



State aid thematic areas I: Energy and Environmental aid

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These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union.



Energy and environment

- I. Notion of aid
- II. Compatibility rules: the 2014 Energy and Environmental Aid Guidelines (EEAG)
- III. General Block Exemption
- IV. State aid support in the coal industry



I. Notion of aid

State aid measures and measures vs mere price regulation

It is **State aid** when:

- The charge financing the measure is **unilaterally imposed** through a binding legal instrument by the Member State;
- Manager of the resources is under **constant control** of the State;
- If the manager is private, but the **State covers the costs**;
- If the manager is private, but the **State makes discretionary/flexible use** of resources

Relevant case law :

Case C-379/98, *PreussenElektra*
Case C-206/06, *Essent*
Case C-262/12, *Vent de Colère*
Case C-405/16 P, *EEG 2012*
Case C-706/17, *Achema*

II. Compatibility rules: the Energy and Environmental Guidelines (EEAG)

Focus on:

- Renewables (RES) support
- Combined Heat and Power (CHP) support
- Capacity mechanisms
- Reductions for Energy Intensive Users

II. RES Support under the EEAG (1/2)

Integrating RES into the market (from 2016):

Only for new schemes

- **Sell electricity** directly on the market
(aid as premium on top of market price)
- **Balancing** responsibilities
(if liquid intra-day market)
- No aid paid out when **prices are negative**
- **Exception** for small installations (feed-in tariffs still possible)
 - < 500kW (e.g. solar and biomass)
 - < 3MW or 3 generation units (only wind)



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II. RES Support under the EEAG (2/2)

Competitive bidding process (from 2017):

Only for new schemes

- **Non-discriminatory competitive bidding** for aid to new RES
 - Presumption of proportionality
 - **Exception when not enough competition**
- **Open to all RES** generators and technologies
 - **Limitations: grid constraints, long-term potential of innovative technology, grid integration costs, need for diversification, distortion on biomass raw material market.**
- **Flexible** rules for small installations (simple no overcompensation test):
 - < 1MW (e.g. solar and biomass)
 - < 6MW or 6 generation units (only wind)

Case practice (examples):

SA.44666, SA.48143 (EL)

SA.49918 (DK)

SA.53347 (IT)

II. CHP support under the EEAG

- Only for **high efficient** Combined Heat and Power (CHP)
- Basically same rules as for RES
- Flexibility for small installations

Case practice (examples):

SA.42393 (DE)
SA.51192 (PL)





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II. Capacity mechanisms under the EEAG (1/2)

- Market wide capacity mechanisms



- Strategic reserves



- Demand response schemes



SA.35980 (UK)
SA.39621 (FR)
SA.48648 (BE)
SA.45852 (DE)
SA.48490 (FR)

Case practice (examples):





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II. *Capacity mechanisms under the EEAG* (2/2)

Demonstrate need

- Clearly **define** precise objective
- **Quantify** the issue (adequacy concern)
- Take account of all **other contributing elements** (e.g. demand response, interconnectors, intermittent RES)

Be open to all capacity contributors

- Provide **incentives to all** (existing / new / foreign capacities, substitutable technologies)
- **Open to all** – restriction only due to insufficient technical performance + emission limit (550 g CO₂/kWh)

Provide proportionate remuneration

- Competitive **bidding process**
- **No overcompensation**

Be appropriately designed

- Respect **environmental objectives** (e.g. preference for low carbon)
- Reforms of the electricity-only market first
- Assess **effects on neighbouring States**



II. Reductions to Energy Intensive Users

- **Aim**
Targeted reductions of **Renewables levies** to secure sufficient financing base for renewables support
- **Closed list of 68 sectors**
All undertakings active in selected sectors eligible
- **Aid amount**
Beneficiaries must pay at least 15% of renewable charge/cost with the possibility to further limit costs by caps

Examples of **extension by analogy** to other levies:

- Germany (SA.42393), Italy (SA.38635) and Poland (SA.52530) in relation to support for CHP
- Slovakia (SA.37801) in relation to a levy financing nuclear decommissioning
- France (SA.36511) in relation to all parts of the French levy CSPE (including social tariffs and lower electricity tariffs in certain regions)

III. General Block Exemption Regulation

Section 7: Aid for environmental protection

- Article 36: Aid for **going beyond Union standards** or increasing the level of environmental protection in the absence of Union standards (including aid for the acquisition of new transport vehicles)
- Article 37: Aid for **early adaptation to future Union standards**
- Article 38: Investment aid for **energy efficiency measures**
- Article 39: Investment aid for **energy efficiency projects in buildings**
- Article 40: Investment aid for **high-efficiency cogeneration**
- Article 41: **Investment** aid for the promotion of energy from **renewable sources**
- Article 42: **Operating** aid for the promotion of electricity from **renewable sources**
- Article 43: Operating aid for the promotion of energy from renewable sources in **small scale installations**
- Article 44: Aid in the form of **reductions in environmental taxes** under Directive 2003/96/EC
- Article 45: Aid for the **remediation** of contaminated sites
- Article 46: Investment aid for energy efficient **district heating and cooling**
- Article 47: Investment aid for **waste recycling and re-utilisation**
- Article 48: Investment aid for **energy infrastructure**
- Article 49 : Aid for **environmental studies**





IV. EU rules for state aid support in the coal industry (1/2)

The EU framework for coal restructuring:

- **Instrument**
 - The Council Decision of 10 December 2010 on State aid to facilitate closure of uncompetitive coal mines
- **But not**
 - Industrial Rescue & Restructuring Guidelines exclude coal sector
 - Regional Aid Guidelines exclude aid to "firms in difficulties"
- **And unlikely**
 - State intervention as market economy investor



IV. EU rules for state aid support in the coal industry (2/2)

The Council Decision – Overview

- Types of hard coal covered:
 - Anthracite
 - Bituminous coal
 - Sub-Bituminous coal
 - Meta – Lignite
- Types of aid:
 - Closure aid (Article 3)
 - Aid to cover exceptional costs (Article 4)
- Conditions for the authorisation of the aid - cumulative:
 - The mining units are uncompetitive
 - The mining units close down definitively and irrevocably (31 December 2018)

SA.43414 (RO)
SA.41161 (PL)

Case practice (examples):



Thank you for your attention!

