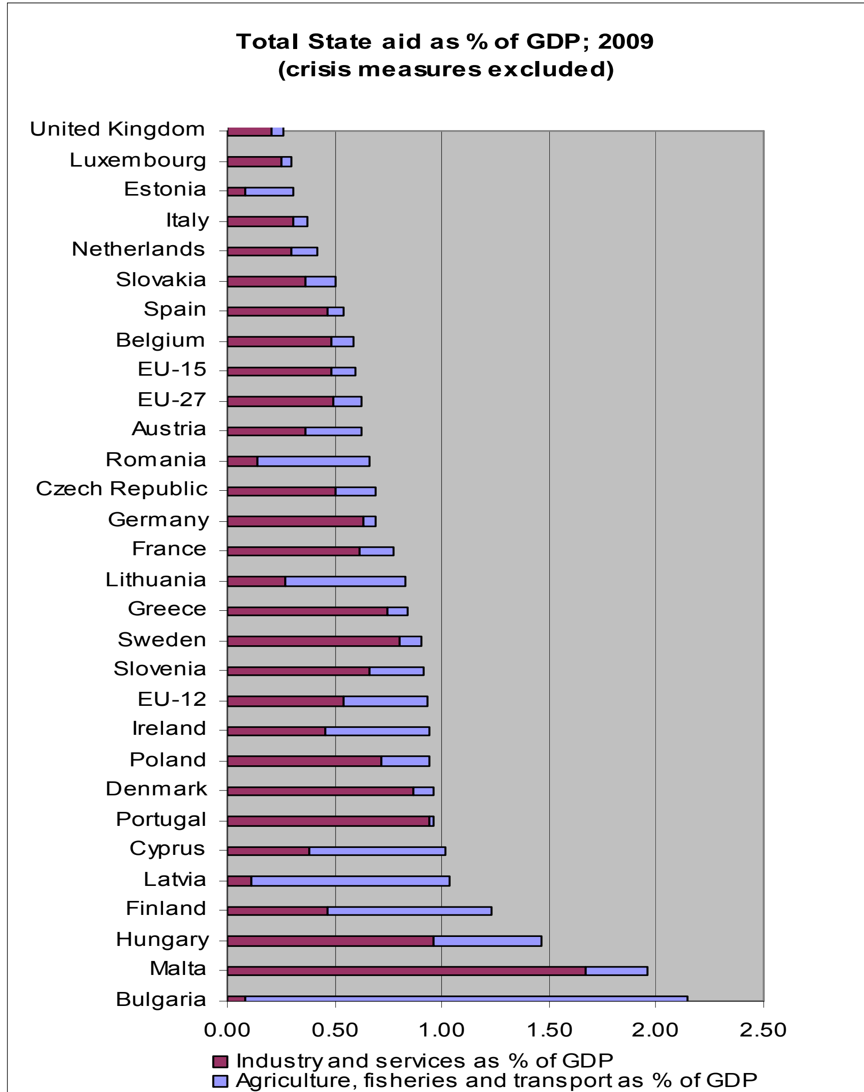
Aid granted by 22 Member States to financial institutions in response to the crisis contributed most to the big increase in State aid to industry and services at EU-27 level. Many of the EU-12[16] countries saw no need to support their banking sector. Hence their aid levels remained unaffected by crisis measures. Chapter 3 provides more detail on crisis measures.

15 Source: DG Competition, DG Agriculture and DG Maritime Affairs and Fisheries.

16 EU-12 includes Member States which acceded to the EU in 2004 or later.

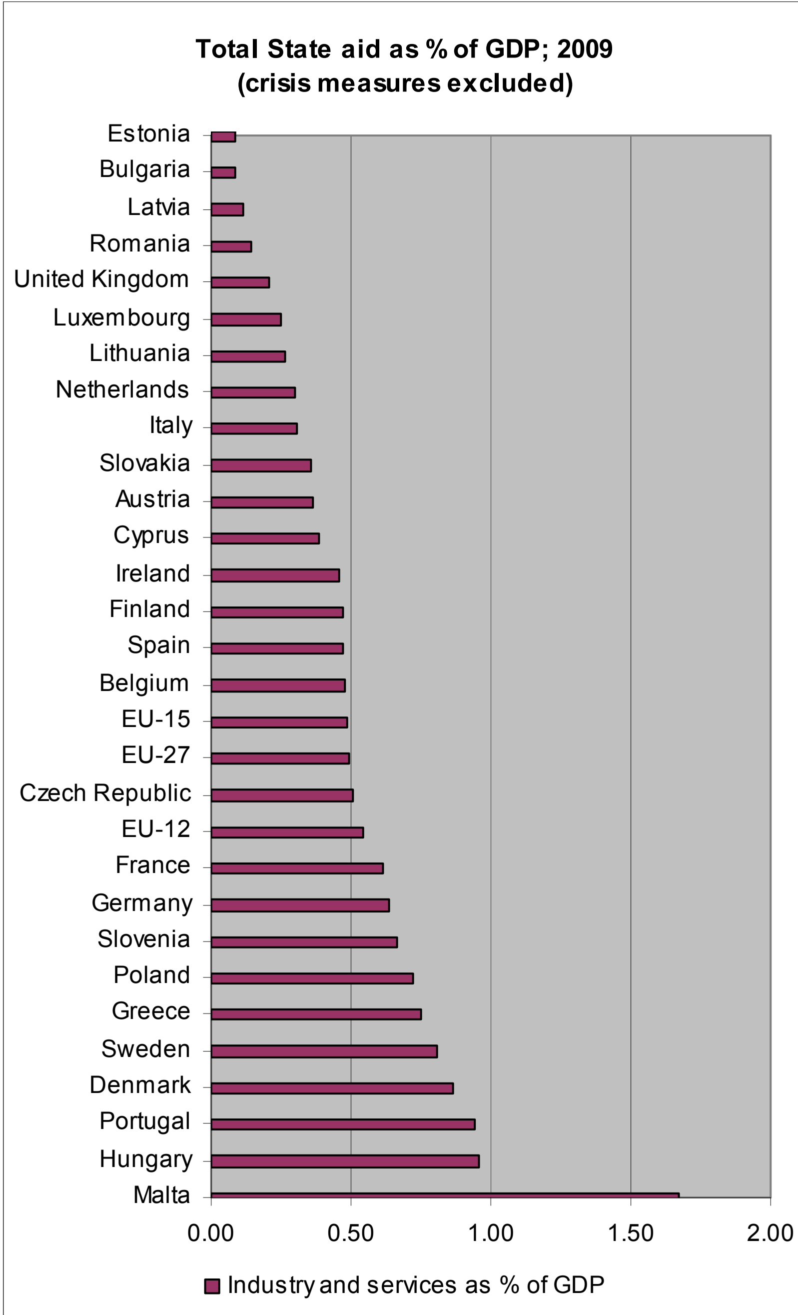
1.3. Total State aid and State aid per sector as % of GDP (crisis measures excluded)

Figure 3[17]: Total State aid (crisis measures excluded) as % of GDP (all sectors); 2009



17 Source: DG Competition, 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 107(1) TFEU (ex Article 87(1) TEC) that have been awarded by Member States and examined by the Commission. All sectors are included except railways.

Figure 4[18]: Total State aid to industry and services as % of GDP (crisis measures excluded); 2009



Excluding crisis measures, total State aid amounted to around € 73.2 billion in 2009. In absolute terms, Germany granted most aid (around € 16.7 billion), followed by France (€ 14.7 billion), Italy (€ 5.7 billion), Spain (€ 5.7 billion) and the United Kingdom (€ 4.1 billion).

[18] 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 107(1) TFEU (ex Article 87(1) TEC) that have been awarded by Member States and examined by the Commission.

In relative terms, total State aid amounted to 0.62% of EU-27 GDP in 2009. This average masks significant disparities between Member States: the share of total aid to GDP amounts to less than the average in 16 Member States.

In sectoral terms, around € 46.9 billion of aid was earmarked for the manufacturing and services sectors, roughly € 2.5 billion for the other non manufacturing sectors[19], € 2.7 billion for coal, € 11.8 billion for agriculture and fisheries and approximately € 3.3 billion for the transport sector (excluding railways)[20].

Significant differences were found between Member States regarding the sectors to which aid was directed. In 2009, aid directed at manufacturing and services, other non manufacturing sectors and coal represented 75% or more of total aid *inter alia* in Denmark, Germany, Luxembourg, Poland, Portugal and Sweden. In a few Member States, aid to agriculture, fisheries and transport still accounts for more than 50% of the total, namely in Bulgaria, Estonia, Ireland, Cyprus, Latvia, Lithuania, Romania and Finland. 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

Total aid to industry and services amounted to approximately € 412.1 billion[21] in 2009. In absolute terms, the United Kingdom granted most aid (€ 123.2 billion) followed by Germany € 115.4 billion), France (€ 39.3 billion), Belgium (€ 33.9 billion), and Greece (€ 14.1 billion).

In relative terms, State aid to industry and services amounted to 3.49% of EU-27 GDP in 2009. This second indicator produces a rather different ranking of Member States. 18 Member States granted aid representing less than the EU-27 average expressed in GDP.

Excluding crisis measures, aid awarded to industry and services amounted to € 58.1 billion in 2009. Germany granted most aid (around € 15.3 billion) followed by France (€ 11.7 billion), Spain (€ 4.9 billion), Italy (€ 4.6 billion) and the United Kingdom (€ 3.3 billion).

In relative terms, State aid to industry and services amounted to 0.49%[22] of EU-27 GDP in 2009. This average masks significant disparities between Member States: the ratio of total aid to GDP is less than the average in 16 countries.

Aid to industry and services represents 79.3% of total State aid. Coal, as part of sectoral aid, amounted to € 2.7 billion or 3.7% of total aid. The remainder of aid is spread between agriculture (15.9% of total aid), fisheries (0.3% of total aid), and transport[23] (4.5% of total aid).

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

[20] DG Agriculture is responsible for aid to the agricultural sector, DG Maritime and Fishery Affaires for aid to fisheries; aid to railways is monitored by DG Mobility and Transport while since 2010 DG Competition is in charge of aid granted to the remainder of the transport sector (previously this task belonged to DG Transport and Energy).

[21] Crisis measures included.

[22] Crisis measures excluded.

[23] Excluding railways.

16 Member States lie below the EU-27 average (0.49% of GDP) for aid to industry and services. Aid expenditure in 2009 was expected to rise in view of the continuing fragility of the economic situation throughout that year.

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

Figure 5[24] : Total State aid (all cases); EU-27; 2009

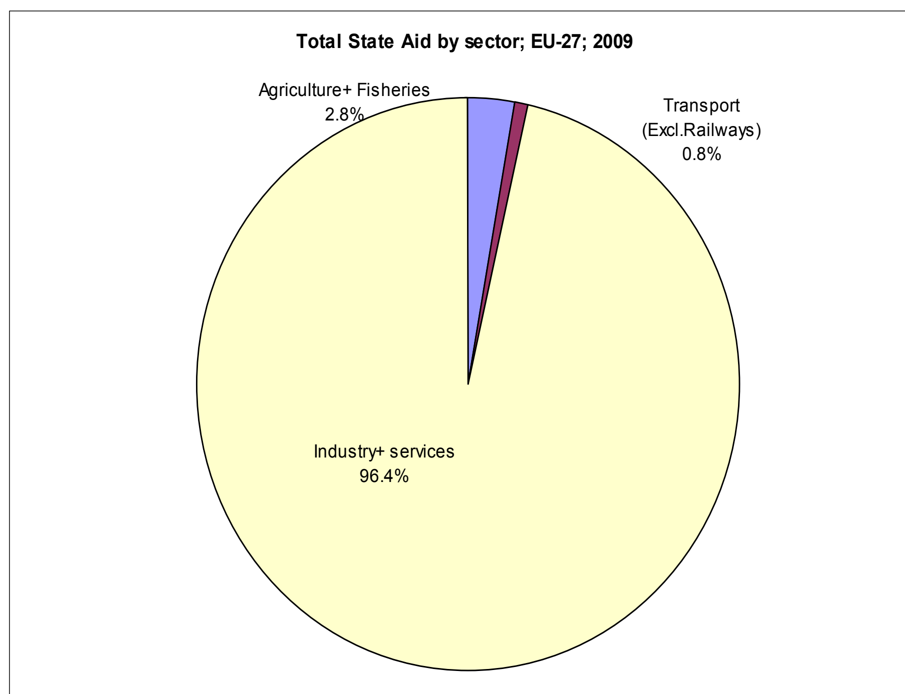
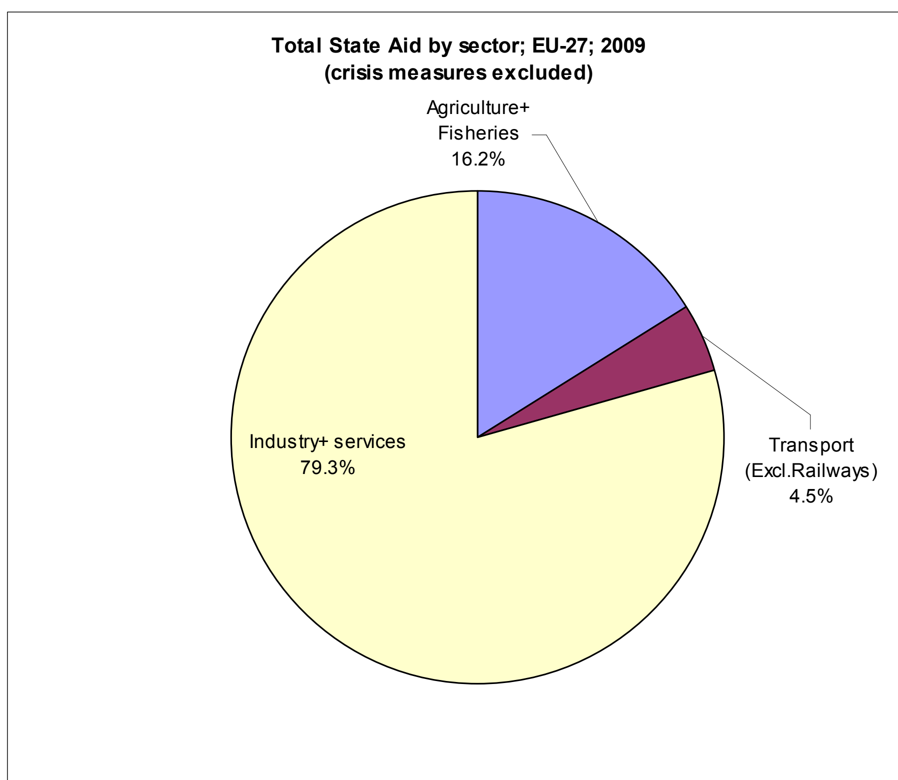


Figure 6[25] : Total State aid (crisis measures excluded); EU-27; 2009

24 Source: DG Competition, DG Agriculture, DG Maritime Affairs and Fisheries, DG Energy.

25 Source: DG Competition, DG Agriculture, DG Maritime Affairs and Fisheries, DG Energy.



Figures 5 and 6 present the distribution of State aid per sector. Due to the high volumes of crisis aid, Member States channelled most aid to industry and services (96.4%) in 2009. The other sectors represent only a small aggregated share of 3.6%.

Excluding crisis measures, Member States awarded roughly 79.3% of aid to industry and services. The remainder of the aid is spread between agriculture and fisheries (16.2%) and transport (4.5%)[26].

2. TRENDS AND PATTERNS OF STATE AID EXPENDITURE IN THE MEMBER STATES

In contrast to the static view given above, trends and patterns of State aid expenditure in the Member States will now be examined. 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 also by looking at the aid granted over a number of years in order to eliminate annual fluctuations and delayed reporting[27]. The periods into which expenditure data were grouped are 2004 - 2006 and 2007 - 2009.

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26 Excluding railways.

27 In spite of the Member States' obligation (Annex III of Commission Regulation (EC) No 794/2004 of 21 April 2004) to report State aid expenditure for the year t-1, a few Member States are able to report only estimates for some measures and the actual expenditure follows the year after. In addition, unlawfully granted State aid is included in the Scoreboard data only if the Commission has issued a negative decision and hence expenditure is retroactively attributed to the year(s) in which the aid was granted. For this reason, overall aid levels might be underestimated for the most recent year.

2.1. Levels of State aid to industry and services

Since data on aid to agriculture, fisheries and transport contain particularities[28] which prevent the production of aggregate information across all sectors, all observations will exclude these sectors.

Total State aid to industry and services obviously includes crisis measures (€ 353.9 billion) which is the main cause of the higher level of total State aid to industry and services in 2009 compared with 2008. This would influence most key data and undermine the comparability of data between individual years. Furthermore, crisis measures represent aid granted under exceptional circumstances and most of it is attributed to the financial sector (only a small part represents "crisis" aid to the real economy). Where appropriate, State aid expenditure for crisis measures is therefore not taken into account when analysing trends and patterns. Read more about crisis measures in Chapter 3.

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

Figure 7[29]: State aid to industry and services since 1992

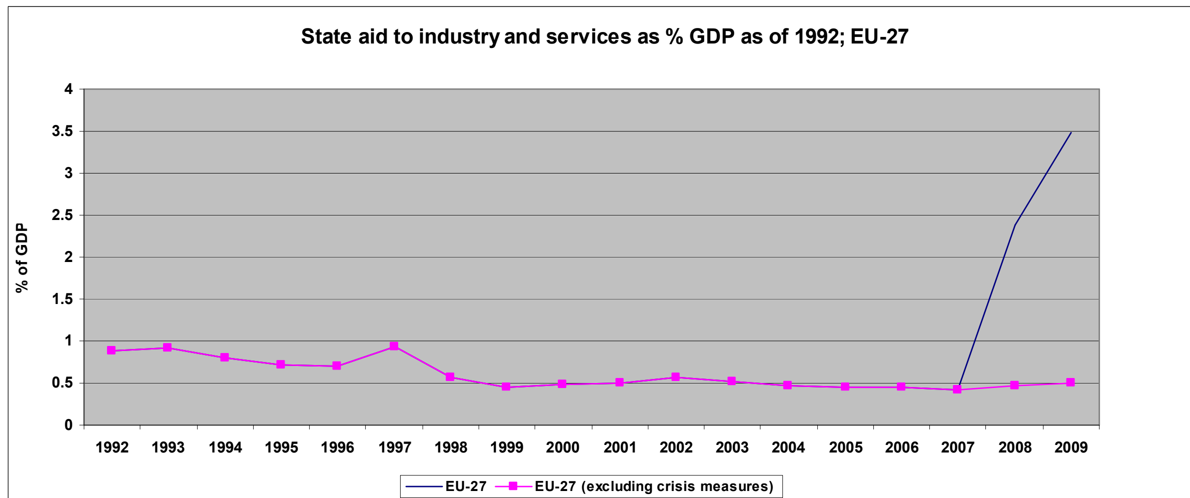

Figure 7 shows the long-term trend for State aid expenditure for industry and services in the EU. During the 1990s, the overall level of aid was around 0.7% of GDP[30] on average and on a downward path. This decline can be partly explained by the work that began in the mid 1980s to make effective State aid control a key component of the Single Market Programme. State aid control was strengthened in the 1990s mainly as a result of preparation for Economic and Monetary Union.

New impetus from the Lisbon Strategy launched by the European Council in 2000 and then the SAAP in 2005 resulted in a further decline in aid to industry and services, which fluctuated between 0.4% and 0.6% of GDP between 2000 and 2007[31].

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[32] and Sachsen LB[33]. Both cases are now treated as 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. 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 of EU State aid law and policy.

This positive downward trend was brought to an abrupt end due to the financial crisis. The strong upward curve in 2008 can be almost exclusively attributed to crisis measures, which

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[29] Source: DG Competition.

[30] 1997 had a peak due to the Credit Lyonnais aid.

[31] The aid to BGB in 2002 contributed to another peak in the long-term trend.

[32] NN 70/2007 *Northern Rock.*

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

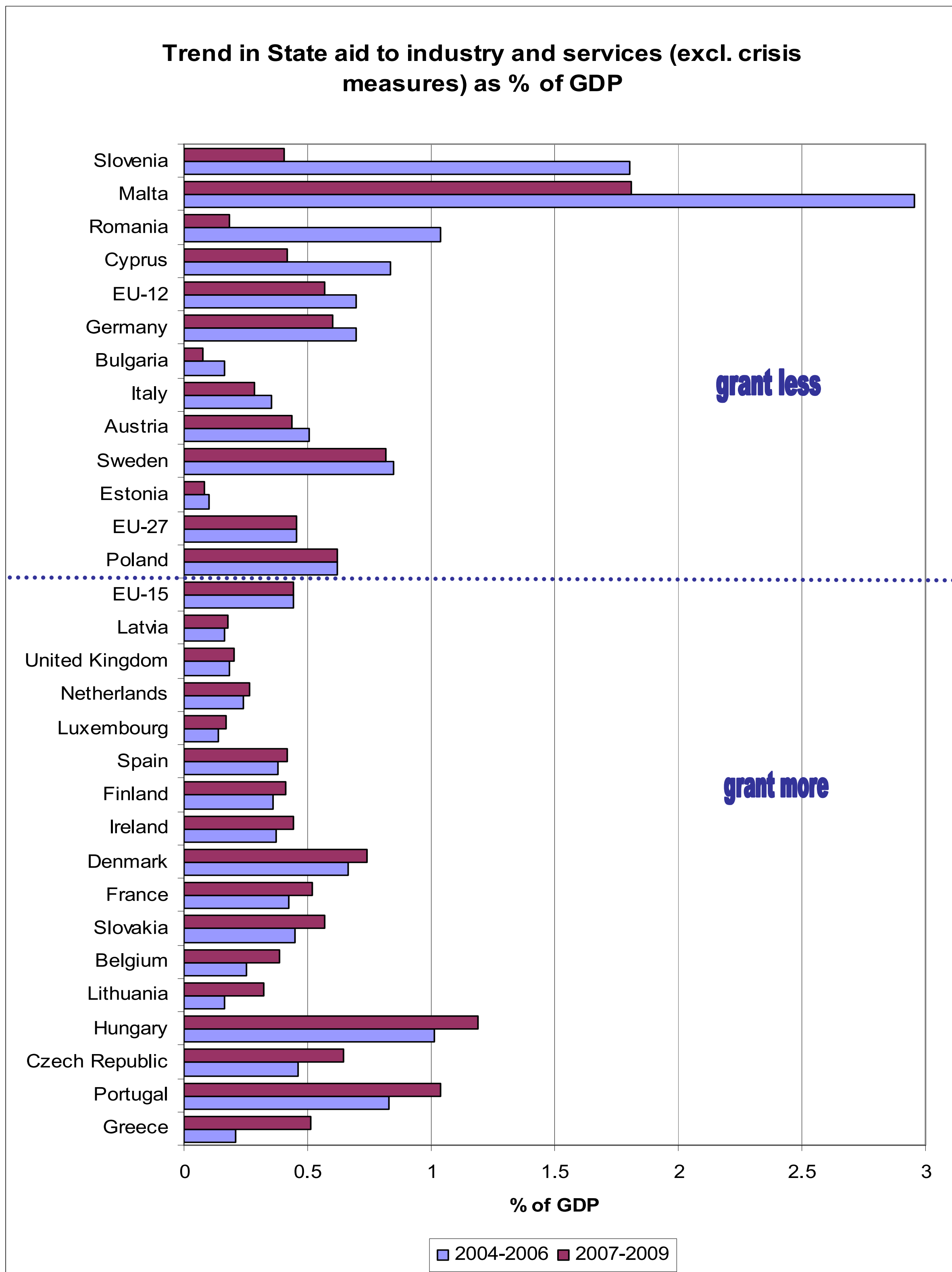
was roughly two-thirds higher than in 2007[34]. Aid granted in 2009 was higher still again due to the focus which Member States put on the financial sector.

In order to examine expenditure developments without the distorting effect of the crisis measures, they will be excluded from total aid to industry and services in following analysis. On this basis, the trend shows a small upward move in 2009. Compared with 2008, aid for industry and services increased by approximately 0.03% of GDP. For instance, France granted more aid to regional development as well as for research and development, Germany more on regional aid and aid to SMEs. Aid earmarked for these horizontal objectives contributed the most to the increase. That said, the increase in aid volumes witnessed in 2008 and 2009 do not yet allow a conclusion to be drawn as to whether the long-term downward trend in EU-27 State aid expenditure has been reversed; the data is for just two years and remains within the average for the period 2000 - 2007.

[34] 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 radar, e.g. rescue and restructuring of Northern Rock and Sachsen LB.

Figure 8[35]: Trend in State aid to industry and services as % of GDP (crisis measures excluded)

[35] Source: DG Competition.



The trend in State aid expenditure to industry and services, as shown in figure 8, indicates that some Member States were able to reduce aid expenditure despite the impact of the financial and economic crisis, i.e. 11 Member States reduced aid levels in the period 2007 - 2009 as compared with 2004 - 2006. While many of the EU-12 Member States were able to reduce their aid levels, Cyprus, Romania and Slovenia achieved a more significant reduction of 0.5% of GDP or more. As a result, the average EU-12 expenditure reduced by 0.13% of GDP in

2007 - 2009 as compared to 2004 - 2006. Some EU-15 countries e.g. Germany, Italy, Austria and Sweden were also able to slightly reduce aid levels in terms of percentage of GDP during the period 2007 - 2009 when compared with 2004 - 2006. The EU-27 aid level in the period 2007 - 2009 decreased slightly by 0.003% of GDP while it increased by 0.006% of GDP when looking at EU-15[36]. Greece, the Czech Republic, Portugal and Belgium contributed most to the increase, each increasing expenditure by 0.1% of GDP or more. The slight increase in aid to industry and services in 2009, and more in 2008, is also reflected in the trend – see above. Again, it would be too early to identify a reversal of the long-term downward trend in EU-27 State aid expenditure; the data is just for two years and remains within the average for the period 2000 - 2007.

Some Member States increased aid expenditure in 2007 - 2009 compared to 2004 - 2006. For instance, the Czech Republic granted more aid to regional development, as did Greece, France and Latvia. Sweden again granted substantial aid earmarked for protection of the environment, mainly through fiscal aid. Belgium also granted more aid for environmental protection. The United Kingdom increased aid for research and development.

2.2. State aid for horizontal objectives of common interest

The Treaty sets out a general prohibition on State aid but the original drafters were not blind to the fact that, in some circumstances, government interventions are necessary for a well-functioning and equitable economy. Therefore, the Treaty leaves room for a number of policy objectives according to which State aid can be found to be compatible with the internal market. State aid measures can be effective tools for a number of policy objectives. The most prominent horizontal objectives pursued using State aid include support to Research and Development and Innovation (hereinafter "R&D&I"), safeguarding the environment including energy saving and renewable energies, support to SMEs, employment creation, the promotion of training and regional economic development.

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[37] or *ad hoc* aid.

Following the call at various European Councils Member States have, in recent years, shifted their efforts from supporting individual companies or sectors towards tackling horizontal objectives of common interest, including cohesion objectives. This section provides detailed information on horizontal and sectoral aid and relevant trends.

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[36] EU-15 comprises Member States that joined the EU before 2004.

[37] Including rescue and restructuring aid.

2.2.1. Horizontal versus sectoral aid in 2009

Figure 9[38]: Total State aid, aid to industry and services as % of GDP, share of horizontal

Figures in (…) include crisis measures	Total State Aid less railways in billion EUR	Total State Aid for industry and services in 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 for industry and services
EU 27	**73.2 (427.2)**	**58.1 (412.1)**	**0.6 (3.6)**	**0.5 (3.5)**	**84 (12)**
EU 15	**65.1 (417.3)**	**53.4 (405.6)**	**0.6 (3.8)**	**0.5 (3.7)**	**85 (11)**
EU 12	**8.1 (9.9)**	**4.7 (6.5)**	**0.9 (1.1)**	**0.5 (0.8)**	**76 (55)**
Belgium	2.0 (34.3)	1.6 (33.9)	0.6 (10.2)	0.5 (10.1)	100 (5)
Bulgaria	0.7 (0.7)	0.03 (0.0)	2.1 (2.1)	0.1 (0.1)	100 (100)
Czech Republic	0.9 (0.9)	0.7 (0.7)	0.7 (0.7)	0.5 (0.5)	88 (88)
Denmark	2.1 (10.2)	1.9 (10.0)	1.0 (4.6)	0.9 (4.5)	97 (19)
Germany	16.7 (116.8)	15.2 (115.4)	0.7 (4.8)	0.6 (4.8)	86 (11)
Estonia	0.04 (0.04)	0.01 (0.01)	0.3 (0.3)	0.1 (0.1)	100 (100)
Ireland	1.5 (12.6)	0.7 (11.8)	0.9 (7.7)	0.5 (7.2)	89 (6)
Greece	2.0 (14.3)	1.8 (14.1)	0.8 (6.0)	0.7 (5.9)	87 (11)
Spain	5.7 (13.2)	4.9 (12.4)	0.5 (1.3)	0.5 (1.2)	80 (32)
France	14.7 (42.3)	11.7 (39.3)	0.8 (2.2)	0.6 (2.1)	79 (23)
Italy	5.7 (10.2)	4.6 (9.2)	0.4 (0.6)	0.3 (0.6)	84 (45)
Cyprus	0.2 (0.4)	0.1 (0.3)	1.0 (2.4)	0.4 (1.7)	95 (21)
Latvia	0.2 (1.1)	0.0 (0.9)	1.0 (5.8)	0.1 (4.9)	100 (2)
Lithuania	0.2 (0.2)	0.1 (0.1)	0.8 (0.8)	0.3 (0.3)	100 (100)
Luxembourg	0.1 (1.0)	0.1 (1.0)	0.3 (2.8)	0.2 (2.7)	100 (9)
Hungary	1.4 (1.9)	0.9 (1.5)	1.5 (2.0)	1.0 (1.5)	76 (50)
Malta	0.1 (0.1)	0.1 (0.1)	2.0 (2.0)	1.7 (1.7)	23 (23)
Netherlands	2.4 (12.1)	1.7 (11.4)	0.4 (2.1)	0.3 (2.0)	99 (15)
Austria	1.7 (11.2)	1.0 (10.5)	0.6 (4.1)	0.4 (3.8)	99 (10)
Poland	2.9 (2.9)	2.2 (2.2)	0.9 (0.9)	0.7 (0.7)	71 (71)
Portugal	1.6 (1.7)	1.6 (1.6)	1.0 (1.0)	0.9 (1.0)	19 (18)

[38] Source: DG Competition, DG Agriculture, DG Maritime and Fisheries Affairs.

Romania	0.8 (0.8)	0.2 (0.2)	0.7 (0.7)	0.1 (0.1)	50 (50)
Slovenia	0.3 (0.5)	0.2 (0.4)	0.9 (1.5)	0.7 (1.3)	91 (47)
Slovakia	0.3 (0.3)	0.2 (0.2)	0.5 (0.5)	0.4 (0.4)	90 (89)
Finland	2.1 (2.1)	0.8 (0.8)	1.2 (1.2)	0.5 (0.5)	99 (98)
Sweden	2.6 (11.1)	2.4 (10.9)	0.9 (3.8)	0.8 (3.7)	100 (22)
United Kingdom	4.0 (124.2)	3.2 (123.2)	0.3 (7.9)	0.2 (7.9)	91 (2)

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, most of the aid granted to "remedy a serious disturbance in the economy" (crisis measures) is aid granted to the financial sector and hence classified as sectoral aid. The Temporary Framework, which allowed Member States to address the effects of the credit squeeze on the real economy, is however a horizontal instrument to support all sectors of the economy. Given the high volumes of crisis aid granted to financial institutions the relative share of horizontal aid as part of total aid to industry and services decreased significantly in 2009. If the corresponding aid volumes were included in the total of the sectoral aid for 2009, the share of horizontal objectives in relation to total aid to industry and services would amount to approximately 12%. Around 88% would be sectoral aid, of which the financial crisis measures represent the largest part (more than 96%).

However, the analysis of horizontal aid is more informative when looking at State aid to industry and services excluding crisis measures. It then appears that horizontal objectives represent a share of around 84% of aid granted in 2009 while sectoral aid stands at around 16%. These shares have been relatively stable for the last four years (between 82% and 84%) in EU-27. It should be stressed that in EU-12, the share of horizontal objectives has increased in recent years from 28% in 2004 to achieve in 2009 a share of 76% of aid to industry and services, approaching the 84% EU-27 average.

In absolute terms, aid earmarked for horizontal objectives amounted to roughly € 48.7 billion in 2009 and sectoral aid to about € 9.4 billion. It is worth noting with respect to sectoral aid that the trend shows a slight decrease in sectoral aid between the period 2004-2006 and 2007-2009, mainly due to lower aid granted to the coal sector.

2.2.2. State aid to horizontal objectives

In 23 Member States, at least three-quarters of all the aid awarded in 2009 was for horizontal objectives of common interest

Aid earmarked for horizontal objectives accounted for 84% of total aid to industry and services in 2009. It comprises notified aid and aid granted under block exempted measures. The remaining 16% was aid directed at specific sectors[39]: financial services other than crisis

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

measures (2%), coal (5%), other services (1%), manufacturing sectors (6%) and other non-manufacturing sectors (2%).

In 15 Member States, 90% or more of all the aid awarded in 2009 was earmarked for horizontal objectives. In Spain, France, Italy, Hungary and Poland, the share of horizontal aid was between 70% and 85% while the share was significantly lower in Malta (23%), Portugal (19%) and Romania (50%). 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 Maltese Business Promotion Act[40], (most of the sectoral aid is granted to the manufacturing sector). The low share of horizontal aid in Portugal is due to a large regional aid tax scheme (which is being phased out) in Madeira which benefits a limited number of sectors. In Romania, a significant proportion of aid continues to be awarded to the coal sector.

In absolute terms, aid to horizontal objectives amounted to around € 48.7 billion in 2009. Compared with 2008, it increased by roughly € 1.2 billion (less than 3% of aid granted in 2008). Regardless of the individual horizontal objective to which aid was earmarked, individual Member States contributed differently to this increase. 15 of the 27 Member States augmented aid to horizontal objectives. France, Belgium, Denmark, Spain, Greece, Germany, Poland and the Netherlands were the countries with the greatest increases in comparison to the previous year (France increased by around € 990 million, Belgium by € 426 million, Denmark by € 321 million and the other countries by between € 309 million and € 228 million each). The remainder of the extra aid for horizontal objectives in 2009 is spread between a few other countries such as Bulgaria, Luxembourg, Malta, Portugal, Slovenia, Finland and the United Kingdom.

In 12 Member States aid levels for horizontal objectives decreased. The countries with the biggest decrease were the Czech Republic (€ 457 million less in 2009 compared to 2008), Hungary (€ 443 million less), Slovakia (€ 418 million less) and Austria (€ 394 million less).

Looking at the share for horizontal objectives of total aid to industry and services, in 2009 five countries showed a reduction in comparison to the year before. Greece sharply reduced its share from 98% in 2008 to 87% in 2009, followed by the Czech Republic (from 93% in 2008 to 88% in 2009) and Romania (from 54% in 2008 to 50% in 2009). In Greece, the reduction is due to the significant government contribution to the Hellenic Telecommunication Operator's (OTE) voluntary early retirement scheme (VRS)[41] which is classified as sectotal aid.

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[42]. The largest proportion of aid was earmarked for regional development (around € 14 billion, roughly 24% of total State aid for industry and

[40] 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.

[41] Case C 2/2006, OTE- Early retirement scheme.

[42] 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 calculate the total aid earmarked for horizontal objectives.

services), which was used in particular in the EU-12 countries (around 30%), but also in Greece (76%), Ireland (39%) and France (35%).

The second largest proportion of aid concerning horizontal objectives was allocated to the environment and energy savings (€ 13 billion, roughly 23% of total State aid for industry and services). Sweden (82%), the Netherlands (62%), Latvia (51%), Finland (41%), Germany (37%), the United Kingdom (36%), and Austria (35%) devoted a substantial part of aid to these objectives. In contrast, the average for the EU-12 countries was 11%, therefore much lower than the average for the whole of the EU.

In third position was aid earmarked to R&D&I activities (around € 10.6 billion, 19% of total State aid for industry and services). Luxembourg (63%), Belgium (46%), Bulgaria (40%) and the Czech Republic (36%) devoted the highest shares of aid to these objectives. In EU-12, the average was around 11%, again lower than in EU- 27.

Together, these three objectives (regional development, environment and energy savings and R&D&I) represent around 66% of total aid to industry and services in EU-27 and hence are the most widely used horizontal objectives of common interest.

All other objectives taken together account for roughly 18% of total aid to industry and services: SMEs (7% of total aid)[43], social support for individual consumers (2%)[44], employment (4%), culture and heritage conservation (3%), training (2%), risk capital and other horizontal objectives including objectives such as commerce and internationalisation and natural disasters (roughly 1%).

The relative share of objectives is considerably different in the EU-12 countries where the predominant objective is aid for regional development (30%), followed by employment aid (14%), R&D&I (11%), environmental aid and energy savings (11%) and training and culture (3% each). The relatively high share of employment aid in EU-12 is due mainly to a Polish block exempted scheme for disabled people[45].

Block exempted measures

Block exempted aid can be granted through measures adopted under the Block Exemption Regulations (hereinafter "BERs") and also under the new General Block Exemption Regulation (hereinafter "GBER"[46]). The GBER entered into force in 2008, but it was only in 2009 that the implementation of most of the measures fulfilling the conditions of the new regulation took effect. The GBER consolidates into one text and harmonises the rules previously existing in the BERs and enlarges the categories of state aid covered by the exemption. Since 2001 the Commission had adopted individual block exemption regulations

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43 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.

44 Most of the aid granted was in France under C43/2006, *Réforme du mode de financement des retraites des fonctionnaires de l'Etat rattachés à La Poste.*

45 X 306/2009 *Miesieczne dofinansowanie do wynagrodzen pracowników niepelnosprawnych.*

46 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).

for aid to SMEs, aid for research and development, aid in favour of SMEs, aid for employment, training aid and regional aid. To those existing aid measures the GBER adds five new categories of block exempted aid: environmental aid, innovation aid, research and development aid for large companies, aid in the form of risk capital and aid for enterprises newly created by female entrepreneurs. In 2009, more than 51% of total aid granted under block exempted measures fell under the new GBER.

In absolute terms, Member States awarded in 2009 a total of roughly € 10.8 billion of aid under block exemptions for industry and services. In relative terms, block exempted aid represented a share of approximately 22% of total horizontal aid to industry and services in 2009.

In the period 2004 - 2006, the share was stable at between 6% and 7% of total aid. However, since 2007, Member States have made more use of this simplified and quicker instrument and the share of total aid granted under the GBER has increased progressively to more than 22% in 2009. Looking at the most relevant categories, in 2009 € 4.9 billion of aid was awarded for regional investment aid. The main contributing factor here was a regional investment scheme of around € 863 million in Germany.[47] Compared with 2008, the figure represents an increase of around € 660 million. Although only introduced in 2007, block exempted aid earmarked for regional investment aid reached a share of almost 31% of total aid awarded under the same objective only one year later. In 2009, the share increased to 35%.

The second largest category was block exempted aid for SMEs and risk capital (addressed only to SMEs) which amounted to € 2.4 billion in 2009, a decrease of € 147 million compared to the amount granted in 2008. In relative terms, this represents 53% of total aid granted to similar objectives. Risk capital accounted for only with € 39 million. Aid for enterprises newly created by female entrepreneurs is also included in this category and amounted to around € 0.3 million. Germany and Italy are the largest contributors to the SMEs objective, granting € 0.8 billion and € 0.5 billion respectively.

In third position was employment aid which amounted to € 1 billion in 2009. Aid granted for this objective decreased by € 215 million compared to 2008, mostly due to an important reduction in Hungary (from € 367 million in 2008 to € 13 million in 2009). Block exempted employment aid represents a share of 42% of total aid awarded to the same objective. More than half of the aid granted relates to a Polish scheme for disabled workers[48]. Italy is the second largest contributor. Both countries concentrated more than 82% of total employment aid granted in 2009 under block exempted measures.

The main reason for the comparatively low percentage of block exempted aid for employment and SMEs 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

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

[48] X 306/2009 *Miesieczne dofinansowanie do wynagrodzen pracowników niepełnosprawnych.*

regulations[49]. In addition, large French SME schemes that do not meet all criteria for block exempted aid account for almost half of all other aid to SMEs[50].

Member States earmarked roughly € 0.8 billion as training aid under block exempted measures which represents almost 88% of total training aid in 2009. When looking at the trend, training aid had been granted at a high rate through block exemption since 2004 (see figure 11 below). Italy (€ 166 million), Germany (€ 148 million), and Spain (€ 110 million) were the main contributors to this objective.

Block exempted aid earmarked as research, development and innovation aid amounted around € 1 billion in 2009. This represents 9% of total aid granted to the same objective. Spain (€ 282 million), Italy (€ 267 million) and Belgium (almost € 130 million) were the countries that made most use of this instrument.

Finally, Member States granted € 732 million of environmental protection aid under block exempted measures corresponding to around 6% of total aid for environmental objectives. The low share of environmental aid granted under block exempted measures can be explained by the existence of some ongoing tax measures approved before the adoption of the GBER which account for most of the environmental aid in EU[51].

Almost half of the environmental aid under block exempted measures was granted by Germany. This country together with Spain and Belgium contributed to around 91% of total environmental aid granted using block exempted measures in 2009.

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[49] 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).

[50] N 119/2009 (approved on 13.03.2009), N 596a/2007 (approved on 11.03.2008), N 70a/2006 (22.06.2006), N 211/2003 (16.12.2003).

[51] See section 2.2.6 of the State aid Scoreboard on State aid for environmental protection.

Table 10[52]: Block exempted measures as % of total horizontal aid to industry and services

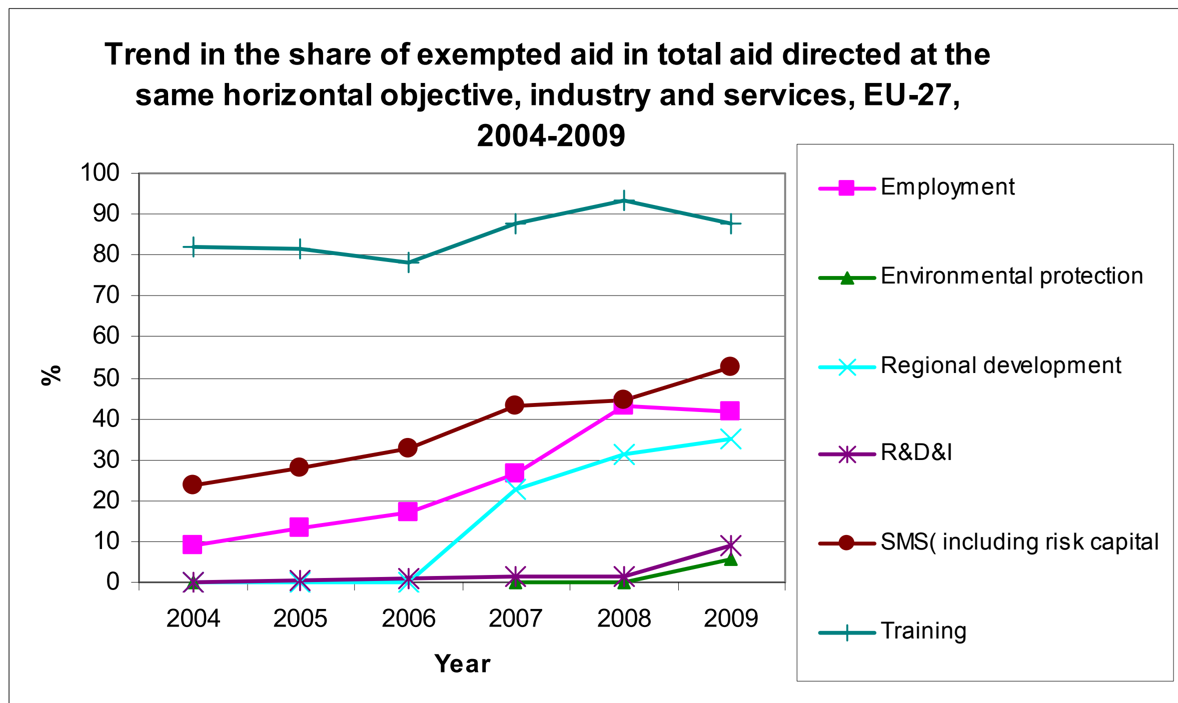


Figure 11[53]: Trend in the share of block exempted aid in total aid directed at the same horizontal objective, industry and services (EU-27; 2004-2009)

Year **Horizontal objectives in € billion** **Share of exempted aid in %**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**
Aid for SME (incl. risk capital for SMEs)	6.1	5.9	5.5	5.4	5.7	4.6
Share of exempted aid in aid for SME (incl. R&D for SMEs)(in %)	24	28	33	43	45	53
Employment	2.2	3.4	3.7	2.9	2.9	2.4
Share of exempted aid in employment aid (in%)	9	13	17	27	43	42
Training	0.9	0.6	0.9	0.7	0.8	0.9
Share of exempted aid in training aid (in %)	82	81	78	87	93	88
Regional development	9.3	9.5	10.6	10.2	13.4	13.9
Share of exempted aid in regional development (in %)	0.004	0.001	0.004	23	31	35
R&D&I	5.9	6.3	7.2	7.8	8.8	10.6
Share of exempted aid in R&D&I aid (in %)	0.1	0.3	1	1	1	9
Environmental protection	12.4	13.5	14.6	12.3	13.1	13.2
Share of exempted aid in environmental protection aid (in %)	0	0	0	0.005	0.05	6
Total horizontal aid	**38.1**	**41.3**	**44.4**	**42.1**	**47.5**	**48.7**
Share of exempted aid in total horizontal aid (in%)	**6.2**	**6.4**	**7.1**	**14.6**	**18.7**	**22.2**

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

When looking at the trend with respect to aid earmarked for horizontal objectives it has been broadly stable since 2006 (between 82% and 84%), it represents around 84% of aid to industry and services. Compared with previous periods, 72% in 2004 and around 50% in the

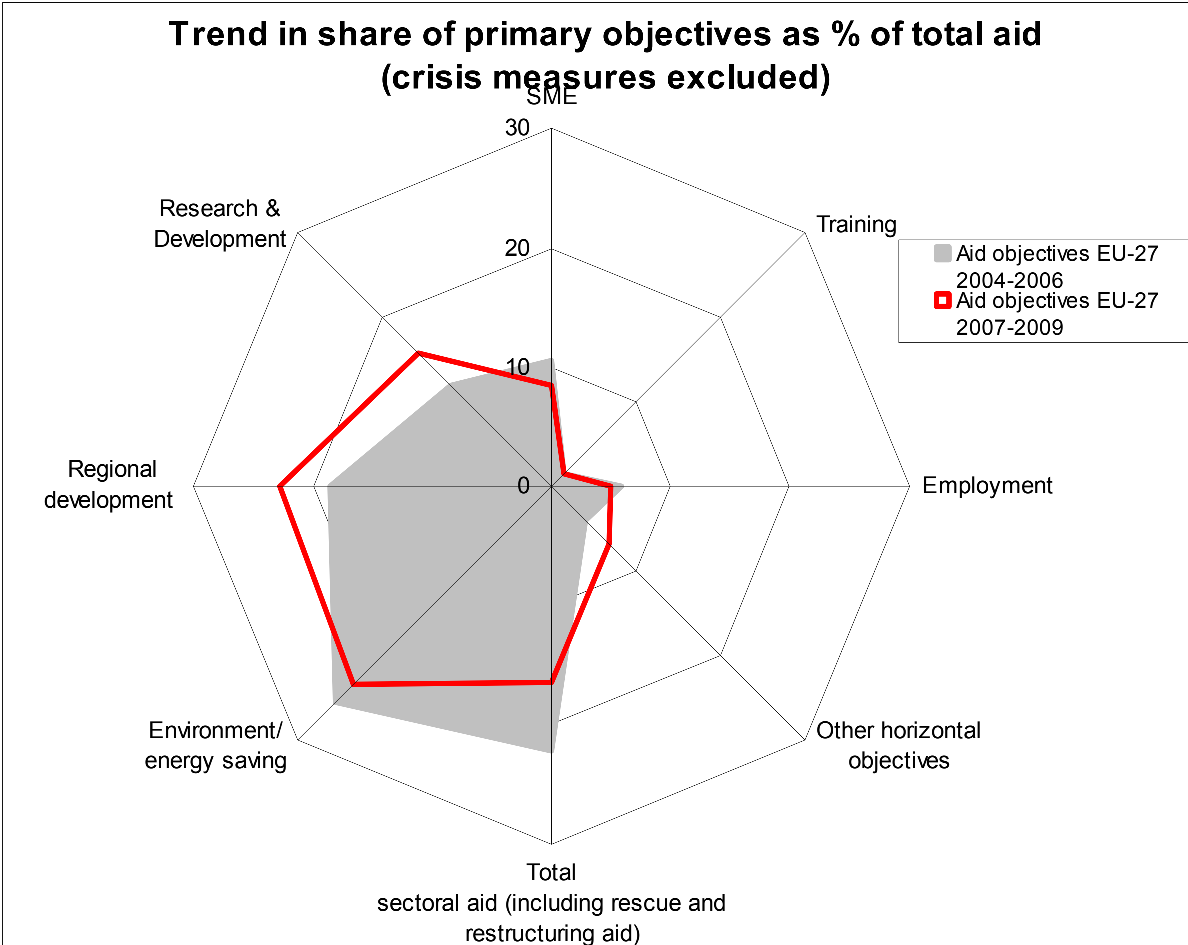
52 Source: DG Competition.
53 Source: DG Competition.

mid-1990s, it shows a clear upward move. The underlying trend also confirms the upward move on aid designed to achieve horizontal objectives. During the period 2004-2006 on average 78% of aid was earmarked for horizontal objectives while during 2007-2009 it increased to 84%. This trend was accompanied by a parallel decrease[54] in sectoral aid.

While the long-term trend still shows that Member States direct a relatively high level of aid towards sectoral objectives, a clear positive trend can be observed, to varying degrees, in many Member States. In particular, all EU-12 Member States are progressively redirecting aid towards horizontal objectives. During the period 2004-2006, aid to horizontal objectives represented in new Member States only 45% of total aid while the share increased to 75% for the period of 2007-2009.

Looking at individual objectives, the orientation of aid at EU-27 level shifted in favour of regional development and research and development. Environmental aid, aid to SMEs and employment aid has fallen in recent years.

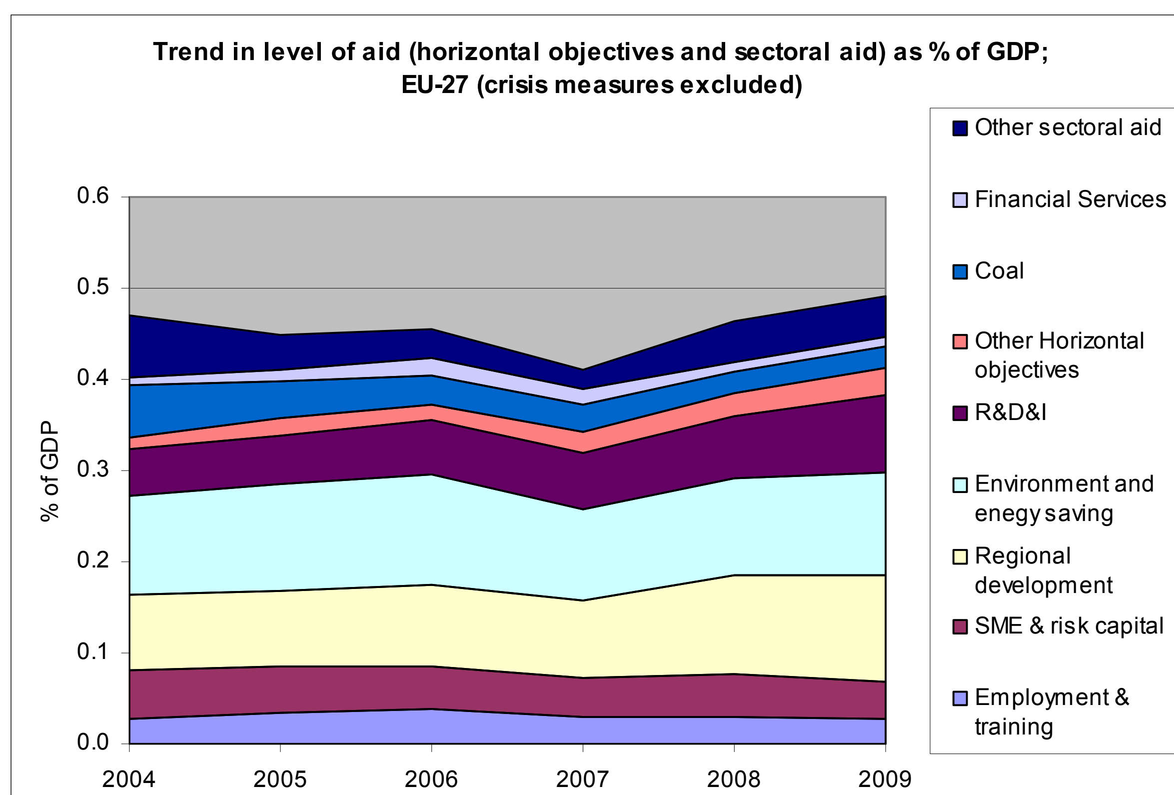
Figure 12: Trend in share of primary objectives as % of total aid (2007-2009 compared with 2004-2006)[55]



54 Crisis measures excluded.

55 Source: DG Competition. Note: Data cover industry and services only.

Figure 13: Trend in level of aid by primary objective, EU-27, 2004-2009[56]



2.2.4. *State aid for research and development and innovation*

Overall Research and Development spending

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

Europe 2020[57], the new European strategy for jobs and growth, has maintained the overall R&D&I investment target of 3% of GDP. "Innovation Union" is one of the flagship initiatives of the new strategy. The aim is to re-focus R&D and innovation policy on the challenges facing our society, such as climate change, energy and resource efficiency, health and demographic change. In the Competiveness Council of October 2010, following the presentation of the Innovation Union Communication[58], EU ministers discussed the essential elements of a new strategy for innovation to be addressed at the December European Council summit. In the field of research, the Council approved the launching of joint programming

56 Source: DG Competition. Note: Data cover industry and services only.

57 "Europe 2020: a strategy for smart, sustainable and inclusive growth", COM (2010) 2020.

58 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: Europe 2020 Flagship Initiative, Innovation Union COM(2010) 546 final.

projects for research in three areas corresponding to major societal challenges: agriculture, food security and climate change; cultural heritage and prevention of nutritional problems.

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 greatest extent while minimising distortions of competition. In the context of the new Europe 2020 strategy, Member States must now implement the policy priorities at their level and establish their national targets taking into account their relative starting positions and national circumstances[59].

State aid expenditure on R&D&I amounted to € 10.6 billion in 2009 (around 19% of total State aid to industry and services). This represented a relatively small share in public R&D&I funding although there are significant differences between Member States: while State aid to R&D&I accounted for 0.09% of GDP in 2009, the overall public funding for R&D was 0.64% of GDP[60]. 9 Member States awarded R&D&I aid above the average level: Belgium (0.22%), Slovenia (0.19%), the Czech Republic (0.18%), Luxembourg (0.16%), Finland (0.14%), Spain (0.13%), France and Austria (0.11%), and Hungary (0.10%). Cyprus, Slovakia, Greece, Latvia, Poland and Estonia granted 0.01% or less of GDP. More than 9% of aid to R&D&I was granted under block exempted measures.

For the Union as a whole, the level of R&D&I aid increased from 0.05% of GDP in the period 2004 – 2006 to 0.07% of GDP in 2007 - 2009.

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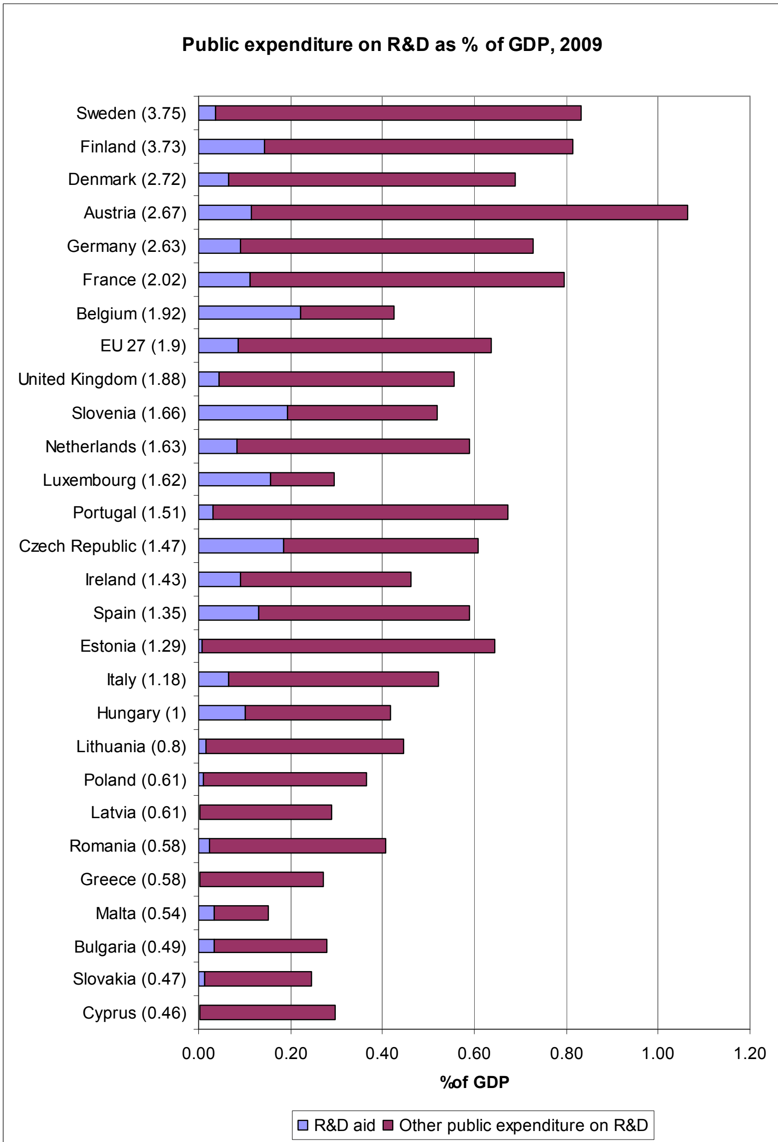
59 Conclusions of the European Council of 17 June 2010.

60 Public R&D expenditure in 2008 – data for 2009 not available.

Figure 14: Public expenditure on R&D as % of GDP, 2009[61] [62]



2.2.5. *State aid for SMEs including risk capital*

Aid to SMEs including risk capital amounted to approximately € 4.6 billion in 2009, of which risk capital represents around € 0.6 billion. In relative terms, roughly 7% of aid to industry and services was exclusively earmarked for SMEs. Risk capital accounted for around 1% of total aid. For the first time, more than half (53%) of aid to SMEs was granted under block exempted measures.

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[61] 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.

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

In 2009 aid granted to SMEs and risk capital decreased by € 1.1 billion compared to 2008, or a decrease of 20% in the amount granted. Only Denmark, Germany, Estonia, Spain, Romania and Finland increased the amounts granted to SMEs.

Looking at the trend, aid expenditure to SMEs has been relatively stable over time but suffered a slight reduction in 2009. Expressed as a % of GDP, it remained at a level on average of around 0.047% of GDP.

2.2.6. State aid for environmental protection

Aid earmarked for environmental protection amounted to € 13.2 billion in 2009, of which € 732 million[63] was granted through block exemption[64]. In relative terms, it represents 22.6% of total aid or 0.11% of EU-27 GDP.

For the EU as a whole, the trend of aid for environment decreased from 25.5% to 23.3% of total aid to industry and services between 2004 - 2006 and 2007 - 2009. In absolute terms, it however increased by € 0.8 billion. Over the last six years on average 75% of aid was granted by indirect forms (e.g. tax exemptions or allowances), while direct aid instruments (e.g. grants or subsidies) represented on average 25% of total environmental aid.

Environmental aid covers a wide range of objectives, including support measures for renewable energy, energy-saving, waste management and remediation of contaminated 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 can therefore be taken as a proxy to indicate the intended environmental benefit, regardless of the form in which the aid may be awarded (grant, tax exemption, guarantee, etc.). This represented 35.5% of environmental aid in 2009 (around € 4.7 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 under this category of aid scheme indicates the amount of tax revenue foregone and can therefore not serve as a proxy measure of the environmental benefit which the taxes themselves have brought. In 2009, 56.1% of environmental aid (around € 7.4 billion) fell under this category.

The overall level of expenditure in environmental aid in the EU is strongly influenced by the largest aid grantors, Germany, Sweden, the United Kingdom and the Netherlands, and in Germany and Sweden tax exemptions account for a large share of total environmental aid. A tax exemption from the energy tax on electricity for industry has been the most significant aid expenditure for Sweden from 2005 onwards and represents more than half of the environmental aid in Sweden. In Germany, expenditure rose steadily up to 2006 following the approval in 2002 of measures that prolonged several tax exemptions from the German energy

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[63] 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 2009, around 73% of total expenditure (€ 9.7 billion) was aid granted through tax exemption.

[64] A total of 131 aid measures implemented by 16 Member States represent block exempted aid. 74% of that aid was handed over in the form of direct grants and interest subsidies, around 26% in loans and a small part by tax exemption.

taxation on electricity and mineral oils. Following modifications to these tax exemptions in Germany, aid granted under environmental tax exemption schemes fell significantly, by € 3.2 billion between 2006 and 2009.

The Commission's Climate Change/Energy Package adopted in 2008 implemented a series of targets for the year 2020[65]: reduction by 20% of CO_2 emissions, a 20% share for renewable energy in EU energy consumption and a 20% increase in energy efficiency. The package included a policy mix of regulatory measures, including new *Community Guidelines on State aid for Environmental Protection.*[66] These have since been complemented by the new GBER adopted in July 2008 which included specific provisions for environmental protection.

The Climate Change/Energy Package targets have been subsequently reflected in the Europe 2020 Strategy, the key elements of which the European Council agreed in March 2010[67].

2.2.7. *State aid supporting regional development and cohesion*

Aid earmarked for regional development

The Commission Guidelines on national regional aid for 2007-2013[68], 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 the internal market. 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 should lay down the general conditions under which a Member State can grant regional aid, normally without the need to notify individual cases to the Commission. In October 2006, the Commission adopted a block exemption regulation concerning national regional investment aid[69] which remains applicable until the end of 2013, although Member States may also grant regional aid measures under GBER.

Member States granted aid earmarked for regional development of about € 13.9 billion in 2009, which includes € 4.9 billion granted using a block exemption. This represents approximately 29% of total horizontal aid for industry and services or 0.1% of EU-27 GDP.

The share of regional aid has remained relatively stable in the long term. It has increased from 24% to 27% between the periods 2004 - 2006 and 2007 - 2009. France, Greece, Germany, Spain, the Czech Republic and Poland significantly increased their regional aid (between € 124 million and € 1 788 million) while the United Kingdom and Italy decreased, respectively by around € 398 million and € 348 million, the level of regional aid granted..

Aid pursuant to Article 107(3)(a) and (c) TFEU

Aid for regional development can also be assessed directly under Article 107(3)(a) or Article 107(3)(c) TFEU. Article 107(3)(a) authorises 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

65 Targets set by the March 2007 European Council.

66 OJ C 82 of 01.04.2008, p. 1.

67 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/113591.pdf.

68 OJ C 54/13 of 4.3.2006.

69 Commission Regulation (EC) No 1628/2006 of 24 October 2006; OJ L 302, 01.11.2006 p. 29.

107(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 recalling that aid earmarked for category 'a' or 'c' regions need not necessarily have regional development as a horizontal objective but could be earmarked for other objectives. For this reason, the figures presented below are different from those quoted in the previous section "aid earmarked for regional development".

In 2009, more than € 14 billion of aid was directed to 'a' regions. 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 an 'a' region with the exception of Cyprus and the cities of Prague, Bratislava and Budapest.

Aid to 'a' regions increased in 2009 by 8% compared to 2008 (from € 13 billion to € 14 billion), with France, Italy, Germany and Greece the main contributors to this increase.

The long-term trend shows a decrease from € 15 billion on average in the period 2004-2006 to € 13 billion in the period 2007-2009. 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 in 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.

Around € 1.7 billion was reported as aid for assisted 'c' regions in 2009 (compared to € 0.9 billion in 2008, an increase in 2009 of 9%). All EU-15 Member States as well as some EU-12 countries have identified some 'c' regions in their country. The main contributor to this increase was Germany

In some instances Member States also reported aid aggregated for 'a' and 'c' regions which amounted to € 11.4 billion in 2009 (€ 9.5 billion in 2008).

2.3. State aid earmarked for specific sectors

2.3.1. State aid for rescue and restructuring firms in difficulty

Disregarding the crisis–related cases, € 399 million was granted as rescue and restructuring aid in 2009[70]. This strengthened a downward trend observed in recent years. On average, in the period 2004-2006 the total rescue and restructuring aid amounted to € 3.0 billion per year while it was only € 445 million annually in the period 2007 - 2009. Almost two thirds of all 2009 rescue and restructuring aid was granted by the United Kingdom (€ 246 million), followed by Poland (€ 35 million), France (€ 34 million), Italy (€ 33 million) and 8 other Member States (Germany, the Czech Republic, Spain, Austria, Slovenia, Romania, Denmark, Portugal).

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. 6 Member States accounted for 92% of all rescue and restructuring aid: France (23%), Romania (19%), Poland (17%), Slovenia (13%), the United Kingdom (12%) and Austria (8%). This does not necessarily

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[70] Rescue and restructuring aid as guided by the Community guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 244, 1.10.2004, pp. 2-17, as extended by OJ C 156, 9.7.2009, p.3.

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 7 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 2004 and 2009[71]. Over this six-year period, the banking sector (excluding the crisis measures) accounted for, on average, 8% of all rescue and restructuring aid (excluding crisis measures).

2.3.2. State aid to the shipbuilding sector

In 2009, an estimated € 606 million was granted to the shipbuilding sector mainly by Germany (€ 349 million), Spain (€ 185 million), Poland (€ 29 million) and Italy (€ 75 million). The amount of State aid to the shipbuilding sector increased from an annual average of € 414 million for the period 2004 - 2006 to € 569 million annually for the period 2007 - 2009.

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 to the steel sector, with the exception that no investment or restructuring aid may be granted to steel production unless it is closure aid.[72] In 2009, only two ad hoc aid measures were authorised by the Commission for the steel sector, in Latvia (a guarantee under the Temporary framework, i.e. a crisis measure) and Germany (environmental aid under the GBER). Ongoing expenditure however, amounted to € 108 million; this was granted by the United Kingdom (€ 90 million - climate change levy) as environmental aid and by Slovakia (€ 18 million)[73]. There is a clear and continuing decreasing trend in the aid to the steel sector from an annual average of € 359 million in the period 2004 - 2006 to € 167 million annually in the period 2007 - 2009. The downward trend can be largely explained by the fact that some Member States either stopped or reduced considerably (e.g. the Czech Republic, Slovakia and Italy) granting State aid after 2004 to companies in the steel sector.

2.3.4. State aid to the coal sector

State aid to the coal industry is governed until 31 December 2010 by a specific legal framework, the Coal Regulation 1407/2002[74].

The downward trend continued reducing thus the global aid amount to € 2.7 billion in 2009.

In 2009 the Commission finalised the Spanish plan for access to the coal reserves and approved the relevant annual aid for 2008 – 2010. Two annual aid decisions were adopted in

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[71] It is worth recalling that rescue and restructuring aid granted to the financial sector in these Member States is analysed in the chapter dealing with crisis measures.

[72] 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)).

[73] Ad hoc aid to the steel sector was also granted in 2009 in Latvia as crisis aid, under the temporary framework.

[74] Council Regulation (CE) N° 1407/2002 of 23 July 2002, EUOJ L205, 2.8.2002 p.1.

2009 – 2010[75] regarding the implementation of the German restructuring plan 2006 – 2010. During 2010, the Commission approved aid to the coal sector in Poland. The aim of the Polish scheme is to support access to coal reserves. In 2010, another case in Spain approved by the Commission provides for an aid to replace the supply of free coal to some former coal miners.

In view of the forthcoming expiry of Regulation 1407/2002[76] (on 31 December 2010) it appears useful to record the work already undertaken as regards future regulation in this sector. The Commission adopted on 20 July 2010 a proposal for a Council Regulation on State aid to the hard coal industry[77], following a public consultation[78].

The aim of this proposal is to progressively end operating subsidies to uncompetitive mines. Instead, any State subsidies should be increasingly directed at the financing of the social and environmental consequences of the closure of those loss-making mines. In this context, the Commission took into consideration the necessity to close uncompetitive hard-coal mines in the EU, but also the social impact of such closure, in particular in certain regions.

In accordance with this proposal, Member States might grant:

– Aid to cover the production of coal in the context of a closure plan whose deadline does not extend beyond 1 October 2014;

– Aid to cover exceptional costs in connection with the closure of mines but which are not related to production (in particular social welfare, rehabilitation of sites, and removal of waste water…).

The proposal for a Council Regulation was_transmitted to the Council for decision under Article 107(3)(e)[79].

2.3.5. State aid to the transport sector

Introduction

State aid to the transport sector is partially governed by a specific rule in the Treaty (Article 93 TFEU), as well as secondary legislation and rules of soft law (cf. table 5 in the Annex).

Expenditure and trend

For the period 2007–2009 an average amount of € 2.8 billion per year of State aid was granted to the transport sector. For comparison, for 2004 – 2006 this sum amounted to € 2.4 billion[80]. The increase of some 12% is mainly due to a more intensive public support in all sectors, except in the inland passenger and freight navigation, where the averages were significantly reduced.

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[75] For the purpose to give a complete overview on aid granted to the coal industry, the report includes data already available for 2010.

[76] Council Regulation (CE) N° 1407/2002 of 23 July 2002, EUOJ L205, 2.8.2002 p.1.

[77] http://ec.europa.eu/competition/sectors/energy/coal_regulation_20_07_2010_en.pdf.

[78] http://ec.europa.eu/governance/impact/ia_carried_out/cia_2010_en.htm#comp.

[79] This provision stipulates that other categories of aid as may be specified by decision of the Council on a proposal from the Commission may be found to be compatible with the internal market

[80] Having regard its exceptional nature, the aid amount of € 21 billion reported by France this year, corresponding to the implementation of the Reform of the RATP pension scheme in 2006 (approved by the Commission on 13 July 2009, OJ L 327, 12.12.2009, p. 21), is not taken into account in this figure.

Maritime transport

More than € 1.8 billion was awarded to the maritime sector in 2009. In comparison with the 2007 – 2009 average of over € 1.5 billion per year, the volume of aid remains rather constant. Most cases in this sector concern social aid to seafarers and special taxation rules for shipping companies ("tonnage tax" schemes). There were also a few cases where Member States notified public financing of port infrastructure.

The Communication on State aid to ship management companies[81] adopted in June 2009 extends the possibility to qualify for State aid (granted under the form of tonnage tax or other tax arrangements) to the technical and crew managers even when operating one shipping vessel separately. Under the 2004 Guidelines[82] the eligibility was limited to the joint provision of both technical and crew management for a same vessel ("full management").

In 2009, positive decisions were adopted regarding State aid to seafarers in Italy and Finland. The Commission also concluded the formal procedure opened in 2007 regarding the DIS regime[83] in Denmark. It accepted the extension of the DIS regime to cable-laying vessels by applying by analogy the Maritime Guidelines. In addition, it concluded the investigation procedures regarding tonnage tax schemes in Ireland and Denmark and approved an amendment to the Dutch tonnage tax scheme and the introduction of a tonnage tax scheme in Slovenia and in Poland.

Also in 2009, the Commission partially authorised a Greek and a Latvian port infrastructure development project and initiated a formal investigation procedure regarding certain fiscal measures in favour of the port sector in France. In addition, it concluded the formal investigation procedure initiated in 2008 regarding the public financing of ferry shipping services between the Scottish mainland and the islands of the west and north coasts of Scotland. With the exception of one route, the Commission confirmed that the public service obligations for the western and northern islands were legitimately defined and entrusted to the operators.

Land transport

The new Council Regulation 1370/2007 on public passenger transport services laying down the rules applicable to the compensation of public service obligations in inland traffic entered into force on 3 December 2009[84]. It repealed Council Regulations (EEC) N° 1191/69[85] and N° 1107/70[86]. A three year transitional period is however foreseen for freight transport. The decision adopted in the Danish railway case constitutes a first example of application of this Regulation[87].

Railways

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81 OJ C 132, 11.03.2009, p. 6.

82 Community guidelines on State aid to maritime transport, OJ C 13, 17.1.2004, p. 3.

83 This regime exempts ship-owners from the payment in Denmark of the income tax of their seafarers.

84 OJ L 315, 3.12.2007, p. 1.

85 Regulation (EEC) N° 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, OJ L 156, 28.6.1969, p. 1.

86 Regulation (EEC) N° 1107/70 of the Council of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway, OJ L 130, 15.06.1970 p. 1.

87 Decision not yet published.

As in previous years, the Commission adopted several State aid decisions to promote rail transport and combined transport in several Member States, including Bulgaria, the Czech Republic, Germany and the UK (restructuring of Eurostar).

With regard to the specific rules established in the Community guidelines on State aid for railway undertakings[88], no aid under the form of debt cancellation has been notified until now to the Commission.

Since 1 January 2010 Member States cannot notify measures under the specific rules applicable to the restructuring of the freight division of a railway undertaking.

Road transport

Pursuant to Regulation 1191/69, certain public financing initiatives for bus services operated under a public service contract were exempted from the notification obligation. As a result, the aid amounts reported for the road and combined transport sector during the period 2007 – 2009 – € 641 million per year on average – understate the volume of the public financing of these services. Under the new Regulation 1370/2007, the scope of the exemption has been widened but reporting requirements have been strengthened such that, in the future, there will be a higher degree of accuracy.

Concerning bus transport, formal investigations procedures are ongoing as regards Ireland, the Czech Republic and Germany. The Commission is also assessing several complaints in this sector. In the field of the urban transport, a formal investigation procedure was closed regarding the reform of the financing method for the special pension scheme for the staff of RATP, the French public transport company.

With regard to the improvement of public transport infrastructure, several major projects were authorised, among which the construction and maintenance of the A1 and A2 motorways in Poland.

In line with the wider Community objectives of the common transport policy and environmental protection, the Commission authorised a scheme in Slovenia promoting the purchase of heavy goods vehicles satisfying the Euro V pollution standard. The Commission also authorised a German aid scheme aiming at supporting market acceptance of available highly efficient vehicle technologies and an aid scheme supporting the purchase of low-carbon buses in England.

Aviation

Over the period 2007 – 2009, an annual average of € 338 million of aid was reported by Member States for the air transport sector. These figures show a certain increase compared to the annual average of € 242 million for the period 2004 – 2006.

The airline industry faced significant turbulence in 2009, with a fall in passenger and cargo demand which resulted in significant losses for many carriers. During that year the Commission authorised rescue aid for the Austrian Airlines Group in the form of a loan guarantee. It also found the restructuring plan of Austrian Airlines compatible with the common market. Furthermore, subject to observance of several conditions, the Commission decided on certain changes that the Greek authorities intended to introduce in the sales

[88] OJ C 184, 22.07.2008, p. 13.

processes of Olympic Airlines and approved the intention of the Greek authorities to cover part of the costs of the voluntary redundancy scheme to be implemented by Olympic Catering SA in respect of certain of its staff.

In 2009 the Commission approved a number of projects for financing airport infrastructure (concerning Germany, Poland, Ireland, Malta, Cyprus and the United Kingdom). Four start-up aids for establishing new lines and increasing existing frequencies were approved in the 2009 - 2010 period. 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 considered that the planned investments had a positive impact on the accessibility of the region, which outweighed the negative impact on competition. On the basis of the criteria, set out in paragraphs 61 and 79 of the 2005 Community guidelines on financing of airports and start-up aid to airlines departing from regional airports[89], the Commission concluded that public support in relation to these projects was compatible with the internal market.

The Commission is also examining a large number of complaints concerning investment aid and start-up aid. In some of these cases, the formal investigation procedure is ongoing. The public financing of new routes may be found to be in accordance with the behaviour of a private investor acting under normal market conditions and in such cases no State aid is involved. However, if the public investment does constitute State aid it may still be declared compatible if the relevant conditions, laid down in the 2005 guidelines, are fulfilled.

Finally, the Commission accepted that the measures taken by France brought to an end the differentiation in passenger charges as between national and EU flights, which in fact granted an advantage to airlines operating domestic flights.

2.3.6. State aid to the agricultural sector

New cases registered and decisions taken in 2009

139 new measures were notified to DG Agriculture and the Commission took decisions in 141 cases.

Based on the primary objective for aid in this sector, it appears that almost 24.3% of the 141 decisions involved aid for investment; 16.6% involved investments in agricultural holdings and 7.6% investments in processing and marketing. Forestry aids accounted for the next largest category, representing 14.6% of the number of decisions taken (including under the new rules concerning the co-financed measures of the rural development programmes).

11.6% of decisions involved environmental protection aids, and 10.4% aid to make good the damage caused by natural disasters or exceptional occurrences. Only 4.6% related to aid to compensate farmers for losses caused by adverse weather conditions. 7.6% involved aids for technical support and for advertising of agricultural products. Aid for agro environmental commitments accounted for 6.2% of the total. Aid for combating animal diseases represented only 4.6% of decisions taken in 2009.

Of the new aid measures, 20.8% were notified by Spain, followed by Italy (17.2%), Germany (14.3%) and France and the Netherlands (5.7%).

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

The breakdown by country is marginally different when looking at block-exempted measures: Spain had 28.8% of the 267 measures, followed by France (15.3%), Italy (13.1%) and Germany (10.1%). Slovenia, that in 2008 was the third country for block exempted measures, communicated only 4 measures in 2009 (1.5%).

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 2009 is € 11.18 billion[90] compared with € 11.82 billion in 2008. The discrepancy with the total for 2008 (€ 12.1 billion) published in the autumn 2009 Scoreboard is due to corrections made by Member States in their annual reports submitted in 2010 for the period 2002-2009.

The highest expenditure was reported by France (€ 2.2 billion), Finland (€ 1.2 billion) and Germany (€ 0.8 billion).

As can be seen by comparing the figures for 2008 and 2009, 13 Member States increased their State aid expenditure; all other countries (in order: Belgium, the Czech Republic, Germany, Ireland, Spain, Italy, Lithuania, Hungary, Malta, Austria, Portugal Slovenia and Finland) spent less.

Block-exempted aid

267 measures allowed aid to be granted via a block exemption in 2009 which was considerably lower compared to 2007 (496) and 2008 (433). Until now, only Luxemburg and Malta have not granted block exempted aid.

In 2009, all block-exempted aid was granted pursuant to Commission Regulation (EC) No 1857/2006. Aid measures to the agricultural sector but earmarked for research and development, aid in the form of risk capital, training aid, environmental aid and aid for disadvantaged and disabled workers (to the extent that these categories of aid are not covered by Regulation 1857/2006) are granted under the GBER. For this reason, expenditure reported on aid measures granted under Regulation (EC) No 70/2001 is included only until August 2008.

The total of BER expenditure in 2009 was € 1.46 billion, corresponding to 13.1% of the total State aid expenditure in agriculture, when in 2008 it was 12.7%. Analysing the results per country, it appears that 94.81% of the Latvian aid expenditure concerned BER measures, followed by Greece (65.93%), Spain (63.41%), Italy (40.8%), Slovenia (24.8%) and Belgium (17.48%).

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 € 200 million in 2009[91]. The data are based on the figures received from Member States' annual

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[90] Aid measures to the agricultural sector granted under Regulation (EC) No 800/2008 amounted to roughly € 0.4 billion.

[91] Estimate.

reports on existing aid schemes. France (€ 88 million[92]) reported the highest figures, followed by Spain (more than € 36 million), the Czech Republic (more than € 26 million) and Denmark (almost € 17 million). Further breakdown of expenditure figures is not available for the fisheries sector.

Block exemption

The total amount of block-exempted aid paid out in 2009 is about € 8.32 million, with Greece accounting for 25% of this total. This amount corresponds to 23 block exempted measures, granted by 11 Member States.

16 aid measures have been block-exempted under the new block exemption regulation in force since 19 August 2008 (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)[93].

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. However, in some cases the actual aid element may differ from the nominal amount as in the case of subsidies, loans or guarantees[94].

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 2009

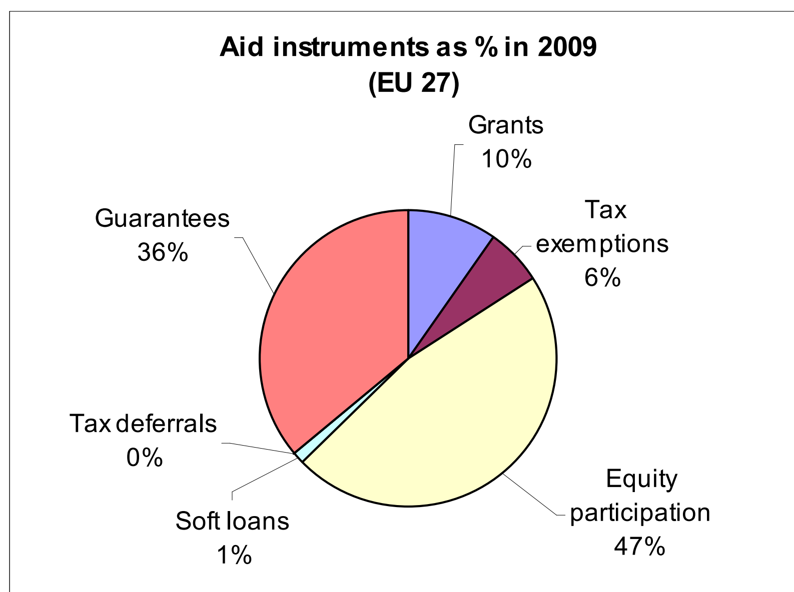
Figure 15[95]: Share of aid instruments in total aid for industry and services; EU-27; 2009

[92] Estimate.

[93] XF n°1/2009, 2/2009, 4/2009, 5/2009, 6/2009, 7/2009, 8/2009, 9/2009.11/2009, 12/2009, 14/2009, 16/2009, 1/2010, 2/2010, 5/2010, 10/2010.

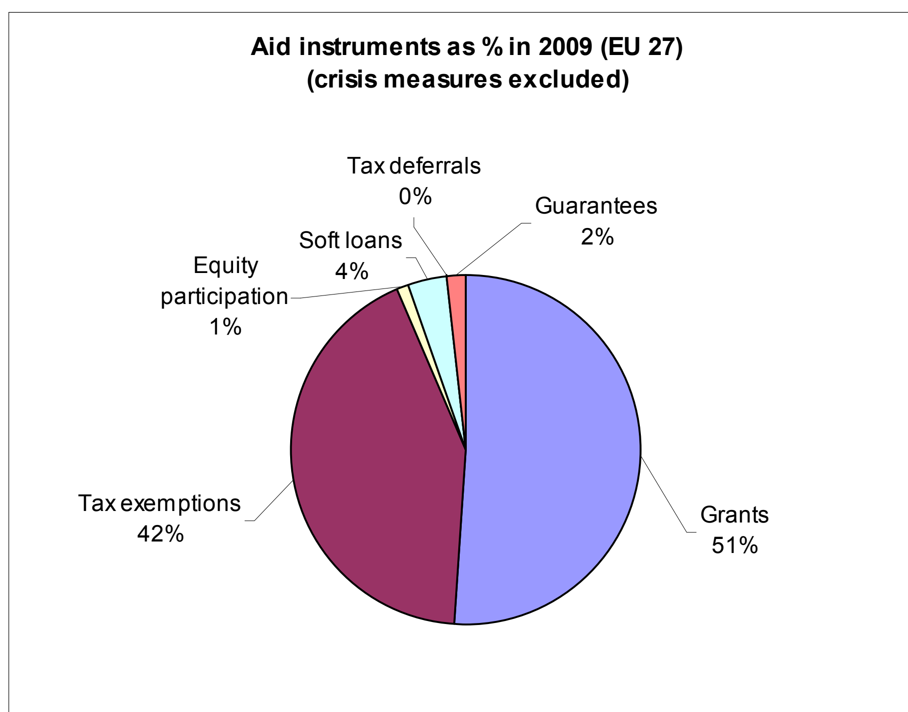
[94] For details on the calculation of aid element, see methodological notes.

[95] Source: DG Competition.



As regards total State aid granted for industry and services (all cases) in 2009, the aid instrument used the most frequently was the equity participation (roughly 47%), followed by guarantees (36%) and grants (10%). Less frequently used were the other instruments like tax exemptions (6%) and soft loans (around 1%). It comes as no surprise that equity participation was the most prominent instrument used in 2009, given the predominance of the crisis measures under which Member States often entered as share holder in banks.

Figure 16[96]: Share of aid instruments in total aid for industry and services (crisis measures excluded); EU-27; 2009



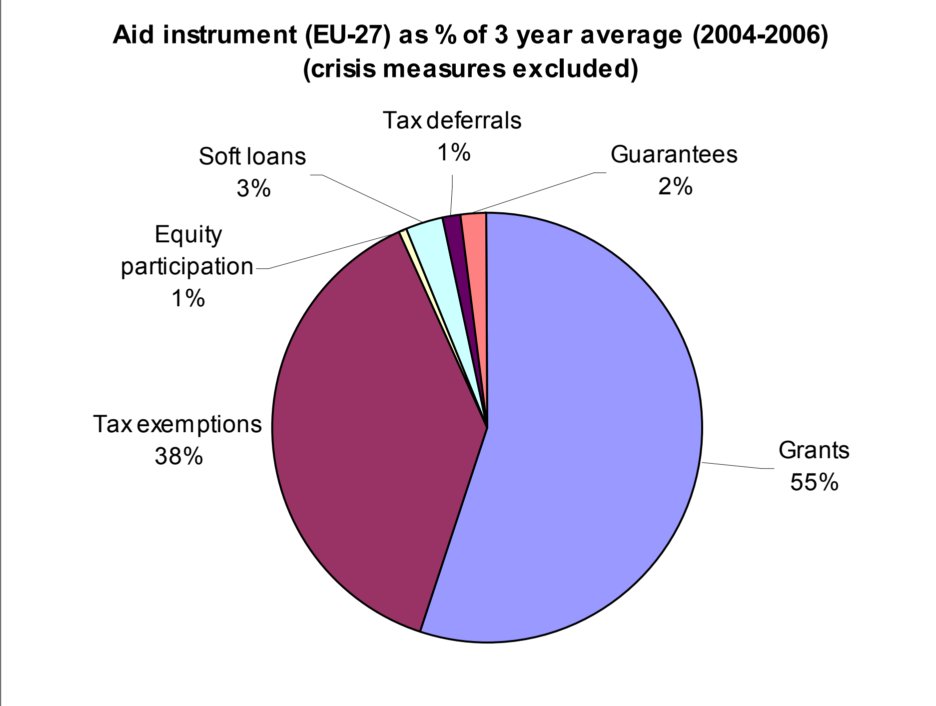
[96] Source: DG Competition.

When crisis measures are excluded from the total aid, the aid instrument most frequently used by Member States was grants (roughly 51%), followed by tax exemptions (approximately 42%). Much less used were the other instruments i.e. soft loan (4%), guarantee (around 2%), and equity participation (less than 1%).

6 Member States (Luxembourg, Denmark, Slovenia, Austria, Bulgaria, and Cyprus) gave 90% or more of aid through grants, while Portugal, Sweden, Malta, Slovakia, the United Kingdom, Ireland, France and Germany granted at least 50% of state aid to industry and services in 2009 using tax exemptions.

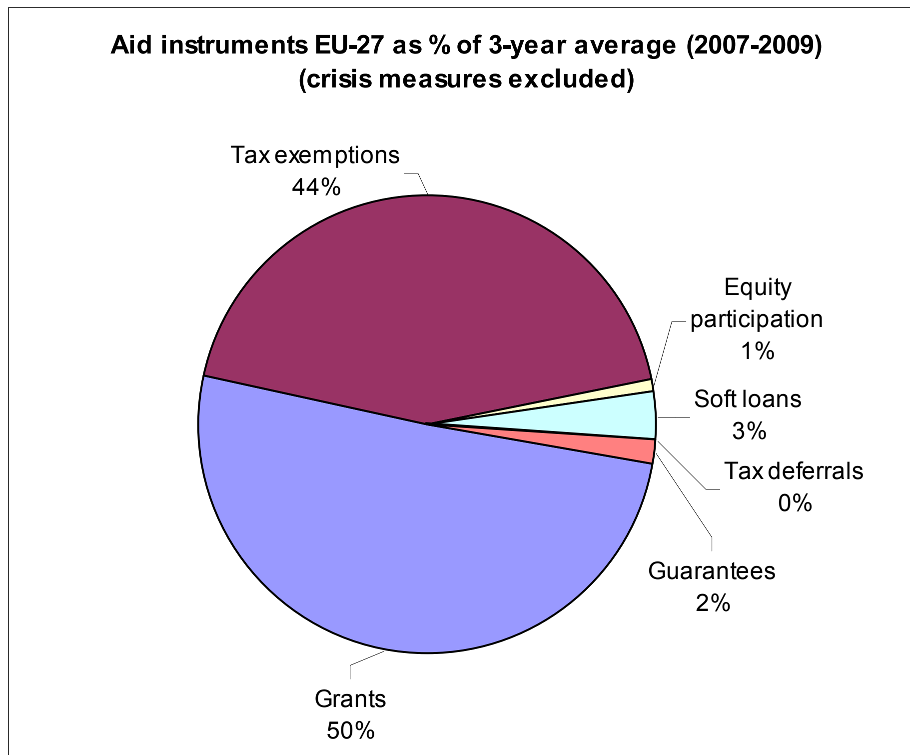
2.4.2. Trend in the use of aid instruments (crisis measures excluded)

Figure 17[97]: Aid instruments EU-27 as % of 3 year average (2004 - 2006)



97 Source: DG Competition.

Figure 18[98]: Aid instruments EU-27 as % of 3 year average (2007 - 2009)



The comparison between the periods 2004 - 2006 and 2007 - 2009 shows that on average the use of aid instruments was generally stable with grants and tax exemptions confirmed as the preferred instruments.

When looking at the period 2007 - 2009 in isolation, grants accounted for roughly 50% of total aid to industry and services (compared to 55% in the period 2004 - 2006). Many Member States i.e. Slovenia, Denmark, Luxembourg, Austria, Cyprus, Estonia, Latvia and Romania awarded 80% or more of their aid through grants. State aid granted through tax exemptions represented the second largest use of aid instruments, roughly 44% (compared to 38% in the previous three-year period). Use of other aid instruments is relatively uncommon.

This situation on the use of aid instruments varies when the data is split for EU-15 and EU-12. In the period 2007 - 2009, EU-15 awarded 49% of total state aid to industry and services through grants and 45% using tax exemptions. The figures for EU-12 are 64% for grants and 31% for tax exemptions.

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

3.1. General background

The global financial crisis which hit Europe two years ago was the greatest in its severity since the Great Depression and left a profound mark on the European economy. Critical liquidity issues which rocked European financial industry started to emerge well before the end of 2008. In several cases, the financial institutions engaged in extremely risky investment strategies fell into difficulties and sought relief from Member States in 2007 and early 2008.

98 Source: DG Competition.

Once the full force of the financial crisis hit in late 2008, even the more risk-averse financial institutions started experiencing the negative effects of the credit squeeze. Already in the autumn of 2008, the financial crisis and advancing recession started to reinforce each other and the real economy was sent spiralling down as a result of scarce credit flows.

Since then, the financial and economic conditions in EU have improved significantly and now most of the Member States are on the course to economic recovery. That said, some uncertainty regarding banking sector persists. The EU's latest economic forecast[99] predicts that the recovery in the EU will remain fragile facing challenges ahead. It appears that global trade and exports will be the main driving factors of the European recovery, however, weak domestic demand and investment, coupled with high unemployment and slow wage growth will have a significant impact on the pace of the current economic upturn. GDP growth will be slow in the first three quarters of 2010 and should gain ground only at the end of that year. That could be viewed as a sign of fading impact of the temporary support that helped to avoid economic meltdown.

The stabilisation of the European economy can be attributed in the main to the exceptionally wide instruments put in place to stimulate demand in the short-run. However, that kick-start to the economy had its cost, weighing heavily on public finances. The general government deficit has tripled in recent years. The yearly budgetary deficit reached 6.8% of GDP in the EU in 2009 (6.3% in euro-area), while the debt-to-GDP ratio rose to 73.6% (78.7% in euro-area) and is projected to rise to around 84% in 2011 (88% in euro-area). Together with the drop in public revenues, the crisis exposed weaknesses in the fiscal policies of some Member States. The crisis also exposed some of the problems which certain members of the euro-area face in regard to their high debt-to-GDP ratio and the subsequent difficulties as regards refinancing the public debt. These factors added additional turmoil to the fragile recovery, especially in the southern Member States of the euro-area and in Ireland. The next hurdle for the recovery might come from the fiscal consolidation which is under way in the most Member States and which might have stronger than currently estimated negative effects on domestic demand.

In addition to monetary and fiscal measures taken in 2009, the EU and its Member States continued their efforts to agree on regulatory action to address the causes of the financial crisis and prevent its repetition in the future. The first concrete steps were taken in the form of recommendations by the *de Larosière* group[100], which were subsequently endorsed by the Commission[101]. Next, legislative proposals were presented by the Commission in September-October 2009 to reform prudential supervision in Europe[102]. In addition, the Commission has also taken steps to ensure the protection of bank depositors, make credit rating agencies more reliable and transparent, strengthen capital base requirements, make more transparent operating conditions for hedge funds and adopt recommendations on remuneration policies and on bank resolution funds[103]. On 2 June 2010, the Commission outlined its actions in the

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[99] European Commission, Directorate General for Economic and Financial Affairs, European economic interim forecast September 2010.

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

[101] The Commission adopted a Communication on the European financial supervision, COM (2009) 252 final.

[102] For more details, please consult http://ec.europa.eu/internal_market/finances/committees/index_en.htm.

[103] The relevant documents can be found on http://ec.europa.eu/internal_market/finances/index_en.htm.

Communication on regulating financial services for sustainable growth[104]. More recently, the Commission outlined its plans how to address crisis management in the future[105].

3.2. Commission's response to the financial crisis in the field of State aid

State aid was one of the main instruments in helping to battle the financial crisis. The situation deteriorated sharply after the collapse of Lehman Brothers in September 2008. Poorly performing assets, severe rating downgrades, a poor earnings outlook and markets players' uncertainty about exposure to impaired assets disrupted normal functioning of interbank (wholesale) markets. Those main factors led to serious difficulties in accessing liquidity and banks became reluctant to lend to each other and to the real economy. Moreover, market participants also started requiring capitalisation ratios far in excess of the minimum statutory capital requirements. The result was considerable solvency problems for a number of financial institutions.

It is generally accepted that after October 2008 the 'credit' crisis became systemic and no longer affected just financial institutions which could be considered as 'undertakings in difficulty' under the existing Rescue and Restructuring guidelines[106]. The Commission responded with specific and structural action based on Article 107(3)(b) TFEU and in the course of just a few months adopted four communications[107] aimed at preserving financial stability and ensuring legal certainty. That decisive coordination of Member States' actions allowed them to address the severe liquidity shortages which had led spreads on interbank markets to increase exponentially in the wake of the crisis and helped calm down the markets and ease deleveraging by upgrading banks' capital base and cleaning impaired assets from the financial institutions balance sheets[108].

With the financial crisis deepening, financial institutions were deleveraging and becoming significantly more risk-averse than in the previous years. Companies started experiencing difficulties in accessing credit. As part of its response, in January 2009 the Commission adopted the Temporary Framework[109]. Applicable until the end of 2010, it gives Member

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[104] Please refer to http://ec.europa.eu/internal_market/finances/docs/general/com2010_en.pdf.

[105] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Central Bank on 'EU Framework for Crisis Management in the Financial Sector'. The document can be consulted at http://ec.europa.eu/internal_market/bank/docs/crisis-management/framework/com2010_579_en.pdf.

[106] Community guidelines on State aid for rescuing and restructuring firms in difficulty, OJ C 244, 1.10.2004, pp. 2-17, as extended by OJ C 156, 9.7.2009, p. 3.

[107] 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, 25.10.2008, pp. 8-14, 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, 15.1.2009, pp. 2-10, Communication from the Commission on the treatment of impaired assets in the Community banking sector, OJ C 72, 26.3.2009, pp. 1-22, Communication from the Commission on the return to viability and the assessment of the restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, pp. 9-20.

[108] For more detailed analysis of the main notions of these communications and also for deeper analysis of context of the crisis please refer to previous editions of the Scoreboard, in particular the Autumn Scoreboard 2008, Spring special edition 2009, Autumn Scoreboard 2009 and Spring special edition 2010. Also see the Report on Competition Policy for 2009.

[109] Communication from the Commission – Temporary Framework, OJ C 83, 7.4.2009, p. 1; Modification of the Temporary Framework – to allow separate limited amount of aid to farmers, OJ C 261, 31.10.2009; 2nd Modification of the Temporary Framework – technical modification to further facilitate access to finance and encourage long-term investment, OJ C 303, 15.12.2009, p.6

States additional possibilities to address the effects of the credit squeeze on the real economy. For more detail on the Temporary Framework, read section 3.4.

This chapter will look at the dynamics of the financial sector in 2009, the most important action taken by the Commission in 2009 and the highlights for 2010. In contrast to the other chapters, and in order to present a full picture of crisis-related aid, the analysis here will not be limited to 2009 but will take into account the entire period from the beginning of the crisis up to a cut-off date of 1 October 2010.

3.2.1. Trends in the financial sector 2009 - 2010

It is observed that the situation in the financial sector improved. First, in 2009 banks used favourable market conditions to restore their capital position. That development allowed many of the larger banks to increase their Tier-1 capital ratio to above 10%, although smaller banks still have not regained the capitalisation they had before autumn 2008. Second, the banking sector had a rather strong performance in terms of earnings and profit throughout 2009. Finally, financial asset prices recovered, contributing to the good results on the earnings side. Admittedly, this was in part fuelled by record lows in central banks' interest rates, allowing low refinancing costs.

Another sign of the situation in interbank markets having improved is significantly lower reliance of the financial institutions on State guaranteed liabilities. According to the data available to the Commission, guaranteed bonds constituted less than 5% of the total amount of banks' funding by the end of 2009 (compared to more than 30% in January 2009)[110]. These positive signs led the Commission, upon the recommendation from the Council, to review some of the existing State aid guarantee schemes for existing and new debt.

Those positive signs must be accompanied by some caveats. The improvements mentioned are not felt equally across Europe with the financial institutions in the countries with sovereign debt issues being in a more difficult situation than those elsewhere in Europe. Next, the positive trends in capital ratios could possibly be offset by the fact that the extent of the impaired assets was never fully disclosed by the financial institutions, contributing to some degree of uncertainty. Next, the strong rebound in earnings and profits appears to be of a temporary nature and without sustained strong performance by the real economy it will not be sustainable in the long term. Therefore, further success in bringing the situation in the financial sector closer to market conditions depends on a number of factors including the strategies of the banks themselves.

3.2.2. The main highlights 2010

The current year[111] is proving to be very important in dealing with the new challenges. This chapter thus captures the main events and their implications for State aid policy[112].

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[110] The dynamics of this dependence is shown in Figure 1 of the Spring Scoreboard 2010 and Staff working paper on the application of state aid rules to government guarantee schemes covering bank debt to be issued after 30 June 2010, p.11.

[111] Previous developments of 2009 and 2010 were captured in the Autumn Scoreboard 2009 and the Spring Scoreboard 2010. In order to reflex better the most current situation, this edition provides overview of the situation as of April 2010.

[112] The overview of the most important restructuring cases for 2009 can be found in the Commission staff working document accompanying the Report on the competition policy 2009, p. 49-54; http://ec.europa.eu/competition/publications/annual_report/2009/part_2_en.pdf .

Regardless of the turmoil over sovereign debt issues, discussions started on how to progressively reduce banks' reliance on State support. Demonstrable falling reliance on State guarantees in the banking sector called for action. The Ecofin Council welcomed the preliminary analysis of the Commission's intention to introduce specific pre-requisites regarding the renewed provision of guarantees after 30 June 2010, which included the increase of the guarantee fees based on banks' creditworthiness. Those actions paved the way for bringing funding costs closer to market conditions and requiring a viability review for the banks still heavily reliant on government guarantees[113]. Reacting to these policy lines, on 30 April 2010 the Commission released a staff working paper on the application of State aid rules to government guarantee schemes covering bank debt to be issued after 30 June 2010[114].

Staff working paper on the application of state aid rules to government guarantee schemes covering bank debt to be issued after 30 June 2010

The Staff working paper constitutes the first step towards the exit from guarantee schemes within a coherent framework for a coordinated approach across Member States maintaining the progress in reinforcing financial stability. In general, a certain exit process has already begun at the level of individual banks. Sound institutions have largely withdrawn from the use of guarantees in order to benefit from more favourable conditions for unsecured market funding and to avoid conditions attached to State assistance. Further, some Member States have decided not to prolong their guarantee schemes. As a consequence of the general improvement in conditions , the risks for financial stability have subsided, and the distortions of competition between those financial institutions that issue State guaranteed bonds but are not currently under restructuring obligations and those that issue strictly under market conditions has become greater. These concerns were addressed by tackling simultaneously guarantee fees and subjecting users that continue to heavily rely on State guarantees, but that are currently not under restructuring obligations, to undergo a viability check.

1. Increasing guarantee fees. Moderate increase in guarantee fees is seen as the right incentive for exit without at the same time jeopardising the stability of financial institutions, although Member States are free to apply more stringent conditions. Under the schemes in force before 30 June 2010, in case of a bond with maturity over one year, the minimum fee comprised a flat charge of 50 basis points augmented by each bank's median five-year senior debt credit default swap (CDS) spread observed in the period 1 January 2007 to 31 August 2008. For guarantee schemes prolonged beyond 30 June 2010, this pricing formula is made dependent on a bank's rating and is augmented in the following manner:

(a) by 20 basis points for banks with a rating of A+ or A,

(b) by 30 basis points for banks rated A-, and

(c) by 40 basis points for banks rated below A-. Unrated banks are considered to have a BBB rating.

2. Viability check. Until 30 June 2010, the mere use of guarantees did not automatically trigger the obligation to submit a viability review or a restructuring plan. Under the Banking Communication and the decisional practice of the Commission, a restructuring or liquidation plan had to be notified only if the guarantee was called upon because the bank defaulted on a covered liability. However, current market conditions no longer represent a serious obstacle for banks across the board to access liquidity as in the more acute crisis period. Hence it is appropriate to introduce a differentiation on conditions attached to the use of State guarantees based on the extent to which banks rely on them. Therefore, while limited usage of State guarantees can be allowed without scrutiny, a larger use in both absolute

[113] See 3015th Council meeting, Economic and Financial Affairs, Brussels, 18 May 2010, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/114495.pdf.

[114] The document can be consulted on http://ec.europa.eu/competition/state_aid/studies_reports/phase_out_bank_guarantees.pdf.

terms or in relation to the bank's total amount of liabilities should trigger the viability review as a prerequisite for conformity of the extension of guarantee schemes under Article 107(3)(b) TFEU. For guarantee schemes prolonged beyond 30 June 2010, this threshold is set at a ratio of 5% of outstanding guaranteed liabilities over total liabilities and at a total amount of guaranteed debt of € 500 million.

Another significant event was the second round of stress tests carried out by the Committee of European Banking Supervisors under the mandate from the Ecofin Council[115]. The stress tests took into account various macro-economic parameters to assess banks' resilience to credit and market risks, in particular exposure to sovereign debt and reliance on public support measures. It covered a sample of major cross-boarder banking groups representing over 60% of the EU banking sector in terms of total assets (91 banks) using agreed baseline and adverse scenarios for 2010-2011. Under the adverse scenario, the total amount of impaired assets and trading losses would amount to € 566 billions according to the test results. Tier 1 capital ratio would fall from 10.3% in 2009 to 9.2% by the end of 2011 (compared to the regulatory minimum of 4% and to the threshold of 6% set up for that exercise). In the selected adverse conditions, seven banks would see their Tier 1 capital drop below the level of 6% taken as a benchmark for the test. They were Spanish *cajas*, Hypo Real Estate from Germany and Greece's ATE bank[116]. As regards implications for State aid, nearly all of those banks (except a few *cajas*) were already undergoing restructuring pursuant to the EU State aid rules. It is also important to mention that any future stress test would not automatically mean that granting State aid was required as banks remain free to raise funding on the market.

Furthermore, on 22 September 2010, the European Parliament approved new rules on the revamped system of prudential supervision in the EU. The reform will enable newly created supervisory institutions to spot systemic risks within the European banking system and contribute to avoiding a repetition of the financial crisis. In concrete terms, the new framework will reinforce financial stability, ensure the consistent application of basic technical rules, put in place an early warning system and effectively solve disagreements between financial supervisors. The framework will create new institutions, namely a European Systemic Risk Board and three new European Supervisory Authorities for the financial services sector: a European Banking Authority (EBA), a European Insurance and Occupational Pensions Authority (EIOPA) and a European Securities and Markets Authority (ESMA). Each of the new authorities will be made up of the 27 national supervisors. Other important aspects of crisis management were outlined in the Communication on the EU Framework for Crisis Management in the Financial Sector[117].

3.3. General trends in State aid granted to the financial sector in 2009

In the period between 1 October 2008 and 1 October 2010,[118] the Commission took more than 200 decisions in the financial services sector based on Article 107(3)(b) TFEU. Aiming to

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[115] The first round of stress tests was conducted in 2009 and their results released in October 2009. See Council conclusions of 9 December 2009, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/111706.pdf.

[116] For more detailed information on stress tests and their outcome, please refer to CEBS homepage at http://www.c-ebs.org/.

[117] The document can be consulted at http://ec.europa.eu/internal_market/bank/docs/crisis-management/framework/com2010_579_en.pdf.

[118] This chapter aims to capture the most recent developments and provides an overview of approved financial crisis aid up to 1 October 2010. However, data on expenditure at the time of writing is only available for the years 2008 and 2009. Therefore, this staff working document focuses on expenditure in 2009. Where the trends need to be highlighted, expenditure data for 2008 is provided.

remedy a serious disturbance in Member States economies, these decisions authorised, amended or prolonged 41 schemes and addressed with individual decisions the situation in more than 40 financial institutions. The financial crisis called for wide-ranging action with the Commission authorising financial crisis measures in the field of State aid in 22 Member States, i.e. all Member States except Bulgaria, the Czech Republic, Estonia, Malta and Romania.

The maximum volume of Commission-approved measures including schemes and *ad hoc* interventions amount to € 4 588.90 billion or 39% of EU-27 GDP for 2009[119]. The total volume approved for schemes (€ 3 478.96 billion) was considerably higher than for individual financial institutions (€ 1 109.94 billion). The large amounts of support approved under schemes can be explained by the fact that some Member States adopted blanket guarantee schemes which covered all their banks' debt[120]. In terms of aid instruments used, the greatest bulk was approved as guarantees including schemes and *ad hoc* interventions representing € 3 485.25 billion (30% of EU-27 GDP for 2009) or 76% of all aid approved for the financial sector. € 546.08 billion (4.5% of GDP) was approved as recapitalisation measures, followed by € 401.79 billion (3.3% of GDP) for impaired assets interventions. The volume of liquidity instruments approved was € 155.77 billion (1.3% of GDP). It appears that Member States relied principally on guarantee measures which had a stabilising effect for the financial sector without weighing heavily on the public finances as opposed to more interventionist instruments such as recapitalisations or the cleaning of impaired assets. In addition, nearly 70% of approved aid relates to just 5 Member States (the United Kingdom, Ireland, Denmark, Germany and France).

Distinction between approved aid, actually used amounts and aid element for the financial institutions

Three different concepts are used in this Scoreboard to better explain the volumes approved, subsequently used and the benefit obtained by the financial institutions.

- The **maximum approved volume (budget)** of crisis measures represents the overall maximum amount of State aid measures (such as guarantees, capital injections and other) set up by Member States and approved by the Commission. This figure corresponds to the upper limits of support which Member States are allowed to grant to the financial institutions. This figure, however, neither expresses the amounts actually implemented nor the benefit which individual financial institutions obtained.

- The **actually used amount (nominal amount)** of the aid measure expresses the actual volume of the aid measure which Member States implemented. For example, in the case of a guarantee or liquidity measure, actually used amount would represent the volume of a guarantee or loan handed through a particular scheme or to a particular financial institution. Typically, these amounts would be much lower than maximum approved volumes as not the whole amount authorized by the Commission is taken-up.

- The **aid element (gross grant equivalent)** of State aid measures expresses the monetary advantage granted to individual banks either through schemes or *ad hoc* interventions. The exact volume of the aid element depends on the case and the aid instrument

[119] The reference period for approved amounts and decisions taken in the context of financial crisis cases taken in this Scoreboard is from 1 October 2008 till 1 October 2010.

[120] Blanket guarantee schemes were adopted in Denmark and Ireland.

in question (guarantee, recapitalisation etc). In most cases the aid element is much lower than actually used amounts because not the whole amount actually used can be considered as a benefit passed on to a beneficiary. For example, the aid element of a guarantee is the benefit expressed as a difference between a guarantee fee offered by Member State and the market. However, accounting the exact amount of the aid element in some cases might be difficult due to the lack of information on the prevailing market prices. Therefore, Member States and the Commission use particular proxy methods as described in the Methodological notes annexed to this Staff working document.

In 2009, the amount actually used (nominal amount) of aid reported to the Commission by Member States was € 1 106.54 billion or 9.3% of EU-27 GDP.[121] As regards the overall take-up rate, only slightly more than half of the approved maximum volumes were used by Member States (take-up rate of 56%)[122].

According to the annual reports on State aid expenditure for 2009,[123] Member States reported the aid element (gross grant equivalent) of that amount to constitute € 351.68 billion[124]. That total is more than five times higher than non-crisis aid granted for the whole industry and services sector (€ 61.9 billion for 2009). Further breakdown of the aggregate figures can be found in the summary table below.

Table 1[125] – Summary table on maximum approved volumes, nominal amount and aid element, in € billion

	Approved volume 2008-2010	**Actual use i.e. nominal amount[126] 2009**	**Aid element 2009**	**Total crisis aid granted as a % of GDP[127]**
Schemes	3 478.96	727.38	180.91	1.53%
for guarantees	*3026.28*	*612.59*	*77.33*	*0.6%*
for recapitalisation measures	*348.64*	*95.15*	*95.15*	*0.8%*
for asset relief interventions	*62.17*	*1.4*	*1.4*	*0.01%*
for liquidity measures other than guarantee schemes	*41.87*	*18.23*	*8.6*	*0.05%*

121 Data on actual use is drawn from Member States' annual reports on State aid.

122 The take-up rate constitutes actual use of State aid measures for 2008 and 2009 relative to the total approved amount (minus approved budgets for 2010). Actual use for 2010 cannot be reflected as the Commission is still not in a possession of expenditure data for 2010. This figure would be reflected in the autumn scoreboard 2011.

123 In the absence of data of actual expenditure and/or estimations provided by Member States, in some instances Member States were asked to confirm estimations made by the Commission's services. For exact estimation methods applied, please refer to the Methodological notes.

124 Data on aid element is drawn from Member States' annual reports on State aid. For more information on distinction between actual use and aid element, exact definitions of aid element for each aid instrument (guarantees, recapitalizations and impaired assets) in regard of the financial crisis cases, please refer to the Methodological notes of the Scoreboard.

125 Source: DG Competition.

126 The nominal amount is the amount approved by the Commission, e.g. for guarantees the amounts which can be covered by the State.

127 This percentage constitutes aid element for 2009 relative to the EU-27 GDP for 2009.

Ad hoc interventions in favour of individual financial institutions	1109.94	379.16	170.76	1.44%
for guarantees	*458.97*	*214.3*	*50.81*	0.4%
recapitalszation measures	*197.44*	*46.36*	*44.49*	0.3%
for asset relief interventions	*339.63*	*108.38*	*73.87*	0.6%
for liquidity measures other than guarantees	*113.9*	*11.11*	*1.5*	0.01%
TOTAL	4 588.90	1 106.54	351.68	2.9%

As regards the distribution within the aid instruments, guarantees remained the most used support measures with € 826.89 billion being actually used in 2009. The gross capital injections into financial institutions were € 141.51 billion, and the cleaning of impaired assets amounted to € 109.78 billion. Finally, € 28.34 billion were used for liquidity interventions throughout the EU.

The evolution of the aid element in the financial crisis cases, however, reveals a slightly different trend. State aid (aid element) granted for both schemes and *ad hoc* cases in the form of recapitalisations amounted to € 139.64 billion or approximately 40% of total State aid (aid element) granted in the context of the financial crisis[128], followed by guarantees (€ 123.47 billion), measures related to impaired assets (€ 75.27 billion) and liquidity injections (€ 8.6).

A more detailed picture is presented in the following table which presents aggregated data per Member State relating to overall approved amount and actual use both for schemes and *ad hoc* measures.

[128] This trend can be explained by the methodology to assess the aid element of recapitalization measures. For more information please see the sub-section on recapitalization and the Methodological notes.

Table 2 – Approved amounts, actual use and expenditure per Member State (all schemes and *ad hoc* measures)[129]

	Approved amounts 2008-2010	Actual use 2008	Aid element 2008	Actual use 2009	Aid element 2009	Aid element as a % of national GDP 2009
United Kingdom	850.30	182.34	62.28	282.41	119.91	7.65%
Ireland	723.31	0.34	0.03	11.29	11.03	6.74%
Denmark	599.66	586.22	56.48	14.44	8.03	3.60%
Germany	592.23	192.07	51.08	262.68	100.00	4.15%
France	351.10	81.37	25.59	129.48	26.75	1.40%
Spain	334.27	99.35	0.94	60.31	7.32	0.70%
Netherlands	323.60	17.03	14.04	75.00	9.70	1.70%
Belgium	328.59	55.86	21.47	120.43	32.29	9.57%
Sweden	161.56	1.29	0.34	79.39	8.50	2.90%
Austria	91.70	10.79	0.99	30.94	9.35	3.37%
Greece	78.00	0.00	0.00	25.12	12.18	5.13%
Finland	54.00	0.12	0.00	0.00	0.00	Not used
Portugal	20.45	4.76	0.52	0.65	0.07	0.04%
Italy	20.00	0.00	0.00	4.05	4.05	0.27%
Slovenia	12.00	0.00	0.00	2.00	0.20	0.57%
Luxembourg	11.59	3.98	2.78	2.72	0.88	2.33%
Hungary	10.33	0.00	0.00	2.57	0.35	0.38%
Poland	9.24	0.00	0.00	0.00	0.00	Not used
Latvia	8.78	0.94	0.94	0.86	0.86	4.62%
Slovakia	3.46	0.00	0.00	0.00	0.00	Not used
Cyprus	3.00	0.00	0.00	2.23	0.23	1.36%
Lithuania	1.74	0.00	0.00	0.00	0.00	Approved in 2010
Total	**4588.90**	**1236.47**	**237.48**	**1106.54**	**351.68**	

3.3.1. Guarantees on bank debt

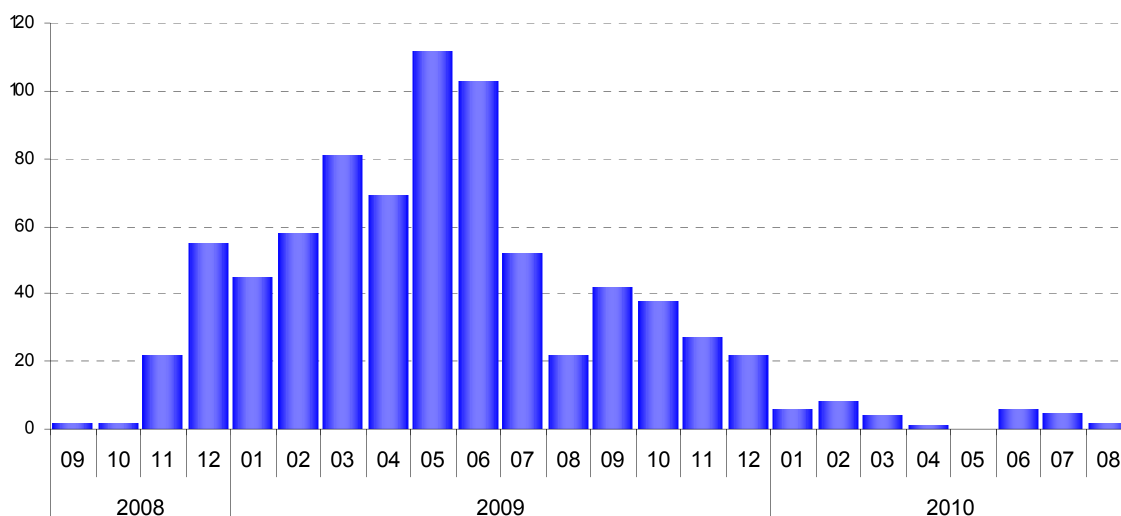
Guarantee schemes have proven to be an appropriate and effective tool to address liquidity problems and have played a key role in preventing the financial system from collapsing. The detailed guidance on the criteria for compatibility with the internal market was provided in the Commission's Banking Communication[130]. Seeking to ensure the temporary nature of these measures, the guarantee schemes have been approved for periods of 6 months at a time with the possibility to prolong them. Since autumn 2008 and up to 1 October 2010, the Commission approved or renewed 41 schemes and individual interventions relating to more than 40 financial institutions.

While the use of guarantees was at its height at the end of 2008 and the first half of 2009, it decreased significantly thereafter. In the wake of the onslaught of the crisis, the mere availability of such guarantee schemes was in itself a reassuring signal to the market even without them being fully exploited after the summer 2009. The following figure further illustrates the decrease in the number of guaranteed bonds issued after the summer 2009.

[129] Source: DG Competition. Please note that figures for 2008 actual use and aid element are different from the ones announced in the Autumn Scoreboard 2010 because of the data adjustments carried out by Member States (or proposed by the Commission), as for example in the case of Denmark (including the scheme NN51/2008 into the year 2008).

[130] 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, 25.10.2008, pp. 8-14.

Figure 19[131] – Number of guaranteed bonds issued through schemes (October 2008 – August 2010)



As follows also from the spring edition of the Scoreboard 2010[132], the share of guaranteed bonds in the overall funding of the financial institutions had decreased significantly since the second half of 2009. In addition, the evidence clearly showed that as from the second half of 2009 guarantees were mostly used by the financial institutions having lower ratings[133].

These factors coupled with the generally improving situation led to discussions on a gradual phase-out of State support. On 2 December 2009, the Ecofin Council concluded on the need to disengage from various forms of temporary support for the financial sector. The conclusions stressed in particular that the unwinding of State aid measures should start with guarantee schemes. In that regard, the Commission presented a preliminary analysis of the intention to introduce specific pre-requisites for the renewed provision of guarantees after 30 June 2010. The main changes concerned the increase of the guarantee fees based on banks' creditworthiness[134]. The Ecofin Council of 18 May 2010 welcomed the Commission analysis and work started on bridging the difference in funding costs and, thus, encouraging sound financial institutions to exit from State guarantees while requiring others to assess their long-term viability and address weaknesses through restructuring where necessary.

However, the actual disengagement in some countries started even earlier. Some Member States (Italy, France and the UK) discontinued their schemes in late 2009 or early 2010. The Netherlands tightened the conditions of its guarantee scheme as of 1 January 2010. After 30 June 2010, 13 Member States[135] have prolonged their schemes and a new guarantee scheme was approved for Lithuania in line with the policy conditions set out in the Staff working paper of 30 April 2010. Total operational schemes across the EU now stand at 14. Cyprus, Finland and Slovakia chose to phase-out their guarantee measures. The relatively high number

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131 Source: Commission services.
132 Please refer to Figure 1 in the Spring Scoreboard 2010.
133 Please refer to Figure 8 of Staff working paper on the application of state aid rules to government guarantee schemes covering bank debt to be issued after 30 June 2010.
134 For summary details please refer to the previous section of this paper.
135 Austria, Germany, Denmark, Greece, Spain, Hungary, Ireland, Latvia, Netherlands, Poland, Portugal, Sweden and Slovenia.

of Member States which still kept guarantee measures can be explained by Member States' willingness to reiterate their commitment to support financial institutions in the case of unforeseen future shocks.

The total volume of guarantee measures authorised by the Commission from 1 October 2008 until 1 October 2010 equals € 3 485.25 billion. Reports from Member States on State aid expenditure reveal that € 826.89 billion (7% of EU-27 GDP) has been effectively used with the aid element of € 128.15 billion representing roughly 1% of EU-27 GDP. The take-up rate for the guarantees is 65%. The further aggregate breakdown between schemes and *ad hoc* interventions is summarised in the table below.

Table 3[136] – Guarantees granted for liabilities of financial institutions in 2009 (schemes and *ad hoc*), € billion

	Approved volumes (1.10. 2008-31.7.2010)	**Actual use in 2009**	**Aid element for 2009**	**% of aid element in relation to Eu-27 GDP for 2009**
Schemes	3026.28	612.59	77.33	0.6%
Ad hoc interventions	458.97	214.3	50.81	0.4%
Total	3485.25	826.89	128.14	1%

Member States granted € 77.33 billion through schemes of which € 32.14 billion for Germany (1.3% of national GDP), € 16.21 billion for the UK (1% of national GDP) and € 7.87 billion for Sweden (2.6% of national GDP). As regards *ad hoc* measures, of the € 50.81 billion reported, Belgium tops the list with € 19.15 billion (5.6% of national GDP), followed by Germany (€ 17.13 billion, 0.7% of national GDP).

3.3.2. Recapitalisation measures

A second important measure in response to the financial crisis was recapitalisation instruments. First dealt with in the Banking Communication and later addressed separately in the Recapitalisation Communication,[137] recapitalisation measures seek to boost capital base of a financial institution This type of action is primarily aimed at restoring confidence in the financial markets and ensuring lending to the real economy. Recapitalisation is also viewed as an indispensible State aid enforcement response to reduced levels of capitalisation which mostly concern financial institutions with riskier business or investment models.

The Recapitalisation Communication established a number of conditions on matters such as remuneration, review clauses and preventing undue distortions of competition[138]. In addition, it also set important principles for encouraging exit of financial institutions from State capital participation. Exit strategies, which are normally enshrined in the decision authorising the aid, should be achieved in principle through pricing conditions (including increase of capital price over time), constraints on dividend payments and other redemption clauses which generally

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[136] Source: DG Competition.

[137] Communication from the Commission — The recapitalization 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, 15.1.2009, pp. 2-10.

[138] For more detail description please refer to the Spring edition of the Scoreboard 2009, p.12.

encourage private capital raising. The criteria to assess recapitalisation schemes are summarised in the Commission staff working document of 7 August 2009[139].

The total volume of approved recapitalisation measures (both schemes and *ad hoc*) in the reference period amounted to € 546.08 billion. Member States reported having actually used € 141.3 billion in 2009[140], of which € 139.43 billion can be considered as State aid. In 2008, the figures showed that State aid for recapitalisation instruments amounted to € 94.87 billion while actual use was € 99.57 billion. The take-up rate for the recapitalisation measures stands at 62%. A more detailed picture is provided in the table below.

Table 4[141] – Recapitalisation measures for 2009, in € billion

	Approved volumes (01.08.2008-31.7.2010)	**Actual use in 2009**	**Aid element for 2009**	**% of aid element in relation to Eu-27 GDP for 2009**
Schemes	348.64	95.15	95.15	0.8%
Ad hoc interventions	197.44	46.36[142]	44.49	0.3%
Total	546.08	141.51	139.64	1.1%

The relatively small difference between actual use of aid measures and aid element can be explained by the fact that recapitalisation in most cases could not be done on market terms. Therefore, the aid element of recapitalisation measures is, in most of the cases, the whole amount of the recapitalisation[143]. It singled out Member States as the only 'investors' willing to participate in the financial institutions capital at the time.

If approved amounts in the table above are compared to the Spring 2010 Scoreboard, more sizable approvals can be registered only as regards *ad hoc* interventions whereas total figures for schemes changed only very slightly[144].

Roughly 70% of all recapitalisation aid in 2009 was reported from 3 Member States, namely the UK (€ 51 billion), Germany (€ 40.73 billion) and Ireland (€ 11 billion) comprising both schemes and *ad hoc* interventions.

So far 15 Member States chose to address capitalisation issues through schemes with 9 of them being devoted purely to recapitalisation and the remainder including both recapitalisation measures and other instruments such as guarantees, impaired assets or liquidity support. 9 schemes are still in place: France, Italy, Denmark, the United Kingdom, Sweden and, more recently, Slovakia phased-out their support in the form of capital interventions. As in the case of guarantees, one of the main reasons provided by Member States for retaining recapitalisation schemes in place is the perceived risks of potential future volatility, even if the overall situation had stabilised.

139 Staff working document of 7 August 2009, DG Competition's review of guarantee and recapitalization schemes in the financial sector in the current crisis ("Review paper"), from p.9 ff.

140 In the absence of reliable data for some cases, the figures were estimated by the Commission services.

141 Source: DG Competition.

142 The Spring Scoreboard used a figure comprising also of other capitalization measures than State aid.

143 A slight difference in the figures appears due to the fact that in some *ad hoc* interventions not the whole amount used could be calculated as constituting aid element.

144 See Chapter 3 of the spring edition of scoreboard 2010.

Recapitalisation measures were taken regarding slightly more than 30 financial institutions in 12 Member States. Some of the cases required action from two or even more Member States.

3.3.3. Impaired assets

Impaired assets are often referred to as root causes of the current financial crisis. In a nutshell, in the years preceding the financial crisis, the importance of securitisation markets grew significantly as financial institutions traded in considerable volumes of various forms of asset-backed securities. The complexity of those financial instruments and the fact that many of them fell outside the scope of banking regulation created huge information asymmetries on the actual value of assets backed by them. While keeping such assets off-balance in the years preceding the crisis, many financial institutions were compelled to take them onto the balance sheet once the financial crisis hit. Coupled with valuation uncertainty and very high refinancing costs, that meant that the financial institutions were faced with prospective write-downs as some of the assets were expected to loose (or were actually losing) their value[145].

Early in 2009 the Commission adopted a coordinated approach in the Impaired Assets Communication[146] aimed at helping Member States to address the situation on banks' balance sheets without distorting competition. As the figures suggest, it proved to be an important tool in Member States' arsenal for dealing with the financial crisis. As of 1 October 2010, the maximum approved volume for both schemes and *ad hoc* measures was € 401.79 billion. Member States reported to have actually used roughly a quarter of this sum (€ 109.78 billion) with € 75.27 billion constituting an aid element. In 2008, Member States did not incur State aid expenditure in regard of impaired assets. The take-up rate for impaired assets was 32%. A further breakdown between schemes and *ad hoc* cases is illustrated in the following table.

Table 5[147] – Impaired assets interventions for 2009, in € billion

	Approved volumes (2008-2010)	Actual use in 2009	Aid element for 2009	% of aid element in relation to Eu-27 GDP for 2009
Schemes	62.17	1.4	1.4	0.04%
Ad hoc interventions	339.63	108.38	73.87	0.6%
Total	401.80	109.78	75.27	0.64%

As regards schemes, only Germany and Ireland approved schemes related exclusively to impaired assets, while other Member States (Austria, Hungary and Lithuania) incorporated these measures into more general schemes related to the financial crisis. As already mentioned in the spring edition of Scoreboard 2010,[148] no special budget was allocated to the German scheme and it expired without being used. Nearly all approved aid relates for one scheme in Ireland taking also into account its recent amendment (€ 61.1 billion).

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[145] For more background on EU's response regarding impaired assets, please refer to article by Yassine Boudghene, Stan Maes and Martin Scheicher, Asset Relief Measures in the EU – Overview and Issues, published on http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1677310.

[146] Communication from the Commission on the treatment of impaired assets in the Community banking sector, OJ C 72, 26.3.2009, pp. 1-22.

[147] Source: DG Competition.

[148] See p. 9.

As it is evident from the table, the impaired assets measures were mostly approved as individual interventions which allowed for more tailor-made solutions. During the reference period the Commission approved *ad hoc* cases in eight Member States (Austria, Belgium, France, Germany, Ireland, Spain, the Netherlands and the United Kingdom). The aid element for individual interventions in the form of impaired assets is mostly concentrated in 3 Member States (Belgium, Germany and the UK) and constitutes € 68.87 billion for 2009.

3.3.4. Liquidity interventions other than guarantees

As the wholesale banking markets ceased to function at the end of 2008, financial institutions with heavy reliance on wholesale funding faced a liquidity squeeze. That difficulty was mostly due to the fact that the new debt could not be collateralized and sold to refinance the existing debt. In order to address the situation, Member States stepped in with various forms of liquidity measures mostly constituting soft loans or special purpose (usually central bank) securities to shore up financial institutions which faced acute liquidity shortages.

Liquidity was granted both through schemes and as *ad hoc* measures. The aggregate data for liquidity interventions shows that € 28.35 billion was used in 2009 of the € 155.77 billion approved during the reference period. The aid element for that amount constitutes € 8.6 billion. In 2008 State aid (aid element) for liquidity interventions amounted to € 9.92 billion with € 32.95 billion being effectively used and therefore a slight decrease is registered in this regard in 2009. The take-up rate of liquidity measures is 67%. A further breakdown of the statistical data can be consulted in the table below.

Table 6[149] – Liquidity measures other than guarantees for 2009, in € billion

	Approved volumes (2008-2010)	**Actual use in 2009**	**Aid element for 2009**	**% of aid element in relation to EU-27 GDP for 2009**
Schemes	41.87	18.23	7.01	0.05%
Ad hoc interventions	113.9	10.11	1.5	0.01
Total	155.77	28.34	8.51	0.06

3.3.5. Restructuring

In general, temporary measures have proven to be an important tool in coping with the crisis. In a number of instances, however, individual banks will need to undergo much more significant structural reforms. That process is necessary for a return to viability of the individual banks as well as the financial sector in the EU as a whole, for re-establishing a sound level playing field across institutions and for the smooth functioning of the internal market[150].

Up to 10 August 2010, the Commission had received close to 40 restructuring cases concerning 14 Member States. Two of these cases involve 2 Member States, another case relates to 3 different Member States. 20 of these cases have been finalised by a Commission decision.

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[149] Source: DG Competition.

[150] For more information on the Commission's policy in regard of the restructuring please refer to the Restructuring Communication and the spring edition of the Scoreboard 2010.

3.4. Aid granted under the Temporary Framework

3.4.1. Context and purpose of the Temporary Framework

With the financial crisis deepening during 2008, financial institutions were deleveraging and becoming significantly more risk-averse than in previous years. Companies started to experience difficulties with access to credit. As part of its response, the Commission adopted in January 2009 the so-called Temporary Framework to give Member States additional possibilities to address the effects of the credit squeeze on the real economy.

The Temporary Framework focuses on two objectives: first, maintaining continuity in companies' access to finance (for instance, to allow Member States to provide guarantees for loans at reduced premiums or subsidised interest rates for loans and to hand out grants of up to € 500 000 per company); second, to support sustainable growth in the long-term by encouraging companies to continue investing, for instance in new technology projects. Apart from these new aid measures, some existing guidelines were adapted under the Temporary Framework, e.g. the simplification of the rules *inter alia* on higher ceilings for risk capital investments and the simplification of the rules on export credit.

The Temporary Framework is a horizontal instrument that has allowed Member States to support all sectors of the economy hit by the crisis.

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 necessary restructuring of the economy as this 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.

The Temporary Framework forms part of a wider Commission response to the economic crisis: the European Economic Recovery Plan adopted in November 2008, which was endorsed by the European Council[151].

By end October 2009, Member States had to provide to the Commission with a report on elements indicating the need for the Commission to maintain the measures provided under the Temporary Framework beyond 2010 and in particular to provide detailed information on the environmental benefits of the subsidised loans. For this purpose, the Commission sent a questionnaire to Member States and sought comments from interested third parties. In March 2010, the Commission sent a second questionnaire to Member States in order to gather further and more updated evidence on the use of the Temporary Framework taking into account current economic circumstances[152]. In October 2010, the Commission published a draft proposal on a limited prolongation of the Temporary Framework until 2011[153]. The document was also discussed in a multilateral meeting with the Member States.

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[151] COM/2008/0800 final; read the English version via http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0800:FIN:EN:PDF.

[152] Read the Member States' replies at http://ec.europa.eu/competition/consultations/2010_temporary_framework/index.html.

[153] http://ec.europa.eu/competition/consultations/2010_temporary_measures/index.html.

3.4.2. *Measures approved under the Temporary Framework*

Since the adoption of the Temporary Framework[154] in January 2009, most Member States have made use of the new facilities offered to support access to finance in the current financial and economic crisis.

Between 17 December 2008 and 1 October 2010, the Commission authorised 73 schemes[155] under the Temporary Framework:

- 23 schemes for aid up to € 500 000 per company proposed by Bulgaria, the Czech Republic, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and the United Kingdom;

- 18 guarantee measures in Belgium, Germany, Greece, Spain, France, Italy, Latvia, Luxembourg, Hungary, Romania, Slovenia, Finland, Sweden and the United Kingdom;

- 8 schemes for subsidised loan interests, in the Czech Republic, Germany, Greece, France, Italy, Hungary and the United Kingdom;

- 5 schemes offering reduced interest loans to businesses investing in the production of green products, in Germany, Spain, France, Italy and the United Kingdom;

- 6 risk-capital schemes in Belgium, Germany, France, Italy and Austria;

- 13 export-credit schemes, in Belgium, Denmark, Germany, France, Latvia, Lithuania, Luxembourg, Hungry, the Netherlands, Austria, Slovenia, Finland and Sweden.

Furthermore, the Commission has approved 5 *ad hoc* aid measures and aid to agricultural producers:

- 5 guarantee measures in Latvia, Romania and Sweden – most to car manufacturers;

- 12 schemes for aid up to € 15,000 for agricultural producers in Belgium, Bulgaria, Germany, France, Italy, Latvia, Hungary, Netherland, Austria, Slovakia, Finland and the United Kingdom.

Of the 27 Member States, only Cyprus has so far not used any of the possibilities offered under the Temporary Framework while Germany and France, at the other extreme, were the Member States that each has approved the highest number of measures. 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). France had also adopted 7 schemes covering all the instruments (*inter alia* two schemes were adopted to provide risk capital). The Commission has also authorised several measures for Hungary (6 measures), Italy (5 measures), Latvia and the United Kingdom (each

[154] 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.

[155] Number does not include amendments to previously approved schemes under the Temporary Framework; figure includes only measures that constitute aid to industry and services.

4 measures). The remainder of Member States made use of only some possibilities that the Temporary Framework offers. For the full details, see table 3-1 in the Annex.

3.4.3. Aid granted in 2009

The maximum volume of the Commission's approved measures under the Temporary Framework amounted to approximately € 81.3 billion in 2009[156], which represents 0.68% of EU-27 GDP. Following from the annual reports submitted by Member States and by taking into account also the replies to the Commission's second questionnaire on the Temporary Framework the aggregated aid element of all aid measures implemented by Member States is estimated at € 2.2 billion[157], which represents in relative terms 0.018% of EU-27 GDP.

Aid granted in the form of a maximum aid amount of € 500 000 per undertaking amounted to € 1.2 billion which represents 55% of all aid granted under the Temporary Framework. A few Member States provided aid in the form of guarantees whose estimated aggregate aid element amounted to € 0.3 billion or 12% of all Temporary Framework aid. Reduced-interest rate loans represent only a small fraction, i.e. € 0.007 billion or less than 1%. An estimated to € 0.7 billion of aid was granted under risk capital measures and France accounted for a large part of that aid.

Concerning the aid instruments used by Member States under the Temporary Framework, by volume of aid granted, tax exemption was the most used instrument, although mainly applied by France. It represents 37% of the entire aid volume granted under the Temporary Framework. The use of direct grants made up 43%, guarantees 17% and loans only 3%. Equity participations and tax deferrals had no particular importance in this context.

At first sight, the total volume of approved aid measures under the Temporary Framework may suggest a significant aid expenditure. However, Member States granted aid of only 2.7% of the approved volume in 2009. This effect could partly be explained in view of the fact that Member States were cautious in the determination of the budget given the uncertainties as to the depth and duration of the crisis and the need to send the markets a clear signal of public authorities' availability to meet potential demand that then turned out to be lower than expected. Furthermore, it appears that Member States were applying strict granting conditions, also in view of budgetary constraints, which have kept the number of beneficiaries limited. On the basis of the feedback from Member States, received via the second questionnaire on the Temporary Framework, it appears that some Member States implemented some of their Temporary Framework measures only during the second half of 2009 but due to national budget restrictions the actual expenditure was partly or fully postponed into the year 2010 for which a higher aid expenditure is expected.

With respect to the preference through which Member States provided the aid under the Temporary Framework, the maximum aid amount of € 500 000 per undertaking appeared to be the most used tool to grant aid to the real economy. In second place, Member States made use of guarantees and subsidised interest loans.

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[156] Estimate; amount is expected to be higher, however, not quantifiable at the moment of the Scoreboard production. In a few instances, some aid expenditure already occurred at the end of 2008. For the purpose to keep the main facts on expenditure under the Temporary Framework rules simple, such expenditure were included for 2009 of the corresponding Member State. The approved aid volume of the € 15,000 aid to agricultural producers amounted to € 1.2 billion and is excluded from the figure. Excluded is also export credit since it concerned a simplification of rules.

[157] Apart, expenditure on aid of up to € 15 000 for agricultural producers is estimated to € 4.9 million.

3.4.4. Special reference to the car sector

In the automotive sector, the sharp drop in demand was mainly related to the degradation of households' access to finance. Most of the measures taken focused on easing access to finance in order to maintain companies' capacity to grow and compete. Measures on subsidised loans, guarantees and green products have been adopted in Spain, France, Italy, United Kingdom, Sweden and Romania where the automotive sector has a relatively higher share of the economy.

Sectoral supply-side support measures (loans and guarantees) carry other risks in the long run[158]. Measures to maintain companies' innovation capacity, for instance, might have adverse effects on potential innovative entrants. In particular, by favouring incumbents, public authorities do not encourage disruptive innovative new players to enter the market (OECD, 2009). The preferential loans provided to large car manufacturers is a specific example; it could provide those car manufacturers with a competitive advantage in leading the change to a green economy.

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. It does not authorise aid granted under the Temporary Framework to support access to finance in the context of the financial crisis that would be subject – *de jure* or *de facto* – to political constraints concerning the location of production activities within the internal market. The beneficiary undertakings must therefore retain full freedom to develop their economic activities anywhere in the internal market. The Commission carefully examined each case that raised this type of protectionist concerns.

This approach was confirmed early in 2009 when France announced its intention to grant State aid to its national car producers on the basis of a scheme approved under the Temporary Framework. Following extensive contacts between the Commission and the French authorities, the latter eventually made undertakings to the effect that the loan agreements intended for the car manufacturers would not contain any condition regarding either the location of their activities or a preference for France-based suppliers. A similar issue was raised in the context of State aid that Germany intended to grant to Adam Opel GmbH under an approved Temporary Framework scheme, in connection with a sale by General Motors of its Opel/Vauxhall European operations to an investor. Eventually, General Motors reversed its decision to sell Opel and the investor's process was terminated.

There were also cases in the automotive sector that were individually notified to the Commission, such as the Volvo case, where the Commission approved a guarantee to be issued by the Swedish state as collateral for a loan from the European Investment Bank to finance green projects by *Volvo* cars directly on the basis of the Temporary Framework[159].

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[158] Read more detail in http://ec.europa.eu/economy_finance/publications/european_economy/2009/pdf/ee11_2009_en.pdf.

[159] N 80/2009.

4. SIMPLIFICATION OF THE STATE AID RULES

4.1. A new architecture for State aid control

The **State Aid Action Plan (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 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.

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, alongside the block exemption mechanism, individual assessment of State aid notified to the Commission may be subject to two basic levels of scrutiny. In principle, State aid measures notified to the Commission are scrutinised applying a standard assessment. This allows an opinion to be formed 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. By adopting this two-tiered approach, the Commission focuses its analysis on the most distortive aid measures, while also ensuring effective State aid control via the standard assessment.

By applying a level of assessment proportionate to the impact of the aid measure, the current State aid architecture assures a strict and practical form of State aid control in an EU of 27 Member States, where it is impossible to assess every notification of national aid measures in 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, in line with the priorities and headline targets of the Europe 2020 Strategy[160].

Following the SAAP, the Commission adopted in 2009 a **simplification Package** to further modernise and simplify State aid procedures. This Package (in force since 1 September 2009) comprises a Best Practice Code[161] and a notice on a Simplified Procedure[162], both of which

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[160] Communication from the Commission - Europe 2020: a strategy for smart, sustainable and inclusive growth, COM (2010)2020 of 3.3.2010.

[161] Code of Best Practice for the conduct of State aid control procedure (OJ C 136, 16.06.2009, p. 3-12).

aim at improving the effectiveness, transparency and predictability of State aid procedures, within the existing legal context of the Procedural Regulation[163].

The **simplified procedure** aims at ensuring that clearly compatible aid is approved 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 to give third parties the possibility to comment.

The **Best Practice Code**, which is complementary to the simplified procedure initiative, details how State aid procedures should be carried out in practice. It is based on a joint commitment of the Commission and Member States to achieve more streamlined, and predictable procedures at each step of a State aid investigation. Consequently, the Commission should be able to adopt its decisions on State aid cases faster, within the existing procedural legal framework.

In 2009, the majority of aid measures were scrutinised via a standard assessment. For risk capital cases a detailed assessment was carried out in 24% of the cases decided [164]. For R&D&I cases the figure was 30%[165]. There was no detailed assessment for environmental protection cases (47 cases) and only 1 of the 59 regional aid cases was made the subject of a detailed assessment.

As for the simplified procedure, it was used for two cases in 2009 (since the simplification package was in force only from 1 September 2009).

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[166] or by block exempted regulations (most notably the General Block Exemption Regulation (**GBER**), which entered into force on 29 August 2008)[167]. The rationale behind this 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 laid down in the relevant 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

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162 Commission Notice on a Simplified procedure for the treatment of certain types of State aid; OJ C 136, 16.06.2009, p. 3-12.

163 Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, 27.03.1999, p. 1.

164 4 out of 16 risk capital cases.

165 9 out of 30 R&D&I cases.

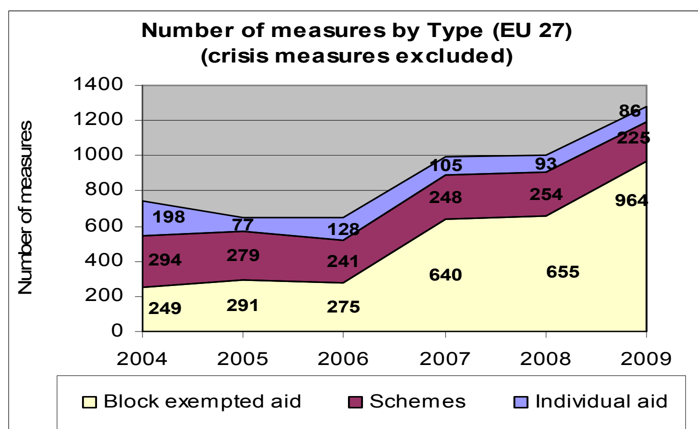
166 Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid, OJ L 379, 28.12.2006, p. 5.

167 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 (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3–47.

thresholds and **individual aid** (also known as 'ad hoc' aid) awarded outside a scheme need to be notified individually.

Both in terms of numbers and in terms of volumes block exempted aid increased in the last years, while aid remaining under the Commission scrutiny (schemes and individual aid taken together, excluding crisis measures) decreased, as is illustrated by the following two tables[168].

Figure 21[169]: Trend by type of aid measures (numbers); EU-27



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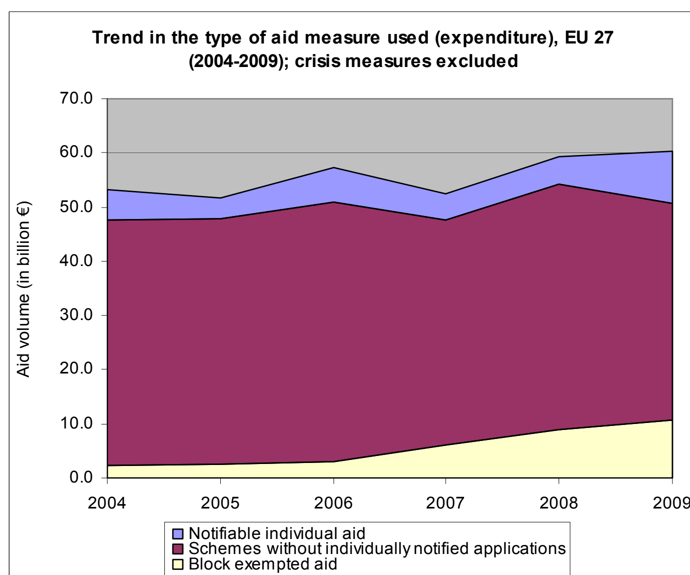
[168] In order to obtain a true picture on the trend in terms of numbers and volume for the different types of measures (e.g. block exempted aid, schemes and individual applications and ad hoc aid) the distorting effect of the crisis measures has been put aside for the purpose of the analysis.

[169] 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[170]: Trend by type of aid measures (volume); EU-27



Numbers of aid measures[171]

In comparison with the previous year, 2009 saw a significant increase in the number of new block exempted measures set up by Member States. The main reason for this was the General Block Exemption Regulation which entered into force in August 2008 and widened the scope of the previously existing block exemptions by including new areas where block exempted aid can be granted (e.g. environmental protection aid and R&D&I aid).

In 2009, block exempted aid measures accounted on average for 76% of all new State aid measures set up in the Member States. Notified aid (schemes and individual aid) accounted for the remaining 24% of which the proportion of individual aid was rather low i.e. approximately 7 %.

Over the long-term, the trend shows a steady increase in the use of block exempted aid by Member States. It increased between 2004 and 2006 from 34% to 43%. Then it jumped to 64% in 2007, mainly due to the entry into force of the new regional aid framework for the years 2007 - 2013 which triggered block exempted aid earmarked for regional investment aid. This level of block-exempted aid was roughly maintained in 2008 (65%) and sharply increased again in 2009 (76%).

The increase in the number of new block exempted measures set up by Member States was accompanied by a significant reduction of aid measures which were under individual scrutiny by the Commission (schemes and individual aid).

With respect to notified schemes, the share which they represent of all aid measures declined from 40% in 2004 to 25% in 2008. This downward trend continued in 2009 (18%).

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170 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.

171 Crisis measures excluded. Statistics on crisis measures are presented in Chapter 3.

A similar decrease was seen for individual aid measures, whether individual applications within a scheme or ad hoc measures, both of which dropped from 27% in 2004 to around 9% in 2008. This trend was sustained in 2009 (7%).

Volume of aid measures[172]

On the basis of 2009 data, about 19% of the total aid volume to industry and services was awarded on the basis of block exemptions, which corresponds in absolute terms to around € 10.8 billion. Aid granted through schemes which had been subjected to the Commission's scrutiny represented the bulk of measures in terms of volume, roughly 69% (around € 40 billion). Individual aid accounted for the remaining 12 %.

The share of **block exempted aid** in the total volume of aid to industry and services rose steadily from 4% in 2004 to 12% in 2007, 16% in 2008 and 19% in 2009 (which in absolute terms corresponds to € 2.4 billion in 2004, € 6.1 billion in 2007, € 8.9 billion in 2008 and € 0.8 billion in 2009). The main reasons for the increase lie in the introduction of a block exemption for regional aid in 2007 and the GBER in 2008. With the exception of the Czech Republic, Ireland, Cyprus, Latvia, Lithuania, Hungary, the Netherlands, Finland and the United Kingdom all other Member States granted more aid under the block exemptions in 2009 than in the previous year in absolute terms. In particular, Bulgaria, Malta, Luxembourg, Denmark, Belgium and Slovakia granted substantially more aid under the block exemption regulations[173].

During the same six-year period 2004 - 2009, aid volumes granted under notified schemes and individual aid were generally on a downward path. With respect to **notified schemes**, the corresponding aid volume fell from 85% in 2004 to 79% in 2008 and 69% in 2009.

The same positive, downward trend was observed for aid volumes granted as **individual aid** (either the individual application of schemes or ad hoc aid) in the years 2004 - 2008 when it came down from 10% in 2004 to 5% in 2008. Between 2008 and 2009, individual aid increased to almost 12% of the total. In absolute terms it was equal to € 6.9 billion that is around € 4.1 billion more than in 2008, of which € 2.5 billion can be assigned to the individual applications of schemes.

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 the examination of individual applications of a scheme and ad-hoc measures it is these cases which most often haven the greatest potential to distort competition.

5. ENFORCEMENT THE STATE AID RULES

5.1. Unlawful aid

Article 108(3) TFEU 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. When, following a formal

[172] Crisis measures excluded. Statistics on crisis measures are presented in Chapter 3.

[173] Additional information on block exempted aid granted in 2009 is presented in Chapter 2.2.2.

investigation procedure, the state aid measure is considered incompatible with the internal market, the Commission shall decide that the Member State must take all necessary measures to recover the aid from the beneficiary in accordance with national procedures (negative decision with recovery).

In the period 2000 to 30 June 2010, the Commission took 910 decisions on unlawful aid[174]. In 21.6% of unlawful aid cases (197 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 a further 2.1% of unlawful aid cases (19 cases), the Commission took a conditional decision.

In addition, there are roughly 160 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).

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 recovery decisions, which will ensure equality of treatment of all beneficiaries. To this end, the Commission adopted in November 2007 its Recovery Notice, which defines the role and obligations of Member States and the Commission as regards the common aim of undoing the distortion of competition caused by illegal and incompatible aid.

State of play

The latest figures indicate that significant progress has been made in the execution of recovery decisions since the SAAP in 2005. At the end of June 2010, there were 54 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 an increased state aid discipline on the part of Member States.

As of 30 June 2010, seven pending recovery cases were closed and 3 new recovery decisions were taken. Spain and Italy had the highest number of pending cases (15 each, which represents 55 % of the EU total), followed by Germany (7) and France (4). It is also worth noting that there is no pending case in 14 of the 27 Member States. Table 4-3 in the Annex provides the complete list of outstanding recovery decisions.

Recovery of illegal incompatible State aid is still a lengthy process: in more than a third of the 54 pending recovery cases the decision was adopted more than four years ago. Significant efforts have been and are being made to implement the oldest recovery decisions.

[174] The Commission reports about recovery on a cumulative, mid-year basis.

The execution of recovery decisions by Member States is closely monitored by the Commission. Where Member States do not take all measures available to implement such decisions, the Commission has taken the line of systematically initiating infringement proceedings against the Member State concerned. As of 30 June 2010, the Commission had decided to launch action under Article 108(2) TFEU in 3 cases and to initiate or pursue an infringement action under Article 260(2) TFEU in 3 other cases. A complete list of these cases is available on the DG Competition website and in Table 4-4 in the Annex.

Amounts from recovery

Table 4-1 in the Annex provides data on the amounts of aid to be recovered under the 143 recovery decisions adopted since 2000. For most 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 2010 is more than € 12 billion (€ 12.066 billion).

Of these € 12.066 billion, some € 10.728 billion of aid had already been recovered by 30 June 2010 (consisting in € 9.417 billion of aid effectively recovered and € 1.311 billion of aid lost in bankruptcy proceedings). This represents 88.9% of the total amount of illegal and incompatible aid to be recovered under recovery decisions adopted since 1 January 2000. Taking into account the further € 370 million of illegal and incompatible aid that has been registered in ongoing bankruptcy proceedings (which represents 3% of total aid to be recovered), it appears that, in monetary terms, the rate of execution of recovery decisions adopted since 1 January 2000 is close to 92%.

Recovery in the agricultural sector

As of 30 June 2010, the Commission has taken 14 recovery decisions in the period dating from 1999 to 30 June 2010. There were 10 pending recovery cases in the agricultural sector with around € 1.3 billion aid yet to be recovered. One Spanish case has been added in comparison to the former scoreboard. One Greek case was closed in the first semester of 2010. Further details can be consulted in the table below.

Table 7: Pending recovery cases by Member State, first semester 2010

	Situation 31/12/2009	New cases 31/12/2009-30/06/2010	Cases closed 31/12/2009-30/06/2010	Situation 30/06/2010
Spain	1	1		2
Germany	1			1
Italy	1			1
France	3			3
Portugal	2			2
Greece	2		1	1
Total	**10**	**1**	**1**	**10**

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 in the agricultural sector. The Commission continues its efforts to obtain information from the Member States on the aid amounts involved.

So far, no infringement proceedings pursuant to Article 108(2) TFEU have been brought before the Court of Justice of the European Union.

Recovery in the fisheries sector

The Commission adopted seven recovery decisions in the area of fisheries. The total amount of aid to be recovered is unknown due to lack of information provided by Member States authorities, however, it is estimated that the amount should be in the region of € 100 million. So far, only around € 4.5 million has been successfully recovered. In 2010, the Commission took two cases[175] to the Court of Justice over the failure to comply with the obligations established by the Treaties. For more details, see Table 4-2 in the Annex.

Recovery in the transport sector

The estimated amount of aid to be recovered in the transport sector amounts to € 1.5 billion, however, exact amounts to be recovered in each case are not known due to a lack of precise data from the national authorities. So far, the Commission has taken 7 negative decisions with a recovery order in the transport sector. In 2009, one negative decision with recovery order was handed down but aid could not be recovered[176]. No recovery decisions were taken in the first half of 2010.

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. 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.

By judgment of 13 September 2010 the General Court partially annulled the Commission Decision C 11/2004 on privatisation of Olympic Airways. The Court held that the Commission had failed to prove that about € 131 million granted by Greece constituted State aid. At the same time it upheld the Commission's decision according to which the continued forbearance of the Greek State towards Olympic Airways’ non-payment of taxes and social security contributions (of about € 354 million) amounted to illegal and incompatible State aid which had to be recovered.

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.

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175 Namely - CR 96/2001 and CR 97/2001.

176 C 10/2005 – Restructuring aid to COMBUS A/S. Aid could not be recovered due to the fact that the beneficiary was dissolved.

In order to develop the potential of private State aid enforcement, the Commission adopted in April 2009 a new Notice on the Enforcement of State Aid Law by National Courts[177]. This Notice replaced the existing 1995 Notice on Cooperation with National Courts[178] 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.
- 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 decided to introduce more practical and user-friendly co-operation mechanisms along the lines of those already available in the antitrust area[179].

Following the adoption of the new Notice the Commission has recently intensified its advocacy efforts in the area of private State aid enforcement. A dedicated set of web pages has been launched on the DG Competition website[180], and a booklet[181] gathering the EU materials most relevant for State aid enforcement in the judges' daily work has been published. Furthermore, the Commission has provided grants for the organisation of State aid training for national judges[182] throughout Europe.

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 2010 around 1 471 State aid measures had been implemented on the basis of this Regulation. Article 10 of the GBER 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, 2008, and 2009 a series of sample-based monitoring exercises covering both approved aid schemes and measures adopted under BERs. As already indicated in the Autumn 2009 Scoreboard (point 5.4), the Commission has, with these 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

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

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

179 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).

180 http://ec.europa.eu/competition/court/state_aid.html.

181 http://ec.europa.eu/competition/publications/state_aid/national_courts_booklet_en.pdf.

182 http://ec.europa.eu/competition/court/training.html.

approval decision/BER; a second level of check concerns important individual decisions implementing such schemes.

DG Competition has now addressed aid measures adopted by all Member States. The analysis of the results of the first four exercises shows that overall, the 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.

METHODOLOGICAL NOTES[183]

As in previous Scoreboards, the figures in this report are based on the annual reports on existing schemes submitted by the Member States pursuant to Article 5 of Commission Regulation (EC) 794/2004[184] and Annex III A of that Regulation, which defines the scope and content of the data that Member States have to provide to the Commission. Furthermore the data are based on the information submitted by Member States in their notifications pursuant to Article 2 of Council Regulation (EC) 659/1999[185]. Where actual expenditure data were not available, Member States were asked to provide commitments or budget appropriations and to mark the data accordingly. Where no such information was available, Member States were requested to provide an estimate of the aid element, or in the absence of such estimate, were asked to confirm or adapt the estimate calculated by the Commission services, mainly on the basis of information provided in previous years and in line with the applied standard method of assessing the aid element[186]. For the purpose of producing a meaningful Scoreboard, the absence of data requires the inclusion of estimates in order to provide a complete picture on State aid expenditure on the basis of all aid measures implemented by Member States.

The Scoreboard covers State aid as defined under Article 107(1) TFEU (ex Article 87(1) of the EC Treaty) that Member States granted from 1 January 2009 to 31 December 2009. Data from previous years are also included in the report when needed to show trends. All State aid data refer to the implementation of Commission decisions but exclude cases which are still under examination.

Aid granted for Services of General Economic Interest are excluded from the Scoreboard. For more detail, read the conceptual remarks at DG Competition's website.[187] Also excluded from the report is expenditure through Community funds and other Community instruments.

Figures may be different from those published in previous Scoreboards. First, Member States may have replaced provisional figures or estimates from the previous year(s) by final data. With respect to expenditure in tax schemes which pose particular difficulty when quantifying[188], if expenditure is corrected at a later stage it may contribute to a change in previous figures and to a shift in the distribution of horizontal or sectoral aid in particular. 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. Third, all data are provided at constant prices (in million Euro or billion Euro where appropriate) of the year 2000 but referenced to the year under review. Moreover, figures change due to inflation being taken into account.

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183 Read more on methodological remarks under http://ec.europa.eu/competition/state_aid/studies_reports/conceptual_remarks.html.

184 OJ L 140, 30.4.2004, p. 1.

185 OJ L 83, 27.3.1999, p. 1.

186 For more detail, read http://ec.europa.eu/competition/state_aid/studies_reports/conceptual_remarks.html.

187 http://ec.europa.eu/competition/state_aid/studies_reports/conceptual_remarks.html.

188 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 may work with estimates.

Figures when expressed in percentage of GDP are measured by 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 to industry and services (i.e. total aid less agriculture, fisheries and transport).

Aid measures to give support to the financial sector qualify as crisis measures if they were adopted under specific State aid rules introduced in the context of the current global financial crisis[189]. Measures which respond to the financial crisis but were approved prior these specific State aid rules do also count as crisis measures. In this respect, such aid measures are classified 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 achieving a true picture on State aid expenditure without the distorting effect of the crisis measures.

The standard method to calculate the aid element of the crisis measures to the financial sector has, like in the previous Scoreboard, been applied as follows:

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

- For ad hoc measures for sound banks the aid element is estimated at 10% of the guaranteed amount.

- For banks in difficulty, usually notified as individual cases (rescue and restructuring cases) the aid element is estimated at 20% of the guaranteed amount.

- The basis for the estimation is the average outstanding guarantee volume for 2009.

- For recapitalisation measures the aid element is estimated at the full recapitalisation amount for 2009.

- For impaired assets measures the aid element is estimated to the amount which has been established in the decision.

- For restructuring measures the aid element is estimated to correspond to the provisions in the restructuring guidelines.

Aid granted under the Temporary Framework also qualifies as crisis measures. As to point 5.1 of the Temporary Framework, the simplification of the rules on short-term export credit insurance is not considered to represent a particular category of aid expenditure for the purpose of the Scoreboard and hence was excluded from the aggregation of the data.

Concerning the reporting of aid granted under the Temporary Framework, the general rule has been applied:

- In instances where a Temporary Framework measure is (i) a new *ad hoc* measure, (ii) a new scheme or (iii) a new framework scheme under which a number of new schemes may be implemented, the Member State simply reports expenditure under this Temporary Framework measure.

[189] For more detail, read chapter 3.

- In instances where a Temporary Framework measure (i) modifies an existing aid measure or (ii) the Member State uses one or more existing aid measures for its implementation, and hence aid is granted under Temporary Framework conditions, the Member State reports the aid amounts (including the aid element) under the corresponding Temporary Framework measure. By contrast, all aid that falls outside the aforementioned conditions (i) and (ii) shall be reported under the case number of the initially authorised non-Temporary Framework measure. For restructuring measures the aid element is estimated to correspond to provisions in the restructuring guidelines.

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[190]: 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; 2009)

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, 2004 - 2009 in % points (1)
	Total State Aid less railways	Total State Aid for industry and services[191]	Total State Aid less railways	Total State Aid for industry and services		
EU 27	**427.2**	**412.1**	**3.6**	**3.5**	**12**	**-59.7**
EU 15	**417.3**	**405.6**	**3.8**	**3.7**	**11**	**-64.6**
EU 12	**9.9**	**6.5**	**1.1**	**0.8**	**55**	**18.1**
Belgium	34.3	33.9	10.2	10.1	5	-92.4
Bulgaria	0.7	0.0	2.1	0.1	100	21.0
Czech Republic	0.9	0.7	0.7	0.5	88	-2.0
Denmark	10.2	10.0	4.6	4.5	19	-87.7
Germany	116.8	115.4	4.8	4.8	11	-61.7
Estonia	0.04	0.01	0.3	0.1	100	0.0
Ireland	12.6	11.8	7.7	7.2	6	-66.9
Greece	14.3	14.1	6.0	5.9	11	-76.5
Spain	13.2	12.4	1.3	1.2	32	-19.7
France	42.3	39.3	2.2	2.1	23	-53.7
Italy	10.2	9.2	0.6	0.6	45	-17.2
Cyprus	0.4	0.3	2.4	1.7	21	-10.2
Latvia	1.1	0.9	5.8	4.9	2	-92.8
Lithuania	0.2	0.1	0.8	0.3	100	15.4
Luxembourg	1.0	1.0	2.8	2.7	9	-95.0
Hungary	1.9	1.5	2.0	1.5	50	11.5
Malta	0.1	0.1	2.0	1.7	23	5.0
Netherlands	12.1	11.4	2.1	2.0	15	-76.8
Austria	11.2	10.5	4.1	3.8	10	-52.3
Poland	2.9	2.2	0.9	0.7	71	22.8
Portugal	1.7	1.6	1.0	1.0	18	-0.5
Romania	0.8	0.2	0.7	0.1	50	27.5
Slovenia	0.5	0.4	1.5	1.3	47	39.6
Slovakia	0.3	0.2	0.5	0.4	89	18.2
Finland	2.1	0.8	1.2	0.5	98	0.1
Sweden	11.1	10.9	3.8	3.7	22	-54.1
United Kingdom	124.2	123.2	7.9	7.9	2	-88.2
Norway	2.8	2.4	1.02	0.87	n.a. (2)	n.a.
Iceland (3)	0.04	0.04	0.43	0.43	n.a.	n.a.

190 Data cover all State aid measures as defined under Article 107 TFEU (former 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 2004-2006 and 2007-2009. Source: DGs Competition, Energy, 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.

191 I.e. less agriculture, fisheries and transport.

Liechtenstein (3)	0.001	0.001	0.04	0.04	n.a.	n.a.

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; 2009)

FIGURES EXCLUDE CRISIS MEASURES	State aid in billion EUR, 2009		State aid as % of GDP, 2009		Trend in the share of aid to GDP, 2004 - 2009 in % points of GDP(1)		Share of aid to horizontal objectives as % of total aid for industry and services, 2009	Trend in the share of aid to horizontal objectives as a % of total aid, 2004 - 2009 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	**73.2**	**58.1**	**0.6**	**0.5**	**-0.08**	**0.00**	**84**	**5.7**
EU 15	**65.1**	**53.4**	**0.6**	**0.5**	**-0.07**	**0.01**	**85**	**2.8**
EU 12	**8.1**	**4.7**	**0.9**	**0.5**	**-0.19**	**-0.13**	**76**	**29.5**
Belgium	2.0	1.6	0.6	0.5	0.13	0.13	100	0.5
Bulgaria	0.7	0.03	2.1	0.1	1.42	-0.09	100	21.0
Czech Republic	0.9	0.7	0.7	0.5	0.16	0.18	88	-1.9
Denmark	2.1	1.9	1.0	0.9	0.06	0.08	97	0.7
Germany	16.7	15.2	0.7	0.6	-0.11	-0.10	86	3.9
Estonia	0.04	0.01	0.3	0.1	-0.04	-0.02	100	0.0
Ireland	1.5	0.7	0.9	0.5	0.46	0.07	89	5.6
Greece	2.0	1.8	0.8	0.7	0.21	0.31	87	-5.0
Spain	5.7	4.9	0.5	0.5	0.03	0.04	80	9.9
France	14.7	11.7	0.8	0.6	-0.32	0.09	79	-0.8
Italy	5.7	4.6	0.4	0.3	-0.08	-0.07	84	2.5
Cyprus	0.2	0.1	1.0	0.4	-0.41	-0.42	95	39.4
Latvia	0.2	0.0	1.0	0.1	-0.06	0.01	100	1.3
Lithuania	0.2	0.1	0.8	0.3	0.21	0.16	100	15.4
Luxembourg	0.1	0.1	0.3	0.2	-0.04	0.03	100	0.0
Hungary	1.4	0.9	1.5	1.0	-0.82	0.18	76	19.1
Malta	0.1	0.1	2.0	1.7	-1.23	-1.14	23	5.1
Netherlands	2.4	1.7	0.4	0.3	-0.01	0.02	99	5.2
Austria	1.7	1.0	0.6	0.4	-0.02	-0.07	99	21.3
Poland	2.9	2.2	0.9	0.7	-0.18	0.00	71	22.8
Portugal	1.6	1.6	1.0	0.9	0.18	0.20	19	1.0
Romania	0.8	0.2	0.7	0.1	-0.27	-0.85	50	27.5
Slovenia	0.3	0.2	0.9	0.7	-1.55	-1.40	91	69.4
Slovakia	0.3	0.2	0.5	0.4	0.14	0.12	90	18.3
Finland	2.1	0.8	1.2	0.5	-0.14	0.05	99	0.7
Sweden	2.6	2.4	0.9	0.8	-0.04	-0.03	100	0.0
United Kingdom	4.0	3.2	0.3	0.2	0.00	0.02	91	-0.8
Norway	2.8	2.4	1.02	0.87	n.a.	n.a.	2.8	2.4
Iceland	0.04	0.04	0.43	0.43	n.a.	n.a.	0.04	0.04
Liechtenstein	0.001	0.001	0.04	0.04	n.a.	n.a.	0.001	0.001

Table 1-3[192]: State aid for primary objectives and sectoral aid as % of total aid (crisis measures excluded); 2009

	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[193]**	Coal	Financial Services	Manufacturing Sectors	Other Non Manufacturing Sectors	Other Services
EU-27	**83.8**	**22.6**	**23.9**	**17.6**	**6.9**	**1.6**	**4.2**	**6.9**	**16.2**	**4.7**	**2.2**	**6.1**	**2.3**	**0.8**
EU-15	**84.6**	**23.7**	**23.4**	**18.2**	**7.4**	**1.5**	**3.3**	**7.0**	**15.4**	**4.7**	**2.4**	**6.1**	**1.5**	**0.8**
EU-12	**75.8**	**10.5**	**29.7**	**10.6**	**1.5**	**3.3**	**14.0**	**6.3**	**24.2**	**4.3**	**0.3**	**6.6**	**11.9**	**1.1**
Belgium	100.0	17.4	6.4	46.2	13.3	4.0	6.9	5.8	0.0	0.0	0.0	0.0	0.0	0.0
Bulgaria	100.0	0.0	59.4	39.8	0.4	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Czech Republic	88.2	1.0	45.8	36.5	3.1	1.6	0.3	0.0	11.8	0.0	1.7	0.3	9.7	0.0
Denmark	97.2	22.2	0.0	7.6	0.3	0.5	64.5	2.0	2.8	0.0	0.0	0.0	0.0	2.8
Germany	86.4	37.1	24.3	14.6	6.0	1.0	0.0	3.4	13.6	11.4	0.0	2.2	0.0	0.0
Estonia	100.0	6.9	13.1	9.1	26.6	0.9	0.8	42.6	0.0	0.0	0.0	0.0	0.0	0.0
Ireland	89.4	6.2	38.8	20.0	5.1	5.4	1.8	12.2	10.6	0.0	0.0	6.7	0.0	3.9
Greece	86.9	2.0	76.0	0.5	7.6	0.0	0.0	0.7	13.1	0.0	0.0	11.4	0.8	1.0
Spain	80.0	16.7	25.2	27.5	3.8	2.5	1.3	2.9	20.0	15.5	0.0	4.2	0.0	0.2
France	78.7	2.8	35.2	18.5	6.8	0.8	0.2	14.3	21.3	0.0	0.0	20.4	0.1	0.8
Italy	84.2	3.9	21.1	21.2	23.8	4.3	4.6	5.5	15.8	0.0	0.0	0.7	11.4	3.7
Cyprus	94.8	7.4	1.5	0.5	9.0	11.9	0.2	64.3	5.2	0.0	0.0	0.0	0.0	5.2
Latvia	99.9	50.6	27.8	3.0	4.6	0.0	4.0	9.8	0.1	0.0	0.0	0.1	0.0	0.0
Lithuania	100.0	31.3	51.3	6.2	1.5	1.2	8.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Luxembourg	100.0	8.4	8.7	62.8	11.8	0.0	0.0	8.2	0.0	0.0	0.0	0.0	0.0	0.0
Hungary	75.7	4.3	28.6	10.6	3.1	3.4	1.5	24.3	24.3	3.3	0.0	20.2	0.8	0.0
Malta	22.9	0.0	14.6	2.0	0.3	0.3	0.0	5.6	77.1	0.0	0.0	75.9	0.0	1.2
Netherlands	99.3	62.1	0.7	27.9	4.3	0.0	0.0	4.2	0.7	0.0	0.3	0.4	0.0	0.0
Austria	99.1	35.3	18.2	31.1	8.5	2.4	0.4	3.1	0.9	0.0	0.0	0.3	0.0	0.6
Poland	71.0	14.2	22.9	1.5	0.1	4.3	28.0	0.1	29.0	3.9	0.0	1.6	21.9	1.6
Portugal[194]	18.9	0.2	7.6	3.3	3.0	0.5	3.2	1.1	81.1	0.0	81.1	0.0	0.0	0.0
Romania	50.5	0.0	28.9	16.3	1.3	0.0	0.0	3.9	49.5	41.4	0.0	1.7	0.0	6.3
Slovenia	91.4	10.3	39.9	28.8	0.7	0.1	5.4	6.1	8.6	7.1	0.0	1.5	0.0	0.0
Slovakia	90.0	32.1	47.1	3.8	1.7	3.8	0.0	1.3	10.0	2.3	0.0	7.7	0.0	0.0
Finland	99.4	40.8	1.1	30.8	9.5	1.9	5.3	10.0	0.6	0.0	0.0	0.6	0.0	0.1
Sweden	99.7	82.0	8.1	4.6	0.1	0.3	0.1	4.6	0.3	0.0	0.0	0.0	0.3	0.0
United Kingdom	91.4	36.2	5.8	21.2	8.1	1.7	0.3	18.1	8.6	0.0	0.0	0.1	7.4	1.0

192 Source: DG Competition, DG Energy.

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

194 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[195]: Trend in share of primary objectives in total aid between 2004 - 2006 and 2007 - 2009 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	**5.7**	**-2.1**	**4.2**	**4.0**	**-2.2**	**0.0**	**-0.9**	**2.7**	**-5.7**	**-3.6**	**-0.2**	**-1.5**	**0.0**	**-0.3**
EU-15	**2.8**	**-3.5**	**3.8**	**4.0**	**-2.5**	**-0.1**	**-1.7**	**2.8**	**-2.8**	**-3.6**	**-0.3**	**1.5**	**-0.2**	**-0.3**
EU-12	**29.5**	**7.7**	**8.8**	**3.1**	**0.0**	**1.2**	**7.5**	**1.3**	**-29.5**	**-4.2**	**-0.1**	**-27.2**	**2.0**	**-0.1**
Belgium	0.5	5.2	-11.7	21.2	-16.6	-0.3	0.6	2.0	-0.5	0.0	0.0	-0.5	0.0	0.0
Bulgaria	21.0	-0.9	1.2	33.6	0.7	1.2	-13.0	-1.9	-21.0	-16.4	0.0	-8.0	3.4	0.0
Czech Republic	-1.9	-4.6	9.8	2.1	-7.2	-2.6	-1.8	2.5	1.9	-1.1	-1.1	-1.0	5.0	0.0
Denmark	0.7	-12.6	-0.3	4.3	0.3	0.2	9.0	-0.3	-0.7	0.0	0.0	-2.1	0.0	1.4
Germany	3.9	-7.2	4.2	4.2	1.9	0.4	-0.3	0.8	-3.9	-3.9	-0.1	0.7	0.0	-0.6
Estonia	0.0	4.6	-8.9	-4.4	2.8	2.3	0.1	3.5	0.0	0.0	0.0	0.0	0.0	0.0
Ireland	5.6	3.0	-3.1	5.8	2.2	1.6	-4.4	0.3	-5.6	0.0	-3.0	-3.1	0.0	0.5
Greece	-5.0	-2.6	8.1	-0.8	0.4	0.0	-7.5	-2.6	5.0	0.0	0.0	4.9	-0.1	0.2
Spain	9.9	7.3	2.4	11.0	-5.8	0.2	-0.2	-5.0	-9.9	-11.5	0.0	1.7	-0.1	0.1
France	-0.8	0.3	13.8	-0.3	-12.8	0.2	-10.3	8.4	0.8	-4.1	0.0	4.5	0.1	0.4
Italy	2.5	1.0	-2.3	2.9	1.1	-0.3	-1.7	1.8	-2.5	0.0	-0.6	-0.5	-0.5	-0.8
Cyprus	39.4	4.6	-2.4	-1.3	8.0	4.9	1.1	24.5	-39.4	0.0	-0.3	-0.9	-11.5	-26.6
Latvia	1.3	20.9	-29.1	1.4	-5.2	2.5	1.0	9.8	-1.3	0.0	0.0	-1.3	0.0	0.0
Lithuania	15.4	11.1	19.2	-6.3	-18.3	8.3	1.5	-0.3	-15.4	0.0	0.0	-9.0	-6.5	0.0
Luxembourg	0.0	3.7	-13.7	24.4	-5.7	0.0	0.0	-8.7	0.0	0.0	0.0	0.0	0.0	0.0
Hungary	19.1	2.8	-1.8	0.5	-0.8	2.3	11.2	4.9	-19.1	-3.7	0.0	-13.8	-1.4	-0.2
Malta	5.1	0.0	4.5	0.6	-0.8	-0.5	0.1	1.3	-5.1	0.0	0.0	-5.7	0.0	0.6
Netherlands	5.2	2.3	-0.1	2.2	-0.8	0.0	0.2	1.3	-5.2	0.0	0.2	-2.2	0.0	-3.1
Austria	21.3	12.5	0.7	10.1	-0.5	-2.0	-0.5	0.9	-21.3	0.0	-21.1	0.1	0.0	-0.3
Poland	22.8	8.8	4.1	-0.4	-0.1	1.2	9.0	0.1	-22.8	-14.5	0.0	-25.4	15.8	1.3
Portugal	1.0	0.0	3.0	0.4	-2.1	-0.8	0.4	0.3	-1.0	0.0	-0.8	-0.1	0.0	0.0
Romania	27.5	2.6	9.0	16.6	0.2	0.0	0.0	-0.9	-27.5	31.4	0.0	-39.9	-23.5	4.4
Slovenia	69.4	12.5	34.6	15.9	-1.3	0.6	0.6	6.6	-69.4	5.0	0.0	-74.1	-0.2	0.0
Slovakia	18.3	44.4	-24.6	0.4	-0.8	-1.1	0.1	-0.1	-18.3	-0.1	0.0	-18.2	0.0	0.0
Finland	0.7	-1.1	-6.7	3.2	1.1	1.6	-0.3	2.9	-0.7	0.0	0.0	1.0	0.0	-1.7
Sweden	0.0	-1.9	1.6	0.8	-0.4	0.1	0.0	-0.2	0.0	0.0	0.0	0.0	0.2	-0.2
United Kingdom	-0.8	-0.4	-14.9	3.9	-0.1	-2.9	-0.2	13.7	0.8	-1.3	0.0	-0.1	1.9	0.2

195 Source: DG Competition, DG Energy.

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
2010		
Regional aid guidelines	01.01.2011 – 31.12.2013	Communication of the Commission on the review of the State aid status and the aid ceiling of the statistical effect regions in the following National regional State aid maps for the period 1.1.2011- 31.12.2013 Official Journal C 222, 17.08.2010, p.2; press release: IP/10/976
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*	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

	Review in 2014	
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	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

insurance		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 – 29.11.2011	Community framework for State aid in the form of public service 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	08.12.2009 – 31.12.2009	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 (the maximum amount of investment loan concerned by a guarantee) OJ C 303 of 15.12.2009, p. 6
	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 –	Communication from the Commission amending the Temporary

31.12.2010		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 1 October 2010)

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
Belgium		N117/2009 20/03/2009			N68/2009 03/06/2009	N532/2009 06/11/2009
Bulgaria	N 333/2010 10/09/2010					
Czech Republic	N236/2009 07/05/2009		N237/2009 06/05/2009			
Denmark						N198/2009 06/05/2009 N554/2009 [196] 29/10/2009
Germany	N668/2008 30/12/2008 N299/2009 [197] 04/06/2009 N411/2009 [198] 17/07/2009 N 255/2010[199] 31/10/2010	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 N 91/2010[200] 31/05/2010
Estonia	N387/2009 13/07/2009					
Ireland	N186/2009 15/04/2009 N473/2009 [201] 15/12/2009					

[196] Amendment to N198/2009.

[197] Amendment to N 668/2008.

[198] 2nd Amendment to N 668/2008.

[199] 3rd Amendment to N 668/2008.

[200] Amendment to N 384/2009.

[201] Amendment to N 186/2009.

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
Greece	N304/2009 15/07/2009	N308/2009 03/06/2009	N309/2009 03/06/2009			
Spain	N307/2009 08/06/2009	N68/2010 30/03/2010 N 157/2010[202] 24/06/2010		N140/2009 30/03/2009		
France	N7/2009 19/01/2009 N188/2009[203] 17/04/2009 N278/2009[204] 08/06/2009	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	N449/2009 05/10/2009
Italy	N248/2009 28/052009	N266/2009 28/05/2009	N268/2009 29/052009	N542/2009 26/10/2009	N279/2009 20/05/2009	
Latvia	N124/2009 19/03/2009 N506/2009[205] 22/12/2009	N139/2009 22/04/2009 N670/2009 15/12/2009				N84/2010 10/06/2010
Lithuania	N272/2009 08/06/2009 N523/2009[206] 13/11/2009 N46/2010[207] 10/03/2010					N659/2009 21/12/2009
Luxembourg	N99/2009 27/02/2009	N128/2009 11/03/2009				N50/2009 20/04/2009

202 Amendment to N 68/2010.
203 Amendment to N 7/2009.
204 Amendment to N 7/2009.
205 Changes to N 124/2007.
206 Amendment to N 272/2009.
207 Amendment to N 272/2009.

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
Hungary	N77/2009 24/02/2009	N114/2009 10/03/2009 N203/2009 24/04/2009 N341/2009 01/07/2009 N 56/2010[208] 06/05/2010	N78/2009 24/02/2009			N 187/2010 06/07/2010
Malta	N118/2009 18/05/2009					
Netherland	N156/2009 01/04/2009					N409/2009 02/10/2009 N14/2010[209] 05/02/2010
Austria	N47a/2009 20/03/2009 N317/2009[210] 18/06/2009				N47d/2009 26/03/2009	N434/2009 17/12/2009
Poland	N408/2009 17/08/2009 N 22/2010[211] 16/07/2010 N 50/2010[212] 16/07/2010 N 86/2010[213] 16/07/2010					

208 Amendment to N 341/2009.
209 Amendment to N 406/2009.
210 Amendment to N 47a/2009.
211 Amendment to N 408/2009.
212 2nd Amendment to N 408/2009.
213 3rd Amendment to N 408/2009.

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
Portugal	N13/2009 19/01/2009					
Romania	N547/2009 03/12/2009	N286/2009 05/06/2009 N478/2009[214] 13/11/2009 N680/2009[215] 17/12/2009 N 173/2010[216] 30/07/2010				
Slovenia	N228/2009 12/06/2009	NN34/2009 12/06/2009 N105/2010[217] 16/04/2010				N713/2009 16/03/2010
Slovakia	N222/2009 30/04/2009 N711/2009[218] 02/02/2010					
Finland	N224/2009 03/06/2009	N82b/2009 09/06/2009				N258/2009 22/062009
Sweden		N80/2009 05/06/2009 N541/2009 08/02/2010				N605/2009 25/11/2009

[214] Linked to N 27/2009.
[215] Amendment to N 478/2009.
[216] Amendment to N 286/2009.
[217] Amendment to NN 34/2009.
[218] Amendment to N 222/2009.

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**
United Kingdom	N43/2009 04/02/2009	N71/2009 27/02/2009	N257/2009 15/05/2009 N460/2009[219] 14/08/2009	N72/2009 27/02/2009		

219 Amendment to N 257/2009.

Table 4-1: Trend in the number of recovery decisions and amounts to be recovered (1) 2000-2010 (by 30 June 2010)

	Date of Decision											Total
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	1S2010	
Number of decisions adopted	15	19	25	10	23	12	6	9	13	8	3	143
Total aid known to be recovered (in mio €)	358	1703	1956	1043	4979	56	255	163	1498	46	10	12067
Amounts recovered: (in mio €)	352	1170	1926	938	4974	15	244	56	1018	25	9	10727
Of which:												0
(a) Principal reimbursed/or in blocked account	137	1081	1858	917	4103	15	199	54	1018	25	9	9416
(b) Aid lost in bankruptcy	215	88	68	21	871	0	45	2	0	0	0	1310
(c) Interest	9	141	313	335	1447	7	51	17	323	6	2	2651
Aid registered in bankruptcy	0	8	3	125	0	8	0	226	0	0	0	370
Amount outstanding (2)	6	534	30	105	5	41	11	107	480	20	1	1340
% still pending to be recovered (2)	**1.7%**	**31.4%**	**1.5%**	**10.1%**	**0.1%**	**73.2%**	**4.3%**	**65.6%**	**32.0%**	**43.5%**	**10.0%**	**11.1%**

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

	2004	2005	2006	2007	2008	2009
number of decisions adopted	2	0	0	3	1	1
Member States and cases	FR CR96/2001, CR97/2001			UK C37/2006, C38/2006, C39/2006	FR CR3/2009	BE C30/2008
total aid to be recovered	18200000			381389	87000000	amounts unknown
Amounts recovered	3600000			339013	660000	amounts unknown
Aid covered by *de minimis*	N/A			43838		

Table 4-3: Pending recovery decisions (by 30 June 2010)

Case number	Working title of the case	Member State	Date of the decision	Number of the decision	Official Journal of the European Union
CR 1/2009	Alleged aid to MOL	Hungary	09/06/2010		Not yet published
CR 4/2003	Export aid to WAM	Italy	24/03/2010		Not yet published
CR 36/2010	Preferential electricity tariff in favour - Alcoa	Italy	19/11/2009		Not yet published
CR 45/2007	Amortization of financial goodwill for acquisitions of foreign targets	Spain	28/10/2009		Not yet published
CR 59/2007	Rescue aid to Ixfin	Italy	28/10/2009	2010/359/EC	OJ L 167 of 01.07.2010, p. 39
CR 19/2008	Rescue aid for Sandretto	Italy	30/09/2009	2010/215/EC	OJ L 92 of 13.04.2010, p. 19
CR 5/2000	Alleged aid for SNIACE	Spain	10/03/2009	2009/612/EC	OJ L 210 of 14.08.2009, p. 4
CR 55/2007	BT Group plc	UK	11/02/2009	2009/703/EC	OJ L 242 of 15.09.2009, p. 21
CR 19/2005	Restructuring aid for Szczecin Shipyard	Poland	06/11/2008	2010/3/EC	OJ L 5 of 08.01.2010, p. 1
CR 17/2005	Restructuring aid for Gdynia shipyard	Poland	06/11/2008	2010/47/EC	OJ L 33 of 04.02.2010, p. 1
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	2009/610/EC	OJ L 225 of 27.08.2009, p. 104
CR 56/2006	Bank Burgenland	Austria	30/04/2008	2008/719/EC	OJ L 239 of 6/9/2008, 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 04/06/2008, p. 37
CR 23/2006	Technologie Buczek	Poland	24/10/2007	2008/344/EC	OJ L 116 of 30/04/2008, 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 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 08/06/2007, 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 08/06/2007, 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 08/06/2007, p. 29
CR 38/2005	Biria Gruppe	Germany	24/01/2007	2007/492/EC	OJ L 183 of 13/07/2007, p. 27
CR 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 01/04/2006, 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 95/2001	Aid to Siderurgica Anon	Spain	16/06/2004	2005/827/EC	OJ L 311 of 26/11/2005, p. 22
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 02/04/2004, p. 49
CR 62/2000	Aid to Kahla (Porzellan	Germany	13/05/2003	2003/643/EC	OJ L 227 of

Case number	Working title of the case	Member State	Date of the decision	Number of the decision	Official Journal of the European Union
	GmbH)				11/09/2003, p. 12
CR 94/2001	Export aid scheme Mecklenburg-Vorpommern	Germany	05/03/2003	2003/595/EC	OJ L 202 of 09/08/2003, 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 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
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 04/07/2002, 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 05/09/2001, 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/ECSC	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

Case number	Working title of the case	Member State	Date of the decision	Number of the decision	Official Journal of the European Union
CR 44/1997	Aid for Magefesa	Spain	14/10/1998	1999/509/EC	OJ L 198 of 30/07/1999, p. 15

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 2010)

Case number	Working title	Member State	Court case	State of play and recent developments
CR 56/2006	Bank Burgenland	Austria	C-551/09	14/07/09: Commission decision to initiate Art. 108(2) TFEU proceedings against Austria Press release: IP/09/1134
CR 38/1998	Aid for Kimberly Clark/Scott Group	France	C-232/05	05/10/06: Art. 108(2) TFEU action - Judgment ECJ – ECJ rules that France has failed to fulfil its Treaty obligation
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. 108(2) action against France Press release: IP/06/1471 13/11/08: art. 108(2) action - Judgment ECJ - France condemned for non implementation of the decision 05/05/10: Commission sent letter of formal notice to France under Art. 260(2): IP/10/529
CR 38/2007	Alleged aid to Arbel Fauvet Rail SA	France		28/10/09: Commission decision to initiate Art. 108(2) action against France Press release: IP/09/1627 23/06/2010: new negative decision adopted
CR 37/2005	Tax exempt reserve fund	Greece	C-354/10	24/02/10: Commission decision to initiate Art. 108(2) action against Greece Press release: IP/10/183

CR 16/2004	Hellenic Shipyards	Greece		14/04/10: Commission decision to initiate Art. 108(2) action against Greece Press release: IP/10/428
CR 62/2000	Thuringen Porzellan (Kahla)	Germany	C-39/06	16/02/05: Commission decision to initiate Art. 108(2) action against Germany 24/01/06: Application lodged at the ECJ pursuant to Art. 108(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 260(2) Action against Italy Press release: IP/09/1028
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 05/05/10: Commission decision to send a complementary letter of formal notice under Art. 206(2)
CR 57/2003	Tremonti Bis	Italy	C-303/09	25/01/06: Commission decision to initiate Art. 108(2) action against Italy Press release: IP/06/77 11/03/08: Commission decision to initiate Art. 108(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. 108(2) action against Italy Press release: IP/06/1040 11/03/08: Commission decision to initiate Art. 108(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. 108(2) action against Italy Press release: IP/07/648 11/03/08: Commission decision to initiate Art. 108(2) action against Italy
CR 16/2006	Restructuring aid to Nuova Mineraria Silius	Italy		13/02/08: Commission decision to initiate Art. 108(2) proceedings against Italy
CR 12/2004	Fiscal incentives for outward FDI	Italy	C-305/09	11/03/08: Commission decision to initiate Art. 108(2) action against Italy Press release: IP/08/435
CR 13/2007	Rescue aid to New Interline SPA	Italy	C-454/09	25/11/09: Commission decision to initiate Art. 108(2) TFEU action against Italy Press release: IP/09/1140
CR 1/2004	Regional law 9/98 – Misuse of aid	Italy	C-243/10	27/01/10: Commission decision to initiate Art. 108(2) TFEU action against Italy Press release: IP/10/103
CR 23/2006	Technologie Buczek	Poland	C-331/09	11/03/08: Commission decision to initiate Art. 108(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. 108(2) TFEU proceedings against Slovakia

				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 part of Commission decision 17/06/09: Commission decision to initiate Art. 108(2) TFEU proceedings against Spain Press release: IP/09/960 19/11/09: Commission sent letter of formal notice under Art. 260(2) TFEU to Spain Press release: IP/09/1789 18/03/10: Commission decision to send a complementary letter of formal notice under Art. 206(2)
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 Commission decision 26/06/08: Commission decision to send a Reasoned Opinion under Art. 260(2) TFEU (ex. Art. 228(2) ECT) 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. 108(2) TFEU action against Spain 20/09/07: ECJ judgment condemning Spain for failing to execute Commission decision Press release: IP/05/1655 15/04/09: Commission sent letter of formal notice under Art. 260(2) TFEU to Spain 19/11/09: Commission decision to send a Reasoned Opinion under Art. 260(2)

TFEU (ex. Art. 228(2) ECT) to Spain

Press release: IP/09/1790

Table 5: Summary of rules for the transport sector

Land transport (road. rail. inland waterways)

- Article 93 TFEU 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 93 constitutes a *lex specialis* with respect to Article 107(2) and Article 107(3), as it contains special rules for the compatibility of State aid. In addition, Article 93 TFEU constitutes a *lex specialis* also with respect to Article 106(2) TFEU, and therefore, Article 106(2) TFEU cannot be applied in the area of coordination of transport and public service obligation in the inland transport sector[220];

- Until 2 December 2009, Article 93 was in practice implemented by means of 3 Council Regulations: 1) Council Regulation 1191/69[221], 2) Council Regulation 1107/70[222] and 3) Council Regulation 1192/69[223]. As from 3 December 2009 Regulation 1370/07[224] will replace Regulations 1191/69 and 1107/70. Regulation 119/69 remains applicable for a three years transitional period to the inland freight transport;

- Community guidelines on State aid for railway undertakings, adopted on 30 April 2008[225].

Aviation

- 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[226];

- Community guidelines on financing of airports and start-up aid to airlines departing from regional airports[227].

Maritime transport

- Community guidelines on State aid to maritime transport[228];

- Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea[229];

- Communication from the Commission providing guidance on State aid to ship management companies[230].

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220 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).

221 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.

222 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.

223 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.

224 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).

225 OJ C 184, 22.7.2008, p. 13.

226 OJ C 350, 10.12.1994, p. 5.

227 OJ C 312, 9.12.2005, p. 1.

228 OJ C 13, 17.1.2004, p. 3.

229 OJ C 317, 12.12.2008, p. 10.

230 OJ C 132, 11.6.2009, p. 6.