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This paper focuses on state aid's role in the current financial and economic crisis, in order to help all the economic sectors to get back on their feet. The negative effects of the sub-prime mortgage lending affected not only the US, but also the European financial markets, due to CDOs exposures, justifying the need for close European coordination of national aid measures. We have presented a review of the state aid measures adopted since October 2008 by the Member States within the temporary framework of common principles issued by the European Commission. In the last section we highlighted the state aid measures implemented by the Romanian Competition Council in tackling this important challenge, including the stand-by arrangement with the IMF, the European Commission, World Bank and with other international financial institutions.
Keywords: state aid, financial and economic crisis, European Commission
JEL classification: G01, G28, H53

1. Introduction

State aid is a form of state intervention to promote a private economic activity. State aids are granted in order to prevent those situations which lead to competition distortions contrary to the principles of the common market, lead to growth innovation, research, to better training and a high quality of jobs.

According to the EC Treaty, Section 2 - Aids granted by States, art. 87 (3) it is deemed to be considered compatible aid with the common market: aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment; aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State; aid to facilitate the development of certain economic activities or of certain economic areas; aid to promote culture and heritage conservation where such aid does not affect trading and competition conditions in the Community to an extent contrary to the common market.

State aid may be granted in the current context, starting from the existing regulations. In April 2008 have been adopted new rules on state aid for environmental protection, up to 70% of the additional investment costs for small enterprises and up to 100% where aid is granted under a real competitive basis, and this even for large companies. Similar benefits are granted to small enterprises, for R&D projects, of up to 100% of the eligible costs of the research project and development and up to 80% for industrial research, while for young enterprises aids amount up to € 1 million. Another regulation from June 2008 introduced the first discussions about specific safe-harbours for SMEs designed to ensure a more secure public guarantees for loans. Also, for the investment venture capital of SMEs, the EC has established a safety threshold of € 1.5 million for SMEs to an increase by 50% compared to the past. Since January 2007, the Member States may grant state aids to SMEs in order to create a new location or expansion of the existing one.

The crisis affects those companies with low indicators of solvency, but also small and medium enterprises, considered the "engine of Europe", which face serious problems in accessing bank credit. Therefore, granting of state aids can be a solution to these funding difficulties and can be a source of further investments, thus contributing to long term economic growth.

2. State aid measures taken at the European level

Rules on state aids act as a catalyst in achieving the competitiveness objectives at the European level, even in this crisis period.

A first series of measures were adopted at the European level in response to the widening financial crisis on the European markets, such as: increasing the guarantee fund for bank deposits, from € 20,000 to € 50,000, in order to increase the confidence of depositors in the banking sector, liquidity injections in the banking system and decreasing the reference rates. Since some of these measures have had an individual character, but were measures concerning all financial market players, they did not come under the category of state aid and therefore, according to art. 87 (1) of the EC Treaty did not require a notification from the EC.

In October 2008 the EC issued a Communication[214] which sets the possibility for the financial institutions to receive from the Member State **guarantee schemes** for their liabilities, between 6 months and 2 years, with the possibility for the Member State of choosing for the liquidation of the financial institutions under his jurisdiction, including a range of assistance measures. Some of the conditions for these state aid measures are: non-discriminatory access, aimed at providing schemes to all financial institutions from the Member State concerned, including their subsidiaries, without discrimination based on nationality; state aid must be well defined and limited, excluding unjustified benefits for shareholders.

In another EC Communication[215] on **recapitalisation** of financial institutions in the current financial crisis are outlined the principles governing the different types of recapitalization: taking into account the market situation of each institution, including the risk profile and the level of solvency and not granting too high subsidies compared to the market existing alternatives. Recapitalisation helps banks to limit the risk of insolvency, to contribute to the financial stability, to ensure lending to the real economy and also the inter-bank lending. The EC adopted in October and by February 2009, 40 such decisions, many of them referring to major banks in the Member States.

In order **to relief the assets of the financial institutions**, EC adopted a new Communication[216] as a measure to safeguard financial stability and to support business lending, to reduce the risk of fragmentation of the internal market, to minimize the economic and budgetary cost of the state intervention, to avoid a subsidies race and to minimize competitive distortions between banks which receive support and the others. The first cases are being reviewed by the EC.

Until now, the EC approved guarantee schemes in 16 Member States whose value is approximately € 2,300 billion. Recapitalization schemes approved by the EC until the end of March 2009 were about 11 and their value is approximately € 275 billion. The highest recapitalization scheme amount was approved in Germany, for € 80 billion, and the lowest one was in Hungary, about € 1.04 billion. On 31 March 2009, the Commission approved a temporary facility for illiquid assets for a six months period, which Netherlands intends to grant in favor of ING. Also, Member States adopted, in accordance with art. 87 (3) (b) of the EC Treaty, a series of **ad-hoc measures** in favor of individual financial institutions, amounting € 400 billion. For

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214 Official Journal of the European Union, 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, C 270/8, 25.10.2008.

215 Official Journal of the European Union, 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, C 10/2, 15.1.2009.

216 Official Journal of the European Union, Communication from the Commission on the treatment of impaired assets in the Community banking sector, C 72/1, 26.3.2009.

example, Dexia, Fortis, KBC, Ethias, and Latvia Parex Banka, being in difficulty, took advantage of individual measures, while for the Anglo Irish Bank, ING, Aegon, SNS Reaal/New, Carnegie Investment Bank and Bank of Ireland were adopted recapitalization schemes.

EC adopted on 26 November 2008, **"A European Economic Recovery Plan"**, intended to support Europe in the current financial crisis, representing, otherwise, a suitable access for an acceleration of the reforms under the Lisbon Strategy. The plan aims a number of measures on short term, such as major infusion of the purchasing power in the economy in order to boost demand, saving jobs and restoring public confidence in financial institutions, but also a series of long-term objectives, which consist of "intelligent" investments contributing to growth, competitiveness and sustainability. In this plan, the EC states that the financial support in the context of crisis will be € 170 billion, which represents 1.2% of the European GDP, in order to make a quickly, positively and substantially impact on the European economy and on employment, besides the role of the automatic stabilizers. Also, in this plan it is stated that the national package of tax incentives should meet four conditions: to be opportune, coordinated, temporary and specific. In this period of crisis the focus is on short-term impact of public expenditures on aggregate demand, greater than the fiscal component of the budgetary policy. Public expenditures can be materialized in actions to increase or extend the allowances granted temporary to unemployed or households with low income.

The plan highlights the idea of improving the economic analysis for the evaluation of the positive and negative effects of granting individual state aids and also state aid schemes.

Also, in order to tackle this financial crisis, a new measure adopted at European level was the granting of temporary (until 31 December 2010) aids to enterprises which were not in financial difficulty at 1 July 2008, in the form of schemes, which have a limited value at € 500,000 per company, grant funding. For SMEs, the legislation on state aid has been much simplified, according to the General Block Exemption Regulation (adopted in July 2008); it enables Member States to give 26 types of state aids, up to € 7.5 million for investment projects or environmental support for business women up to € 1 million per company.

In the context of the current economic and financial crisis, we find as relevant enabling the clause provided in the Article 87 (3) (b) of the EC Treaty, in order to grant state aid for a limited period, to overcome difficulties caused by economic and financial crisis, the aim being to "remedy a serious disturbance in the economy of a Member State".

The new measures taken in the current crisis for the category of **aids in the form of guarantees** provide a 25% reduction of the annual premium for new guarantees for SMEs and with 15% for large firms, which were not in difficulty from 1 July 2008, but have encountered problems later, as the crisis worsened. These measures contribute to an easier access to finance.

Until 31 December 2010, in order to help companies with difficulties in funding as a result of the current crisis were adopted measures on **aid in the form of subsidized interest rate**, which is at least equal to the central bank overnight rate plus a premium equal to the difference between the average one year inter-bank rate and the average of the central bank overnight rate over the period from 1 January 2007 to 30 June 2008 plus the credit risk premium corresponding to the risk profile of the recipient[217].

Aids for the production of green products are considered by the EC as a priority even in this context of crisis, whereas are in the Community's interest. Such aids are justified for new projects which contribute significantly to improving environmental protection and start from 31 December 2010 at the latest.

217 Official Journal of the European Union, Communication from the Commission - Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis, C83/1, 7.4.2009 , p.9.

On the basis of this communication was possible the approval of 24 measures of State aid by the EC: 8 aid schemes of € 500,000 per company to Germany, France, Latvia, Luxembourg, Hungary, Portugal, Britain and Austria; 4 subsidized interest schemes to Germany, Hungary and France; 3 schemes of risk capital in Germany, France and Austria; 3 schemes which provide reduced interest loans to companies that invest in the production of "green" products in France, Britain and Spain; 6 guarantee schemes to Belgium, France Germany, Luxembourg, Hungary and the UK.

The most affected by the crisis was the **automotive sector**, and in this respect, the EC reacted immediately, establishing measures to enable easier access to credit, to clarify the rules for aid in specific circumstances, to boost demand for new vehicles through coordinated actions at national level. According to Reuters, in March 2009, the EIB approved loans amounting € 3 million for the European automotive industry which is facing problems, in 4 countries: Germany, Italy, France and Sweden. The EC has approved a scheme for granting state guarantees, in early 2009, for countries like France, Germany and Great Britain for the car industry. As regards subsidized loans for green products aimed to produce "green" cars, the EC has approved a scheme for France, Britain and Spain.

Also, the current financial crisis affected the **air transport sector**. For this sector has been granted assistance to the Australian Airlines, which have taken the form of state loans guarantees, thus allowing the company to increase its funding opportunities on the market, despite the credit crisis and to continue their activity.

3. Romania state aid management in the context of the economic and financial crisis

As the financial crisis entered in a phase marked by serious problems, the macroeconomic domestic prospects of our country worsened and the forecasts for 2009 made by the IMF show an economic decrease of 4%, the forecast budgetary deficit for this year is about 4.6% of the GDP corrected, whose value is 531 billion lei. In these conditions, the Romanian Government decided to contract a stand-by arrangement with the IMF, the European Commission, World Bank and with other international financial institutions, as a preventive measure in the context of the current crisis.

The effects of the economic crisis on the banking system, but also on the real economy had also affected Romania and worsened since October 2008. The lack of credit has affected in particular SMEs, which faced difficulties on funding, compared to large companies, and the effects may occur in short and medium term on the economic situation of the employees, but also in the long term, in the sense that delays or even waives certain development investments.

Romania's negotiations with the international financial institutions have completed, on 25 March 2009, in a financing package of around € 20 billion, of which: € 12.95 billion are from the IMF, € 5 billion from the European Commission, € 1.2-1.5 billion from World Bank and € 1 billion from other international institutions (EIB, EBRD). On 26 March 2009, the IMF representative for Romania, Jeffrey Franks said that the arrangement will be granted for a period of 2 years, at an interest rate of approximately 3.5% per year, being consistent with the current market conditions, and the payment will be made in 3-5 years, no later than 2015. Also, the amounts held this year in May, should rise to € 11.8 billion, those from 2010 to € 7.1 billion and in 2011, the remaining of € 1.05 billion.

According to the declaration of the Minister of Economy and Finance, Gheorghe Pogea, on 25 March 2009, "this bold and proactive measure that the Government has taken (...) is likely to restore the investor's confidence, to ensure a stable economy, but, above all, to ensure the financing of the investment projects (...) which remain at a high value of 7 % of GDP". Under the new arrangement, the budgetary policy for the year 2009 will require adjustments to 0.85% of GDP of the primary expenditures, excluding the interest rates and also an increase of 0.25% of the additional revenue. There will be reductions by 37 million lei of the subsidies for public entities and will be allocated founds to improve social protection, for the most vulnerable groups in this period of crisis. Meanwhile, the IMF demanded the reduction of the salary funds in absolute terms, proportional to a possible economic contraction of Romania, from 8 to 5% of GDP, in the following years, in the conditions of a constant GDP for the next period.

From 1 January 2007, the Competition Council is the contact authority in the relations with the European Commission and the actions taken in this period consisted in saving and restructuring measures for the enterprises from the Authority for State Assets Recovery (AVAS) and the Ministry of Economy portfolio, but also Eximbank's guarantee schemes, according to GEO no. 206/4 December 2008. The Romanian authorities intend to expand the scope of this state aid system to the economic agents from The Ministry of Economy.[218]

The amounts are allocated from the state budget through AVAS, representing revertible financial support in the form of loans with an interest rate at least comparable with the credits granted to healthier companies and, in particular, with a reference rate adopted by the European Commission. Besides the budgetary loans, there are also granted facilities to pay the tax, commercial and banking liabilities, consisting of staggered for a maximum period of 5 years. The granting period of State aid is up to 6 months from the takeover of the premium rate of the granted credit, following that, if loans taken from AVAS or guaranteed cannot be repaid, it is necessary to draw up a restructuring program or to initiate a liquidation procedure.

According to the Competition Council President's statement, Gheorghe Oprescu, on 3 April 2009, the Ministry of Economy and AVAS sent two state aid schemes for rescuing and restructuring the enterprises from their portfolios, in order to overcome the economic and financial crisis effects, and are discussions with the European Commission officials. In this context it was drawn up a draft Government Decision to establish a state aid mechanism which represents a legal basis for the preservation of jobs, further investments, access credit for enterprises which have a production for export etc.

State aid for rescue is granted as working capital for a period of six months, in order to rescue companies with difficulties, while in the case of restructuring aid the period may be extended if there are negotiations with the European officials. For the restructuring aid, after 6 months should be submitted a plan of reorganization or liquidation of the company. Also, the president stated that the maximum number of rescue state aids recipients is up to 15, for 2 years, and the total amount allocated will be around € 30 millions, while for restructuring state aids the annual potential number of companies will be about 50, throughout the years 2009-2010 and the budget is equivalent in lei to 180 millions. In order to support the rescue measures for the economic agents this draft decision states as necessary the allocation of 400,000 thousands lei from the state budget to AVAS budget for the years 2009 and 2010, which will monitor the implementation of State aid under this draft legislation, as a main *credit* release authority.

Another European measure is represented by the state aid schemes in the form of guarantees, with a granting period until the end of 2010, to the enterprises in difficulty. In this context, the Competition Council cooperates with Eximbank in order to grant state loan guarantees with 90% of the loan amount, which may be approved in the context of crisis. Now, it covers less than 80%. The scheme was already sent to the European Commission, following the pre-notification mechanism. The Eximbank budget is now about 15 millions lei.

Since 2007 has been developed a total of 68 state aid schemes and also de minimis aids (24 state aid schemes and 44 de minimis schemes). Of these, 22 schemes were designed based on the rules on state aid exempted from the notification to the EC, being approved by the Competition Council and transmitted for information to the EC, being accessed by the enterprises in order to receive funds. The Competition Council has had discussions with representatives of Management

218 Oprescu, Gheorghe: Conference of the Romanian Competition Council, "Economic crisis and state aid perspective", Bucharest, 24 February 2009, p.9.

Authorities on the possibility of transforming certain de minimis schemes, where the aid is limited at € 200,000, in schemes under which the financial assistance can reach € 500,000.
In December 2008, the Romanian car industry took a severe hit and the government decided to grant state aids to Renault Dacia (€ 15.4 million) and auto parts suppliers: Delphi Diesel Systems Romania (€ 24.7 million), KS Atag Romania (€ 27.9 million), Calsonic Kansei Romania (€ 17.9 million) and Honsel (€ 37.4 million).
Herbert Ungerer, Deputy Director General of the General Competition Directorate from the European Commission, said during the Romanian Competition Council conference from February 2009 that have not yet received notification from Romania on the measures taken or planned to take in the context of the financial crisis.

4. Conclusions

State aid plays an increasing role in supporting the implementation of the Member States measures and enabling the clause stipulated in Art. 87 (3) (b) of the EC Treaty is justified in this period of financial crisis.
As the financial and economic crisis worsened since autumn of 2008, it became crucial the need for close European coordination of national aid measures, in order to avoid a subsidy race and damage the internal market. As Commissioner Kroes said: "Brussels can set the tone of response to the crisis and we can coordinate and enforce fairness, but we need all hands on deck".
Because the financial crisis has a significant impact on the banking sector, it is of great importance the guidance provided by the European Commission in order to stabilize the financial markets, through rapid and coordinated actions. Since October 2008, the Commission issued several Communications as guidance on how Member States can take the right measures to support financial institutions, whilst avoiding competition distortions. In order to restore confidence in the financial institutions, boost demand, save jobs, was adopted "The Recovery Plan" which helps achieving the measures set by the Lisbon Strategy.
We find as very important the issue of the "Banking Communication" which mentions the general conditions for state aid, in order to be in compliance with the EU State aid rules, and focuses on granting guarantee schemes which cover the liabilities of financial institutions.
In this context of crisis, the Commission issued the guidance for another state aid instrument in order to restore and preserve the financial stability, as the recapitalisation schemes with their legal basis in the "Recapitalisation Communication".
Also, for stimulate lending and avoid extending this crisis with banks that deal with impared assets, which are likely to incur losses, like the US mortgage backed securities, a new guidance for the treatment of impared assets in the EU banking sector was necessary. As the Internal market and services Commissioner Charlie McCreevy said: "If we don't face up to this issue then we risk prolonging this crisis with zombie banks that are incapable of performing a useful role in our economies".
Besides the state aid measures authorized by the Romanian Competition Council in order to support the enterprises from the AVAS and the Ministry of Economy portofolios and also the Eximbank's guarantee schemes, the most important step is the stand-by arrangement with the IMF, the European Commission, World Bank and with other international financial institutions, as a preventive measure in the context of the current crisis.
We strongly believe that in this period of crisis, granting state aid is really justified in order to unblock lending to companies, to rebuild trust, but also to support continued investments.

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