

State Aid in the EU

Belarusian State University

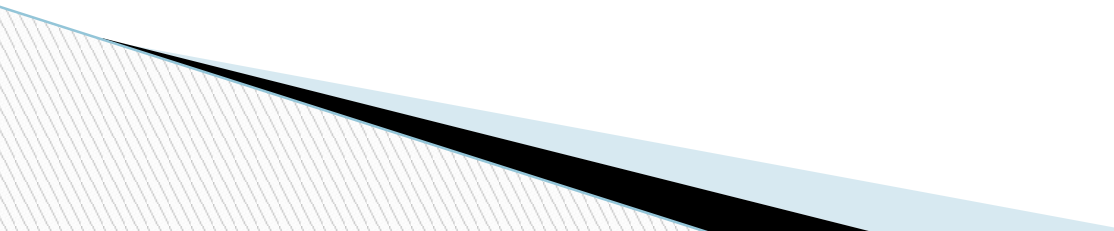
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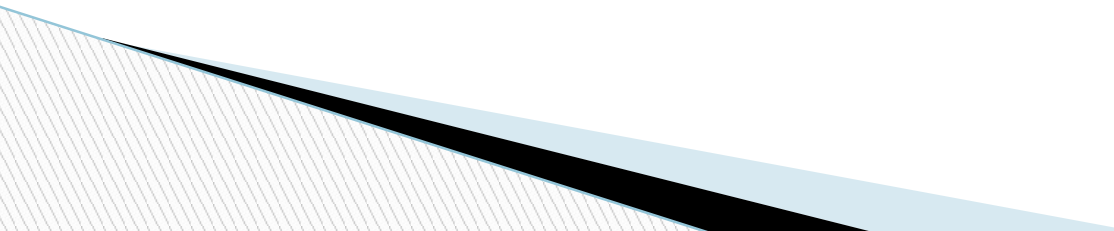


Why Control State Aid?

A company which receives government support gains an advantage over its competitors. Therefore, the Treaty generally prohibits State aid unless it is justified by reasons of general economic development. To ensure that this prohibition is respected and exemptions are applied equally across the European Union, the European Commission is in charge of ensuring that State aid complies with EU rules.



General Principles

- State aid is generally prohibited (Art. 107.1 TFEU)
 - State aid may be granted in specific cases (Art. 107.2 TFEU)
 - European Commission controls compliance of State aid with EU legislation (Art. 108 TFEU). It's policy consists of striking a balance between the positive and negative effects of aid.
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State Aid - Notion

State aid is an advantage in any form whatsoever conferred on a selective basis to undertakings by national public authorities.

NOT State aid:


- subsidies granted to individuals;
- general measures open to all enterprises

Examples: general taxation measures, employment legislation.

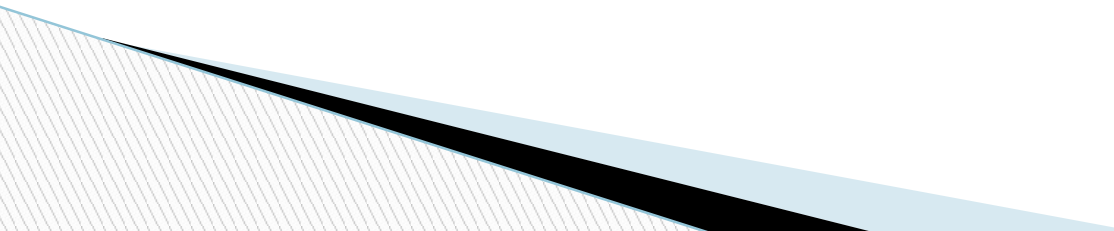


Features of State Aid

To be State aid, a measure needs to have these features:

- intervention by the State or through State resources in a variety of forms:
 - grants,
 - interest and tax reliefs,
 - guarantees,
 - government holdings of all or part of a company, or providing goods and services on preferential terms, etc.;
 - the intervention gives the recipient an advantage on a selective basis (e.g. to specific companies or industry sectors);
 - competition has been or may be distorted;
 - the intervention is likely to affect trade between Member States.
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Why State Aid?

- free competition in the internal market,
 - opening up of public services to competition
 - Member States sometimes intervene through the use of public resources **to promote certain economic activities or to protect national industries.**
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State Aid – When Appropriate

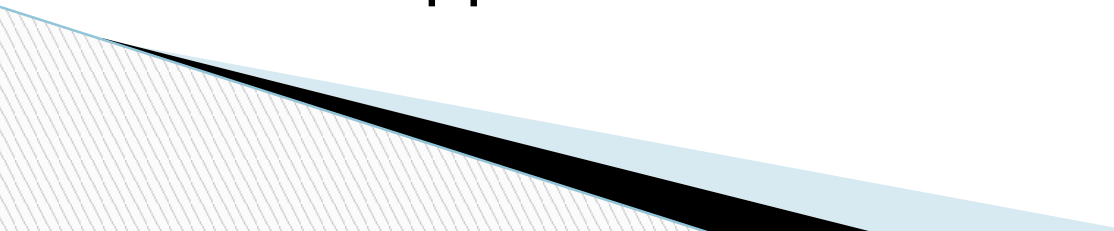
Despite the general prohibition of State aid, in some circumstances government interventions is necessary for a well-functioning and equitable economy.

The TFEU leaves room for a number of **policy objectives for which State aid can be considered compatible**. The legislation stipulates these **exemptions**.

The laws are regularly reviewed to improve their efficiency and to respond to the European Councils' calls for less but better targeted State aid to boost the European economy. The Commission adopts new legislation in close cooperation with the Member States.



State Aid - Legislation

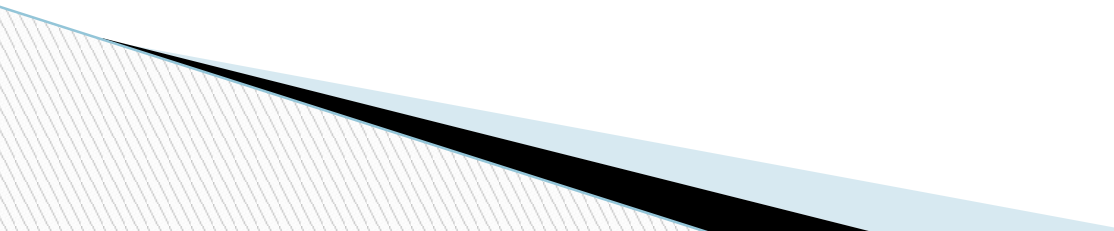
- TFEU provisions on State aid
 - Rules on Procedure
 - Forms for Notifications and Reporting
 - Block Exemption Regulations
 - Temporary rules in response to the crisis
 - Horizontal rules
 - Sector-specific rules
 - Specific aid instruments
 - Services of General Economic Interest (SGEI)
 - Rules applicable to State aid in transport sector
 - Rules applicable to State aid in coal sector
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State Aid – TFEU Provision

Core provisions of the TFEU

- Article 107 of the TFEU
- Article 108 of the TFEU
- Article 109 of the TFEU

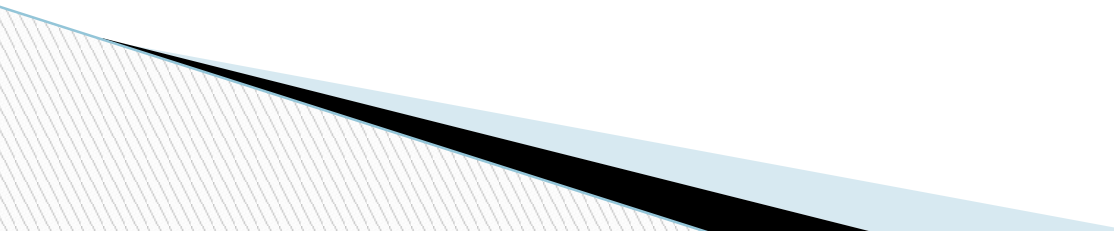
Other relevant provisions

- Article 3 of the Treaty of the European Union (TEU)
 - Articles 3, 4, 5 and 6 of the TFEU
 - Article 14 of the TFEU
 - Article 42 of the TFEU
 - Article 50 (1) and (2) of the TFEU
 - Article 93 of the TFEU
 - Article 106 of the TFEU
 - Article 119 of the TFEU
 - Article 346 of the TFEU
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State Aid – Other Legislation

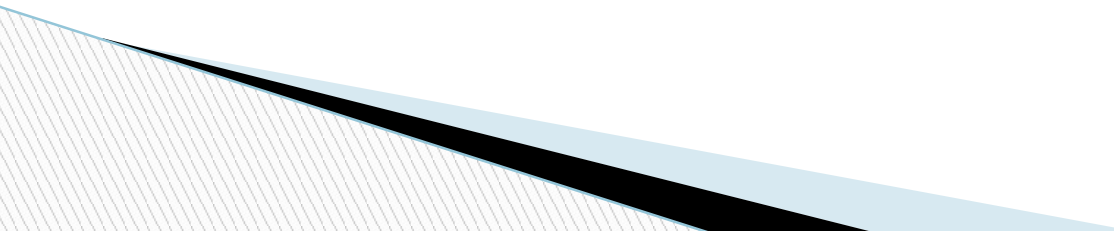
- Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed **rules for the application of Article 93** of the EC Treaty (now **Article 108**)
- Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to **state aid to small and medium-sized enterprises**
- 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**)
- 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**

Control over State Aid

- Notification procedure followed by Member States
 - Companies and consumers in the European Union may also trigger investigations by lodging complaints with the Commission.
 - Investigation taken by the European Commission.
 - The Commission invites interested parties to submit comments through the Official Journal of the European Union when it has doubts about the compatibility of a proposed aid measure and opens a formal investigation procedure.
 - Aid measures can only be implemented after approval by the Commission.
 - The Commission has the power to recover incompatible State aid.
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State Aid Control Implementation

Three Commission Directorates-General carry out State aid control:

- ❑ Fisheries (for the production, processing and marketing of fisheries and aquaculture products),
 - ❑ Agriculture (for the production, processing and marketing of agricultural products),
 - ❑ Competition for all other sectors.
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State Aid – How it Really Works

Article 108 (3) of the TFEU requires state aid to be notified to the European Commission so that it can assess whether the aid is compatible with the common market in the light of Article 107 (1) TFEU.

However, under Regulation (EC) No 994/98 certain categories of aid can be exempted from the notification requirement.

De minimis rule

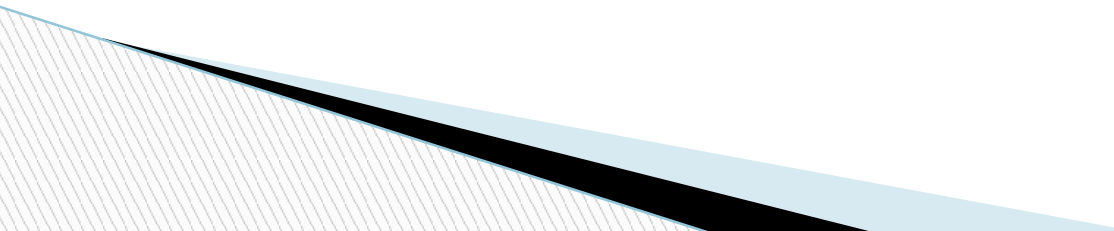
The de minimis rule was introduced in order to exempt small aid amounts. It sets a ceiling below which aid is deemed not to fall within the scope of Article 107(1) TFEU and is therefore exempt from the notification requirement laid down in Article 108(3) TFEU:

- ❑ Aid of no more than **EUR 200 000** granted over a period of **three years** is not regarded as state aid within the meaning of Article 107 (1) TFEU.
- ❑ A specific ceiling of EUR 100 000 applies to road transport.
- ❑ The three-year period corresponds to three financial years.

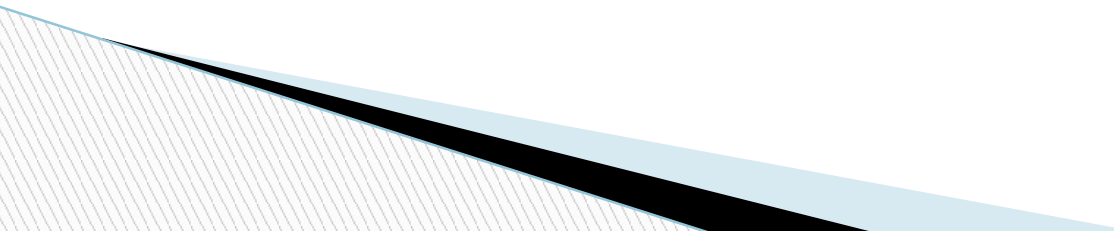
State Aid - Block Exemptions

Through Block Exemption Regulations the Member States are able to grant whole categories of state aid without first notifying them to the European Commission.

Types of aid allowed: aid in favor of

- SMEs (small and medium enterprises),
 - research,
 - innovation,
 - regional development,
 - training,
 - employment and
 - risk capital.
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Rules with Horizontal Objectives

- Community guidelines on State aid for **environmental protection**
 - Community framework for State aid for **research and development**
 - State aid for **rescuing and restructuring firms in difficulty**
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Specific Aid

- State aid to promote risk capital investments in SMEs
 - State aid in the form of guarantees
 - State aid in short-term export-credit insurance
 - State aid elements in sales of land and buildings by public authorities
 - Aid elements in direct business taxation
 - National aid to the film and audiovisual industries
 - State aid for public service broadcasting
 - State aid for public service broadcasting
 - State aid for railway undertakings
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