STATE AID POLICY IN THE EUROPEAN UNION, STUDY CASE:ROMANIA

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***Abstract**: This work is an approach to state aid policy, as part of European Union policy in the field of competition. The paper proposes to pursue the achievement of the specific objectives of: presentation of conceptual framework of "economic competitiveness", which contains the definitions formulated by the literature and the evolution of this concept from the perspective of economic theory and analysis of the forms that assume economic competition in the market economy; critical analysis of the role, importance and significance on state aid; economic analysis of granting state aid; analysis of the institutional framework of the state aid policy, aiming to give the existence of supranational control in this area from the European Commission, as well as the specific role fulfilled by the European Court of Justice, the European Parliament and the Council of the EU, the rules that are set out, The 'State aid rules' are set out by the European Commission and comprise various articles of the Treaty on the Functioning of the European Union, regulations, frameworks and guidelines - which set out what aid can be given. The European Commission governs member states' compliance with these rules and must be notified of all schemes involving State aid. State aid control stems from the need to maintain a level playing field for all companies active in the Single Market, irrespective of the Member State in which they are established. State aid control also contributes to avoiding contests between Member States where they try to outbid each other to attract investment. Preserving competitive markets is the best way for European citizens to get the products they want at competitive prices, and to foster innovation and growth. State aid is one of the few remaining ways in which Member States can hold up liberalization and protect companies from competition. As sectors become open to competition, the State aid rules start to become more important – this includes areas which have been the subject to State monopoly. Where in years past, sectors were national in nature, they have become cross-border: coal, transport, financial services and broadcasting are examples. The paper also contains an empirical analysis of State aid granted in the period 2008-2011 for Romania. State aid has been analyzed from multiple perspectives to pleasantly surprise to an extent as comprehensive place and their role as the grant of economic phenomenon.*

***Keywords:** competition, state aid, European institutions, EU funds.*

***JEL classification:** L12, F35, N70*

1. Introduction

The competition represents a specific behavior of different property agents, independent, some of the others, to achieve the objectives and interests in mutual relations of cooperation and competition with other agents.

In economics, competition is the rivalry among sellers trying to achieve such goals as increasing profits, market share, and sales volume by varying the elements of the marketing mix: price, product, distribution, and promotion(Gilbert Abraham-Frois,1994). French economist Alexis Jackemin defines the competition as a set of specific interactions between economic agents, and Michael Porter (in "About competition,2008")sees the competition as an essential determining factor in the success or failure of companies, she leads those activities of leading a company that can contribute to its performance, such as innovations, a unitary culture, thus establishing relationships of interdependence between the concept of competition and competitivity. It stimulates creativity, initiative, responsibility, risk and the spirit of competition. It was described by Adam Smith in The Wealth of Nations (1776) and later economists as allocating productive resources to their most highly-valued uses and encouraging efficiency. Later microeconomic theory distinguished between perfect competition and imperfect competition, (Robinson Joan,1993) concluding that no system of resource allocation is more efficient than perfect competition. Competition, according to the theory, causes commercial firms to develop new products, services and technologies, which would give consumers greater selection and better products. The greater selection typically causes lower prices for the products, compared to what the price would be if there was no competition (monopoly) or little competition (oligopoly).

A purely competitive market is a theoretical state in which no single buyer or seller has influence over the products sold in the market. Any seller enters the market to sell any product, and buyers are free to purchase any product desired. A large number of producers and sellers operate in the purely competitive market, and the products sold by one producer are easily replaced by a similar product from another producer. Prices for goods would be established by the rate the majority of consumers are willing to pay, and producers would adjust productivity to match the going price(Gavrila Ilie, Gavrila Tatiana,2009).

Imperfect competition describes a market where multiple firms offer variations of the same product or multiple products are offered, each with variations. A variation may be a difference in quality, durability, price or utility. Like pure competition, a large number of firms sell to consumers. No barriers to entry prevent a business from competing in the marketplace, however, businesses will be forced to exit the market if consumers will not purchase their products.

Depending on the product, many industries tend towards oligopoly, where a limited number of companies compete for consumer purchases. The quality of the product from one business to another may be differentiated or the products may be identical. Industries that persist with oligopolistic competition tend to be those that have significant barriers to entry, such as commercial and military aircraft manufacturers. The barriers to entry in the aircraft industry are regulatory and financial. The cost for producing a single jet is prohibitively expensive for most manufactures and therefore not worth the competition, even if the competition is limited. (Robinson Joan,1993).

A monopoly lacks any competition either within the market or within a specific industry. Monopolies are defined by a single business, operating without competition in the market. The main barrier to entry into monopolistic markets is that one firm holds all of the market share and no market share is available for other businesses to succeed. (Wade Robert,1990) A monopoly may be formed if a company owns all of one single resource, holds the patent for making a specific type of product or if the government has disallowed any other business from competing in the marketplace.

2.State Aid

State aid is a European Commission term which refers to forms of assistance from a public body or publicly-funded body, given to undertakings engaged in economic commercial activity on a selective basis, with the potential to distort competition and affect trade between member states of the European Union. Preferential public assistance - State aid - can distort the market, which in turn can result in lower competitiveness for business, less innovation and ultimately higher prices for consumers. There is therefore a need for effective State aid control in order to maintain a level playing field for free and fair competition in the single market and to guard against subsidy races and national protectionism. The State aid rules are designed to regulate subsidies and to stop public authorities from distorting the markets. They also provide a framework and discipline to assist public authorities to ensure that scare public resources are targeted where they are most required in an efficient and effective manner.

This definition translates into 5 tests or criteria, all 5 of which must be met for State aid to be present:

-aid is granted by a member state or through state resources (including e.g. lottery distributions and European funds);

-aid confers an advantage on the recipient;

-it favors certain commercial undertakings or the production of certain goods (i.e. it must be selective in its nature);

-it distorts or has the potential to distort competition;

-the activity is tradable between Member States and the aid has the potential to effect trade.

The Commission generally prohibits State aid unless it is justified for reasons of economic development. The circumstances where State aid is allowed are set out in the European Commission State aid rules - a series of frameworks, guidelines and regulations which set out what aid can be given. These rules enable public authorities to target support to address market failures in order to achieve desirable policy outcomes, for example to facilitate competitiveness through research spending, improve access to venture capital for small firms, support the environment, encourage regional development or help provide access to training.

State aid instruments are:

- State grants;
- interest rate relief
- tax relief;
- tax credits;
- State guarantees or holdings
- State provision of goods or services
- direct subsidies;
- tax exemptions;
- preferential interest rates

- guarantees of loans on especially favorable terms
- acquisition of land or buildings either gratuitously
- provision of goods and services on preferential terms;
- indemnities against operating losses;
- reimbursement of costs in the event of success
- State guarantees, whether direct or indirect
- dividend guarantee
- preferential public ordering
- reduction of, or exemption from charges or taxes
- depreciation and the reduction of social contributions;
- deferred collection of fiscal or social contributions;
- assistance financed by special levies;

The role of the institutions in the European decision-making process has benefited from a growing interest. Most theoretical approaches that have turned his attention to the interactions between the various levels of Government of the EU have tried to explain the institutional developments that have taken place in the European common policies. Interactions between different levels of government in the EU are embedded in a dense institutional environment. The principal approaches to
European integration and policy-making – intergovernmentalism, neo-functionalism and multi-level governance – differ as to the role they ascribe to institutions. However, all three approaches share fundamental assumptions about how institutions affect policy outcomes, assumptions which are based on rationalist foundations. All three tend to regard institutions as agents in their own right, actors capable of strategic inter- action with other actors.

Due to the dominant role held by the Commission and the European Court of Justice, the European Parliament and the Council of the EU have a rather limited role under the policy on State aid(Pierson P.,1996). The European Parliament and especially the Committee on economic and Monetary Affairs argued a gradual increase in participation in European policy on State aid, as fate and the progressive maturation of it, although they constantly had a limited capacity to influence this area. The decision-making process resulting in the state aid guidelines is quite distinctive from most other policy-processes in the EU. In fact, there are few areas where the Commission is more central or more autonomous than in competition- and state aid policy-making (Blauberger Michael, 2009). This is due both to the policy-field's strong Treaty basis, and to a series of Council regulations which have increased the Commission's role in both developing and enforcing state aid policies. The rationale for this delegation of power has been the notion that in state aid matters, a strong Commission is necessary in order to uphold a 'liberal internal market' and to a safeguard the Community against national, protectionist economic policies.

As a result, the Parliament and the Council of Ministers have no formal roles in the making and shaping of state aid guidelines. They are invited to consultations along with relevant stakeholders, but the Commission does not have to embark on the same sort of negotiations as it does in most other political processes (Blauberger Michael,2009). As for the European Court of Justice, this institution can of course play an important role both in overseeing the Commission's powers, and in serving as the court of appeal in concrete state aid cases. However, in practice the Court has contributed to the broadening of the Commission's powers, supporting the Commission's decisions in most state aid cases (Roth P.M.,2001). All in all, then, it seems reasonable to assume that the sources for the changes in the new environmental guidelines are to be found within the Commission itself. The increased aid levels for renewable energy, cogeneration and district heating must be the product of the Commission's own preferences. Of course, the Commission is hardly a unit in complete harmony on these matters. The Competition Directorate-General (DG), which has the formal responsibility for state aid matters, will for instance be much more prone to uphold its 'ethos' of competition and economic liberalism, and consequently work for a minimising of subsidies of any kind; whereas the DG Energy and Transport and DG Environment, which certainly also are relevant actors when it comes to the issue of environmental state aid, will be more likely to emphasise the need for increased subsidies for green energy, in line with the interests of the sectors they represent.

3. State Aid in Romania

Over the period 2008-2011, the National State Aid (expressed in Lei, in 2008 constant prices - 2008 being considered the basis year), has registered a general decreasing tendency, from 850.50 mil. Lei in 2008, to 698.42 mil. Lei in 2011. Same tendency has also been reflected in the share of the National State Aid in the GDP, which decreased from 0.20% in 2008, to 0.17% in 2011, due to the reduction of State Aid awarded by the State aid suppliers for horizontal objectives (namely, State aid granted for rescuing–restructuring firms in difficulty, considered by the European Commission as harmful for the normal competitive environment).

Table 1: State Aid identified at the national level

	2008	2009	2010	2011
National State Aid expressed in:				
Thousand Lei, current prices (less agriculture, fisheries, transport, SGEIs*, *de minimis aid*, and State aid granted under the Temporary Framework)	850,509.15	973,890.96	745,877.88	876,527.69
Thousand Euro**	254,849.47	264,450.26	176,026.69	208,206.30
Thousand Lei, 2008 current prices***	850,509.15	844,658.25	621,047.36	698,428.44
Dynamics %	100.00	99.31	73.02	82.12
Share of the National State Aid in the GDP % (less agriculture, fisheries, transport, SGEIs*, *de minimis aid*, and State aid granted under the Temporary Framework)	**0.20**	**0.19**	**0.15**	**0.17**

Source:http://eubusiness.com

* SGEIs – Services of General Economic Interest

** Calculated on the basis of the average annual exchange rate RON / Euro – Source: INSSE;

*** To convert in 2008 constant prices, has been used the GDP deflator – Source: INSSE (GDP deflator 2008=100%; 2009=115.3%; 2010=120.1%; 2011=125.5%);

The level of State aid recorded in 2011, slightly higher than the one of 2010, was especially due to the sharp rise in the State aid granted to regional objectives.

As compared with the other EU Member States - in 2011 Romania has awarded State aid of about 10 times lower than the EU-27 average; State aid granted in Romania in 2011 represents 0.34% of the total State aids awarded at the EU level.

The analysis of State aid by beneficiary fields showed that, in 2011, the highest share was held by State aids granted for the manufacturing industry (30.75%), followed by those awarded to coal industry (pitcoal extracting) – 28.50% - and by State aids granted for R&D&I (this category recording a percentage of 15.31%).
This was due, especially, to the fact that State aid grantors have promoted a large number of State aid schemes aimed at the regional development, many beneficiaries of State aid granted through these schemes operating in the manufacturing industry.
The most important regional State aids awarded to manufacturing industry have been reported by: the Ministry of Public Finance, the Environment Fund Administration, and the Ministry of the Economy, Trade and Business Environment; among the most important beneficiaries of these State aids were the following companies: SC Ford Romania SA, SC Automobile Dacia SA, SC Renault Mecanique Roumanie SRL, SC Pirelli Tyres Romania SRL, etc.
The volume of State aids granted to coal industry has significantly diminished over the period 2009-2011; as a consequence, State aids awarded to this sector in 2011 (as volume, calculated in 2008 constant prices) represented about 53.1% of the level recorded in 2008.
State aids granted to undertakings operating in the field of R&D&I had a slightly increasing trend in 2010-2011, from 26.5 mil. Euro in 2010, to 31.9 mil. Euro in 2011. The State aids awarded for this sector were among those referred to in the "National Plan for R&D&I II", being authorised by the European Commission.

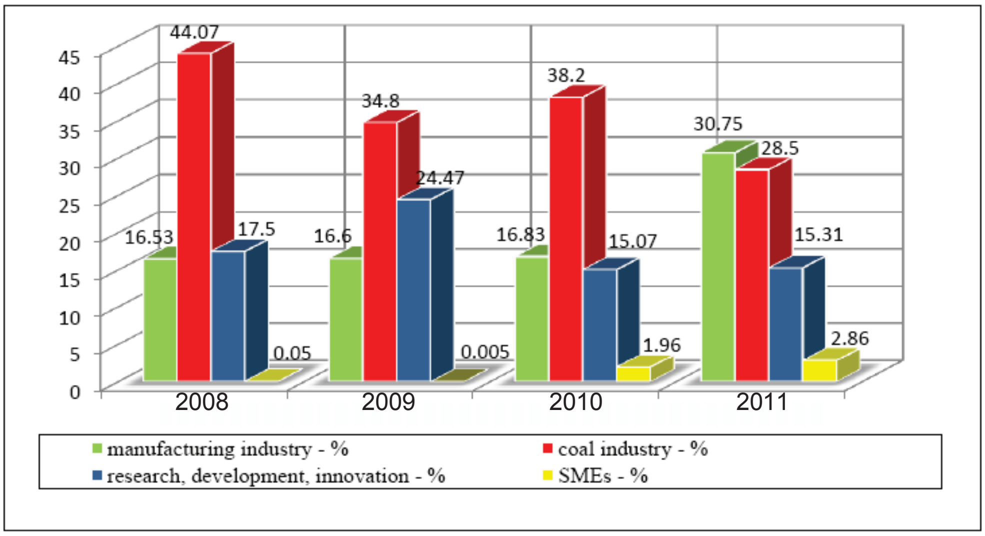

Figure 1: Evolution of the National State Aid structure by main beneficiary fields
Source:http://eubusiness.com
Regarding the financial instruments (the granting tools), it should be mentioned that the increasing tendency in the share of State aid having a nature of „Budgetary expenditure" in the Total National State Aid has continued in 2011, detrimental to the State aid with character of "Abandoning the State incomes" by the State; in 2010,

the share of „Budgetary expenditure" in the Total National State Aid was of 98.98%, while in 2008 it was of 85.07%.
The State aid grantors have understood that State aids having a nature of „Abandoning the State incomes" are much less transparent than the amounts granted directly to the State aid beneficiaries and much more harmful for the normal competitive environment.
As regards the analysis on objectives of the State aids awarded in Romania over the period 2009-2011, it was found that the highest share in the Total National State aid (less agriculture, fisheries, transport, SGEIs and *de minimis* aids) was held, yet, by the State aids having sectoral objectives.

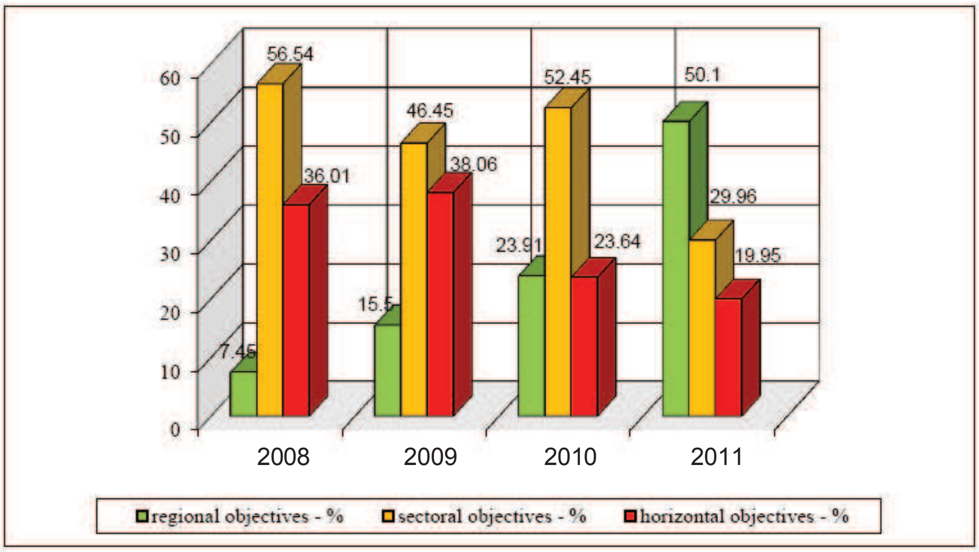

Figure 2: National State Aid by main granting objectives, during the period 2008-2011
Source:http://eubusiness.com

From the detailed analysis of each objective, have been found the following aspects:
• In 2011 has been registered, for the first time, an increase in the share of the State aids having regional development as main objective in the National State aid (increase of over 50%); this growth was mainly explained by the fact that, after 2008, the Romanian authorities had promoted a large number of State aid schemes - notified or exempted from the obligation to notify the European Commission;
• The European Commission encourages the Member States to promote State aids aimed at horizontal objectives, which are considered less harmful for the competitive environment; in 2011 these aids held a diminished share in the Total National State Aid - of only 19.95% as compared with their level in 2008 (36.01%) and in 2009 (38.06%); this was due especially to the small number of State aids awarded from the State budget to objectives such as: environment protection, restructuring firms in difficulty, creating jobs, and, respectively, training; during the analyzed period (2008-2011), the majority State aids for SMEs were granted in the form of *de minimis*

aids, these aids being much more permissive, and their awarding by the State aids grantors being more easier to be done.
State aids awarded to companies carrying out Services of General Economic Interest (SGEIs) have an important influence on the national economy, not only in terms of the yearly value of subsidies which must be covered by the public authorities from their own budget, but also through their major impact on the strategical sectors of the national economy, and (not least) on the population.
In 2011, the value of State aids granted for SGEIs was of 302.4 mil. Euro, decreasing – as compared to 2008, when have been awarded 441.9 mil. Euro.

4. Conclusions
The maintenance of a system of free and undistorted competition is one of the basic principles of the European Community. Community policy in respect of State aids seeks to ensure free competition, an efficient allocation of resources and the unity of the Community market, whilst respecting the international commitments of the European Union. The Commission is becoming increasingly vigilant in applying the EC state aid rules. When utilities receive monies from government bodies, they will need to satisfy themselves that the EC state aid rules are being complied with or, otherwise, as the recipient of financial assistance, they will need to press for a state aid notification to be made to the Commission.

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