

*Elżbieta Maria Wrońska\**

## STATE AID FOR RESCUE AND RESTRUCTURING IN POLAND AND IN THE EUROPEAN UNION

**Abstract:** The State aid constitutes one of the instruments of the state policy in the economic market. The State aid means winning financial benefits from the state resources in the way which might distort competition. Depending on the object it is earmarked, the State aid can be distinguished as horizontal, sectoral, regional.

The Agenda in respect of State aid assumes phasing out this aid for enterprises, let alone aid distorting competition, and its closer scrutiny.

In the period 2000–2005 the total value of State aid in Poland amounted to € 14.8 billion (79 billion PLN), which gives an average at the level of € 2.5 billion (13.2 billion PLN) per annum. The value of State aid granted for rescue and restructuring in the period 2000–2005 in Poland accounted for € 35.8 billion PLN which means 45.3% of the total value of State aid. State aid for rescue and restructuring achieved the annual average level of 5.9 billion PLN, which means € 670 million.

The overall value of State aid in the period 2000–2005 for the 15 states of the European Union accounted for € 348.3 billion, which means an average at the level of € 3.9 billion per year. The value of state aid granted for rescue and restructuring in the period 2000–2005 for the EU–15 accounted for € 15 548 million. It indicates that the annual average level per one state was € 172.7 million. In 15 UE states 4.5% the overall value of aid granted in this period was intended to rescue and restructure.

While analyzing the problem of restructuring State aid it is necessary to underline the specificity of Polish conditions compared with the states of Western Europe. Poland can be distinguished by a relatively high unemployment rate, the uncompleted process of restructuring, the weaknesses of small and medium-sized firms.

Moreover, the fact of the matter is that Poland is still at the beginning of its way to restructuring economy, while the “old” states of the European Union have already completed this process. It is proved by the high value of State aid in the UE by the end of the eighties, when it amounted to 2% of GDP (currently it accounts for 0.6% of GDP). It is also worth noting that the states of the EU-15, currently being in much more favourable situation than the remaining states, require these other states being in a worse position now than the EU–15 were several years ago, comply with the same rules they presently observe.

**Key words:** state air, rescue and restructuring aid, firm in difficulty, compensatory measures, notification by European Commission.

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\*Ph.D., Maria Curie Skłodowska University in Lublin.

## 1. INTRODUCTION

The fundamental content of the Treaty of Rome establishing the European Economic Community were the provisions referring to the process of creating the common market and introducing economic policy at the level of the whole community. The essence and the purpose of the integration process was to achieve a more effective distribution of production factors which are provided, among others, by free competition. The market integration of the Member States was to lead to a full liberalisation of the movement of persons, goods, services and capital. It required the creation of conditions which would allow the extension of economic opening, including the policy ensuring free competition. Therefore, in the EEC Treaty there were clearly stated rules on the functioning of the common market as well as the objectives of competition policy.

The competition policy aims at providing conditions for undistorted competition. Free competition is the basic principle of a single market and, as such, bound the Rome Treaty signatories to accept the provisions on the ban on the Member States to provide aid for business entities.

The economic practice of the Community provides a number of examples which prove that interventionism contributed to the violation of the principle of free competition, it delayed both structural reforms and the effects of the liberation process. The problem got more exacerbated in the seventies of the 20<sup>th</sup> century, when the Member States, facing an energy crisis and a lengthy downturn in the economy, were extending the scope of State aid for enterprises.

The realisation of the Single Market Project 1992 had a considerable impact on a new approach to the intervention policy in the EC internal market. The changes which aimed at reducing aid consisted, among others, of introducing regulations which determined allowed aid, required restitution of aid incompatible with the rules of the common market, introduced system principles of aid grant, introduced notification procedures for aid schemes (art 87 (92) item 2 and 3 and Art. 88 (93), and 89 (94) of the EC Treaty).

Under Art. 88(93) EC Treaty, any aid granted by the Member States or with the use of state resources in any form which distorts or constitutes a threat to competition by favouring some businesses or manufacturing some goods, is against the common market to the extent it affects the exchange between the Member States. Awarding State aid distorts the market mechanism which, in turn, infringes the principle of equal opportunities. It should be noted, however, that along with the prohibition on granting State aid, Art. 88 EC Treaty sets out some conditions under which this grant appears to be possible.

Fairly soon the exceptions from the general prohibition on granting State aid turned into commonly followed standard (Misiąg 2005, pp. 14–15). The EEC states intensively supported particular areas of the economy especially in the

early years of the Community. The scope and the way of using State aid was largely determined by social and political reasons, the pressure from lobbying groups and the position of particular states rather than by the imperfections of the market mechanism (Misiąg 2005, pp. 14–15).

The third stage of changes in the competition policy began in the late nineties of the 20<sup>th</sup> century. It resulted in the essential reduction of the scope of State aid – its level expressed in relation to GDP in the EU states in the period 1992 – 2002 dropped from 1.09% to 0.56% (Cini, McGowan 1998, p. 4). It was connected with the realisation of the Lisbon Agenda and the conclusions defined by the European Council at the Stockholm European Council (2001) and at the Barcelona Council (2002) in the field of the aid as well as a more transparent system of its granting (Karpieńska-Mizielńska, Smuga 2005).

The year 2005 was the fourth consecutive year of the execution of the conclusions made by the Member States and comprised by the document referred to as the Lisbon Agenda. The Agenda in respect of State aid assumes phasing out this aid for enterprises and its closer scrutiny. The Member States were bound under the Agenda, among others, to show that by the year 2003 (Report on State Aid in Poland Granted to Entrepreneurs in 2004, 2005, p. 41):

- State aid was redirected to horizontal objectives,
- aid share in GDP of a given state was decreased,
- aid distorting competition (e.g. to rescue and restructure as well as sectoral aid) were eliminated,
- horizontal aid, devoted to the development of small and medium-sized enterprises, training, environment, and R&D area, gained in its importance.

The European Council at the Brussels European Council on 22–23 March 2005 called on the Member States to continue their activities aiming at reducing the total State aid.

## 2. The definition and types of State aid

The State aid constitutes one of the instruments of the state policy in the economic market. The concept of the State aid is defined neither in the legal documents of The European Communities nor in the legal documents of Poland. Yet, the obligation to observe the principle of enterprise competition and the requirement of monitoring the aid granted by the state, made it necessary to determine this notion more accurately.

The State aid means winning financial benefits from the state resources in the way which might distort competition<sup>1</sup>. Such winning if to be regarded as the

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<sup>1</sup> The regulations referring to State aid in Poland were introduced for the first time under the Act of 30 June 2000 on the criteria allowing and supervising State aid for enterprises („Journal of Laws”, No 60, item 704, as amended). Later State aid was realized under the Act of 30 August

State aid should fulfil a few criteria ([http://www.uokik.gov.pl/pl/pomoc-publiczna/l\\_kompetencje\\_prezesa\\_uokik\\_w\\_z](http://www.uokik.gov.pl/pl/pomoc-publiczna/l_kompetencje_prezesa_uokik_w_z)):

- it is done in favour of particular entrepreneurs, which means it is selective by nature, and so it wins benefits to selected entrepreneurs and to selected groups of entrepreneurs. The role of such aid is to strengthen or weaken incentives coming from the market through giving benefits to selected entrepreneurs or to selected groups of entrepreneurs. Winning benefits refers to financial benefits, these ones which are measurable;

- it is realised directly from the domestic state resources or from such resources transferred to other entities (e.g. through funds, agencies, which were entrusted with state resources or were ordered to have these resources to their disposal). The concept of state resources comprises also the resources coming from both pre accession and structural aid schemes;

- it distorts or threatens with competition distortion by favouring some entrepreneurs or production of some goods, which results in them being privileged in relation to competitors.

Therefore, the State aid is winning benefits which meet the above conditions, regardless the form of awarding them. Winning benefits may be done directly (the increase of outflows of state resources – positive instruments) or indirectly (the decrease of inflows – negative instruments) (Modzelewska-Wąchal 2001, pp. 31–35; E. Czerwińska 2000, p. 1).

The main forms of the State aid are regarded as follows:

- group A – grants, extras, amortization of due payments, disposing or leasing of state estate on conditions more favourable than those for the market,
- group B – capital and investment grants: capital contribution to the company, conversion of receivables into shares,
- group C – co called “soft loans”: preferential loans, deferment of payment date, payment spread into installments,
- group D – warranties and credit guarantees.

The used forms of the State aid refer to state resources in the scope of liabilities both tax and paratax (when the entity granting the aid acts as an administration authority), as well as to those arising from civil contracts (when the entity granting the aid acts as a participant of the economic life).

Depending on the object it is earmarked, the State aid can be distinguished as follows:

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2002 on the criteria allowing and supervising State aid for enterprises („Journal of Laws”, No 141, item 1177, as amended). Presently State aid is realized under the Act of 30 April 2004 on the procedures in the matters referring to State aid („Journal of Laws”, No 123, item 1291, as amended). The attempt to define State aid can be found in the Act of 30 June 2006 on the criteria allowing and supervising State aid for enterprises – Art. 4, sec. 1 and in the Act of 30 August 2002 on the criteria allowing and supervising State aid for enterprises – Art. 2, sec. 1

– horizontal: directed to all enterprises, regardless the sector and region, and intended to support research and development, environment, development of small and medium-sized enterprises, energy saving objectives, maintaining the employment rate and creating new jobs, training, rescue and restructuring, rehabilitation and recruiting working persons with disabilities, technical infrastructure development as well as other activities;

– sectoral: intended to support and favour the development of selected sectors; sectoral aid covers such sectors as steel and iron industry, shipbuilding, coal mining, synthetic fibers, industry, oceanic sailing;

– regional intended to support and favour the development of selected regions. The most essential objectives within the regional policy are all those activities in favour of research and development, environment and renewable resources, creating new jobs, restructuring firms in difficulty, development of small and medium-sized enterprises.

Another classification allows distinguishing individual aid and aid granted as a part of the aid scheme. The draft of the individual aid project and the draft of the aid granted as a part of the aid scheme requires notification to the European Commission<sup>2</sup>.

A particular kind of aid is aid de minimis. It is State aid granted in various forms to a given entrepreneur, the total value of which in three consecutive years does not exceed the amount of € 200 000<sup>3</sup>. Such aid is exempt from the obligation of notification to the European Commission. There is also such exemption from this obligation for State aid which was granted within the block exemptions. The block exemptions may refer to the support of employment, training, research and development, as well as aid for small and medium-sized enterprises.

### 3. STATE AID FOR RESCUE AND RESTRUCTURING

The process of implementation of Lisbon Strategy intends, among others, the reduction of State aid and its redirecting to horizontal objectives with simultaneous elimination of aid distorting competition. It is believed, though, that State aid for rescue and restructuring has its large impact on competition distortion. Supporting enterprises in difficulty with state resources can't be deemed as a standard participation of the state in economic processes. The exit of ineffi-

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<sup>2</sup> The duty of notification appeared since the moment of acquiring membership by Poland in the EU.

<sup>3</sup> The EC Directive No 1998/2006 of 15.12.2006 on the execution of Art. 87 and 88 of the EC Treaty in respect of aid de minimis which have been in force since 01.01.2007. Till the year 2006 the binding limit was € 100 000.

cient firms from the market is the indication of sound functioning of the market economy. It occurs that aid for rescue often means maintaining status quo and only sets aside an inevitable liquidation of an entity. Aid for rescue as well as for restructuring often means also transferring company's problems onto other, more efficient market players (State Aid Scoreboard 2003, p. 13). Therefore, recommended reduction of State aid for rescue and restructuring considerably improves effective distribution of means.

For the reasons discussed above State aid to rescue and restructure is to be granted in strictly defined situations hedged with stringent requirements. For the first time these requirements were determined by the European Commission in 1994, and then updated in 1999. In October 2004 there was another modification of guidelines on granting aid for rescue and restructuring.

Initially aid to restructure was agreed to be granted only according to the "one time, last time principle". In 1999 the principles of granting aid to rescue and restructuring were modified by introduction in particular the possibility of a repeat grant aid to rescue and restructure – a repeat aid could be awarded after 10 years of the date of completion of the last restructuring (State Aid Scoreboard 2003, p. 15). In 2004 there were introduced essential limits on granting State aid intended to rescue and restructure (State Aid Scoreboard 2004, p. 38). They were introduced due to the fact that some essential problems with granting aid had been found out.

The present terms of granting State aid for rescue and restructuring are governed by the Commission Communication – Community Guidelines on State aid for rescuing and restructuring firms in difficulty of 1 October 2004<sup>4</sup>. The particular elements of the above Guidelines provide the definition of the basic concepts and the procedure of granting aid to rescue and restructure. The maximum amount of awarded aid was determined – altogether it can't exceed the value of € 10 million. A strict observance of the principle "one time, last time" was returned.

In the Guidelines there were also indicated criteria, the enterprise is to fulfil to be recognized as ailing. Despite the lack of an explicit definition, the European Commission regards an enterprise to be ailing if, neither with the aid of its own measures nor the measures it might obtain from the owners or the creditors, is it in a position to prevent losses which without outside intervention by the state authorities will lead this enterprise to the exit from the market. An entity is regarded as an ailing enterprise which fulfils at least one of the criteria stated below (*ibidem*):

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<sup>4</sup> Community Guidelines on State aid for rescuing and restructuring firms in difficulty, Journal of Laws, item 244 of 1.10.2004

– in the case of the limited liability of the company shareholders – if over the half of the company registered capital was lost, with a more than a quarter lost over the last 12 months,

– in the case of the company whose some members are liable in an unlimited way for the company debts – if over the half of the company capital stated in the financial report was lost, with a more than a quarter lost over the last 12 months,

– regardless the type of the company – if it meets the criteria of bankruptcy procedure.

An enterprise may be recognized as an ailing one, when there are typical signs such growing losses, decreasing turnover, increasing stocks, accruing production surpluses, decreasing cash flow, growing debt, decreasing value of net assets.

A newly created entity can't be recognized as an ailing enterprise. An enterprise which can be recognized as an ailing firm should operate on the market minimum 3 years. An entity operating within a capital group is not to be recognized as ailing either, irrespective of the period of its existence on the market and the difficulty of its financial standing.

The conditions for granting aid for rescue and restructuring are the same because in both cases state measures are given to firms in difficulty. State aid in these situations consists of the two elements of one operation, even though they refer to different activities. State aid to rescue is connected with temporary aid essential for the firm to survive and obtain time to prepare a restructuring plan as well as preparing the firm for implementation of the restructuring plan. Aid connected with restructuring lies in making it possible for the firm to implement the restructuring plan and regain long-term ability to compete.

Aid to rescue presents the following features:

- it is a temporary and reversible support,
- its basic objective is maintaining liquidity for the time essential to work out a restructuring plan,
- it should be restricted to essential minimum,
- support can't be longer than 6 months,
- aid can consist exclusively of reversible support and is in the form of credit guarantees or loans with the interest rate comparable with loans for healthy firms,
- rescue aid can't be granted for financial restructuring.

The value of State aid for rescue and restructuring which is likely to be obtained is established on the base of the following formula:

$$\frac{\text{EBIT}_t + \text{depreciation}_t + (\text{working capital}_t - \text{working capital}_{t-1})}{2}$$

As it appears from the above, the amount of State aid to rescue and restructure possible to be obtained depends on the two operational aspects: viability and liquidity. The viability of operation is reflected by the result of EBIT amended with depreciation. Whereas liquidity is reflected by the level and the changes in the level of working capital, understood as the difference between current assets and short-term liabilities.

The purpose of using the formula is to assess negative operating cash flow of the company in the year preceding the application for aid award.

The process of restructuring, State aid may be granted for, is to be connected with (State Aid Scoreboard 2003, p. 14):

- reorganization of firm activity which bring losses including withdrawal from it,
- restructuring those areas of company activities so that they could become profitable again,
- diversification of company activity and taking a new range of profitable activity.

Financial restructuring (debt redemption, conversion of receivables, extra capitalization) is to couple with restructuring of activity, and not to replace it. State aid for restructuring can't be limited to financial restructuring without finding the reasons of difficulty and carrying out the process of improving operational activity.

Granting State aid requires also involving the company's own measures in the process of restructuring, in the case of small entities the principle is to engage 25% of their own measures as the costs of the restructuring process, in the case of medium-sized and large firms – 40% and 50% respectively. The company's own input will prove that the owners believe in the possibility of regaining viability. At the same time it will guarantee that restructuring aid is limited to necessary minimum.

Additionally there was introduced a requirement of using compensatory measures in the process of restructuring (it refers to the situation when granted aid distorts competition). Using compensatory measures may refer to selling off assets, decreasing production capacity, lowering barriers for entering the market. The use of compensatory measures is to ensure that the company's activity does not lead to monopoly on the market. Compensatory measures have to be proportional to distorting effects of aid and particularly to the amount and relative position on the market [Formulating Individual Aid Schemes – Procedure of Application for Financial Support and Building Restructuring Plan 2006).

State aid destined to rescue and restructuring is mainly awarded within individual aid, and so, in each case a notification by the European Union is required. The Commission approves aid only when the following criteria are met:

- 1) a firm is regarded as an ailing entity,
- 2) the main objective is to return long-term viability,

3) a restructuring plan is one element of restructuring implementation.

The restructuring plan is an important element of the procedure of applying for State aid. It is to meet a few conditions:

- to outline the execution time of a restructuring plan explicitly,
- to determine the costs of restructuring process explicitly,
- to indicate operational and financial measures of restructuring effects.

Therefore State aid may be granted if an appropriate restructuring plan is provided, appropriate activities are undertaken so that to make competition distortion impossible (compensatory means), and the company is bound to implement a complete restructuring plan as well as to submit detailed report on its usage.

State aid destined to rescue and restructuring is treated, due to its noticeable impact on competition, as aid requiring a decrease and ultimately meant to be abandoned. At the same time it is connected with the State participation in processes of restructuring economy.

In the case of Poland, restructuring processes with regard to both individual entities and the whole economy have been started quite recently. Thus restructuring processes are connected not only with difficult situations of these entities because of economic situation of the country, but they are often the consequence of the lack of system adjustment in many of them. The situation of Poland in the scope of State rescue and restructuring aid is exceptional (similarly to the situation in many post-communistic countries). It results from the fact that the state takes part not only in the changes of system restructuring but also in the processes of restructuring entities due to their difficult situation on the market.

It should be stressed that the “old” states of the European Union have been functioning in the reality of market economy for many years and they have not experienced distribution and command economy. And so, restructuring processes carried out in these states could only stem from a difficult market situation of individual entities. It is also worth noting that restructuring processes were carried out in the past, while the current ones are quite rare due to the relatively stable economic situation.

For the above reasons, there seems to be a real need to study more accurately the importance of this kind of State aid in Poland and the European Union.

### **3.1. State aid granted in Poland including rescue and restructuring aid**

It is worth noting that in the years 2000–2005 the total value of State aid in Poland accounted for 79 007.6 million PLN, including 35 787.2 million PLN for rescue and restructuring which presents 45% of aid granted in Poland at this time.

The data on State aid granted in Poland are presented in Table 1.

Table 1

## State aid in Poland in the period 2000–2005

	2000	2001	2002	2003	2004	2005
Total value of State aid (million PLN)*	7 712.0	11 194.8	10 277.6	28 627.5	16 400.6	4 795.1
of which						
State aid to rescue and restructuring (million PLN)	478.8	4 923.6	4 204.5	21 933.8	4 165.0	81.5
Aid share to rescue and restructuring (%)	6.2	44.0	40.9	76.6	25.4	1.7

\* State aid less transport

Source: Report on State aid granted to enterprises in Poland in 2001, OCCP, Warsaw, September 2002, Report on State aid granted to enterprises in Poland in 2003, OCCP, Warsaw, November 2004, Report on State aid granted to enterprises in Poland in 2005, OCCP Warsaw, December 2006

The total State aid granted in the years 2000–2005 amounted to 79 billion PLN. The average annual state aid in this period accounted for 13.2 billion PLN. However, within four years (in 2000–2002 and 2005) the value of State aid did not exceed the average level. Whereas in 2004 the values of state aid was 24% higher than the average and State aid granted in 2003 accounted for 215% of the average value.

The value of State aid awarded in Poland in particular years of the period 2000–2005 showed multidirectional fluctuations. In the periods 2000–2002 and 2003–2005 there is a noticeable downward trend of its value, while in 2003 the value of State aid increased fivefold in relation to the level in 2002. It is also worth noting here that the value of State aid granted in 2005, despite the downward trends since 2003, is higher than the one granted in 2000.

The evident downward trend of the State aid since 2003 complies with the conclusions of the European Council in respect of reduction of the volume of State aid.

The average value of State aid for rescue and restructuring in the reviewed period was at the level of 5 964.5 million PLN. The value of aid intended for rescue and restructuring fluctuated from 91.5 million PLN (which accounts for 1.5% of an average value) in 2005 to 21 933.8 million PLN (368% of an average) in 2003.

The share of State aid to rescue and restructuring was fluctuating from 1.7% in 2005 to 76.6% in 2003. The average share of State aid to rescue and restructuring was 32.5%.

A high share of rescue and restructuring sectoral aid in the period 2001–2003 resulted from the realisation of restructuring processes with the public

funds in the coal mining sector. In the case of coal mining sector 99.9% of the aid value in this sector was allocated to rescue and restructuring. This aid was executed under the provisions of Act of 28 November 2003 on restructuring coal mining in the years 2003–2006<sup>5</sup>. This aid was granted primarily in the form of tax remittance and other benefits.

A higher than average share was recorded in the period 2001–2004. Such a high share of aid to rescue and restructuring as a part of horizontal share at this time was connected with the execution of the provisions of the Act of 30 August 2002 on restructuring some of public and legal liabilities from enterprises<sup>6</sup> and the Act of 30 October 2002 on State aid to enterprises of particular importance for job market<sup>7</sup>.

The situation in the scope of State aid in Poland, including State aid to rescue and restructure, was considerably changed after 2003. The year 2004 was connected with Poland's entry to the European Union, so after 1 May 2004 Poland was bound by the legislative existing in the European Union. It has to be noted that in October 2004 there were introduced additional restrictions on possibilities of supporting restructuring firms which corresponded with the Community Guidelines referring to State aid to rescue and restructure ailing firms.

In 2004–2005 rescue and restructuring aid accounted on average for 2 123.32 million PLN and presented only 20% of the overall value of State aid to rescue and restructure in the period 2000 - 2003. The value of State rescue and restructuring aid was decreased much more than the total value of State aid.

It may be concluded from the above that Poland actively implements the commitments of the Lisbon Strategy in the scope of reduction of State aid to rescue and restructuring.

### **3.2. State aid in the EU including rescue and restructuring aid**

The data referring to State aid in Poland and the EU are in a few cases difficult to be compared due to methodological changes introduced quite often. These changes are connected with the difficulty to assess some of aid categories. While the Office for Competition and Consumer Protection in Poland every year presents fairly detailed data on aid structure in various distributions, the information referring to State aid in the European Union is presented on a slightly dif-

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<sup>5</sup> Act of 28 November 2003 on restructuring coal mining in the years 2003–2006, "Journal of Laws", No 210, item 2037.

<sup>6</sup> Act of 30 August 2002 on restructuring some of public and legal liabilities from enterprises, "Journal of Laws", No 155, item 1287, as amended.

<sup>7</sup> Act of 30 October 2002 on State aid to enterprises of particular importance for job market, "Journal of Laws", No 213, item 1800, as amended.

ferent basis (e.g., regional and horizontal aid are treated together). Consequently, in the case of the states of the European Union there is a shortage of detailed data on aid for rescue and restructuring. For the EU these data are available only in an aggregated perspective for the years 2000–2005.

The data referring to State aid granted in the European Union shows the table below.

Table 2

## State aid in the European Union in 2000–2005

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Total State aid less railways (€ bn) – UE 15	74.5	80.6	77.5	77.0	75.5	95.5	64.3	54.8	56.6	58.0	63.5	55.3	56.2	58.7
Total State aid less railways (€ bn) – UE 25	74.5	80.6	77.5	76.9	75.5	95.5	64.3	55.2	61.6	62.5	69.4	64.7	61.4	63.8

\*The total of horizontal aid including regional and sectoral aid do not sum up to 100% because of other aid distributions, e.g. in fishery, in agriculture

Source: [http://ec.europa.eu/comm/competition/state\\_aid/scoreboard/indicators/k1.html#data](http://ec.europa.eu/comm/competition/state_aid/scoreboard/indicators/k1.html#data) and [http://ec.europa.eu/comm/competition/state\\_aid/studies\\_reports/k5\\_2.xls](http://ec.europa.eu/comm/competition/state_aid/studies_reports/k5_2.xls) and State Aid Scoreboard, autumn 2006 update, Brussels, 11.12.2006, COM (2006) 761 final

The overall value of State aid in the period 2000–2005 for the 15 states of the European Union accounted for € 348.3 billion, which means an annual average level of State aid granted in EU-15 amounted to € 58.0 billion, and per state it means an average at the level of € 3.9 billion per year.

The overall value of State aid in the period 2000–2005 for the 25 states of the European Union accounted for € 383.5 billion, which means an annual average level of State aid granted in EU – 25 amounted to € 63.9 billion, and per state it means an average at the level of € 2.6 billion per year.

The above analysis may prove that the situation, as regards the average of State aid, was more favourable for the EU on taking into account the State aid granted in the states entering the EU after 2000.

As it was mentioned above the data referring to rescue and restructuring aid for the EU are available only in an aggravated perspective for the years 2000 – 2005. The reason for this perspective is the assumption by the authors of the UE report that the data referring to this kind of aid are difficult to be compared for the following reasons (State Aid Scoreboard 2003, p.15):

– every aid to rescue and restructuring is an individual case and is allocated discretionary, there is a lack of stable norms to award this aid and, for example,

the amount of aid granted in favour of one enterprise may exceed overall aid granted by a few states,

- the amount of aid to rescue and restructuring is dependent on the extent of liberalisation in a given industry and time necessary to liberalise it,
- the general economic situation affects the amount of this aid, more of this aid is granted in the case of downward trends than upward ones in the economy, the recent years of a low rate of increase resulted in more aid being granted.

For these reasons a full picture of aid is quite complex and it varies significantly from one member state to another, which makes it impossible to present it more accurately.

The value of state aid granted for rescue and restructuring in the period 2000–2005 for the EU - 25 accounted for € 23 873 million which means an annual average per one state at the level of € 159.1 million, while for the EU-15 the total value of aid to rescue and restructure accounted for € 15 548 million. It indicates that the annual average level per one state was € 172.7 million. It is worth noting that the average level for the “old” EU states is higher by 8% compared with the average level for the EU – 25. The states entering the European Union after 2000 granted aid to rescue and restructuring in the period under review at the level 8 326 million which means an annual average per one state at the level of € 38.8 million (State Aid Scoreboard 2006, p. 33).

It has to be pointed out that in the case of the EU-15 nearly the total aid value (95%) was granted to the 5 EU members. Germany took 50% of the total aid for restructuring of the EU-15, France 21%, Spain 8%, Great Britain 7%, Italy 5%. Yet, at the same time 5 such states as Denmark, Ireland, Luxemburg, Finland and Sweden did not grant any aid to rescue and restructuring in this period (State Aid Scoreboard 2006, p. 33). It has to be also stated that over a half of state aid for rescue and restructuring was awarded prior to the European Commission approval (State Aid Scoreboard 2006, p. 32).

State aid to rescue and restructure in the EU-15 was granted in 115 cases, which means the average value for each case at the level of € 135.2 million. The majority of decisions (89) were taken in the period 2000–2003 under the legislation from 1999 where there were special provisions to assess restructuring aid.

The larger part of aid was granted to financial services (€ 8 677 million) and this was mainly due to restructuring State aid for Bankgesellschaft Berlin amounting to € 8 496 million. The second sector in terms of the amount of restructuring aid is manufacturing sector, which was awarded the support in the amount of € 4 860 million (including € 1 291 million for Spanish shipyards and € 3 203 million for French enterprises). Transport was supported by € 895 million along with Italian aid for Alitalia which was € 611 million. The rest industries were awarded with € 1 115 million including the aid granted by Great Britain to energy sector (State Aid Scoreboard 2006, p. 34).

While comparing the share of restructuring aid within the total value of State aid for the years 2000–2005, there were achieved the following amounts: in Poland 45.3% of the overall value of aid granted in this period was intended to rescue and restructure, in the 15 EU states it accounted for 4.5% of the total aid granted at this time, while for the 25 states it is the share at the level of 6.2% of the total aid.

On the grounds of the above one can conclude that relatively much aid to rescue was granted by Poland and other states entering the European Union after 2000. However, there are a few decisive factors giving rise to such a conclusion. One of the most important is the fact that the average value of the overall State aid granted in the “old” EU states is higher than in Poland or in other states accessing the European Union after 2000. Attention should also be put to the fact that there were other restructuring needs in the states of the European Union in comparison with the post communistic states. These needs are much higher in Poland and other states entering the European Union than those ones in the “old” EU states.

#### 4. CONCLUSION

To conclude one must state that since the access to the framework of the EU Poland actively implements guidelines of the Lisbon Agenda in the scope of State aid. This is illustrated by the following indicators:

- decrease in the State aid value – the State aid value decreased from 28.6 billion PLN in 2003 to 4.8 billion PLN in 2005,
- decrease in the aid distorting competition, together with the aid to rescue and restructure – its share in the total value of state aid decreased from 77% in 2003 to 2% in 2005, and its value decreased from 4 165 million PLN in 2003 to 81.5 million PLN in 2005.

The falling value of State share granted in Poland with the parallel increase of the value of aid intended to horizontal objectives implies that Poland fulfils once again the guidelines of the European Union. This is proved by the rising amounts of aid granted for the development of small and medium-sized firms, the aid for employment, training, research and development. It also shows that the State aid granted in Poland is turning into the aid stimulating social and economic development (Report on State aid granted to enterprises in Poland in 2005 [2006], p. 31).

While analyzing the problem of restructuring State aid it is necessary to underline the specificity of Polish conditions compared with the states of Western Europe. Poland can be distinguished by a relatively high unemployment rate, the uncompleted process of restructuring, the weaknesses of small and medium –

sized firms, the need to secure resources for the state contribution to the realization of operational programmes which are co-financed from the European funds.

Moreover, the fact of the matter is that Poland is still at the beginning of its way to restructuring economy, while the "old" states of the European Union have already completed this process. It is proved by the high value of State aid in the UE by the end of the eighties, when it amounted to 2% of GDP (currently it accounts for 0.6% of GDP). It is also worth noting that the states of the EU-15, currently being in much more favourable situation than the remaining states, require these other states being in a worse position now than the EU-15 were several years ago, comply with the same rules they presently observe.

The need to continue and develop the restructuring processes of the Polish economy requires the use of State aid instruments. Time pressure in respect of economy restructuring and overcoming the distance between Poland (as well as other post – communistic countries) and the highly developed states of the European Union also requires a special look at the State aid in Poland.

Yet, the need to comply with requirements of the Lisbon Agenda will force Poland to use other State aid tools than those used so far in order to continue the restructuring process. It concerns mainly the support to research and development, environment, the development of small and medium-sized firms, energy objectives and training. It would be also necessary to withdraw from the supporting large entities and from aid for particular sectors. Taking into account, however, the size and the scope of State aid granted prior to the access to the European Union, it is to be concluded that a sufficient amount of measures have been transferred to support large entities of selected sectors. Therefore it is possible to realise the commitments of the European Council in respect of reorientation of State aid particularly with pro-developing measures.

One can state that the guidelines of the European Council in the scope of reducing State aid for restructuring do not present a threat for the possibilities of continuing the restructuring process. It is possible to use some other available tools of economic policy (including State aid) to complete effectively the restructuring process both at the level of individual enterprises and in respect of the whole economy.

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Elżbieta Maria Wrońska

## **POMOC PUBLICZNA PRZEZNACZONA NA RATOWANIE I RESTRUKTURYZACJĘ W POLSCE NA TLE UNII EUROPEJSKIEJ**

Pomoc publiczna stanowi jeden z instrumentów polityki państwa w gospodarce rynkowej. Pomocą publiczną jest przysporzenie korzyści finansowych ze środków publicznych, w sposób, który mógłby naruszać konkurencję. W zależności od przeznaczenia, rozróżnia się pomoc publiczną horyzontalną, sektorową i regionalną.

Założenia Strategii Lizbońskiej i zalecenia określonych przez Radę Europy wskazują na konieczność zredukowania rozmiarów pomocy, ze szczególnym uwzględnieniem pomocy zniekształcającej konkurencję, oraz prowadzenie bardziej przejrzystego systemu jej przyznawania.

W latach 2000-2005 łączna wartość pomocy publicznej w Polsce wyniosła 14,8 mld euro (79 mld zł), co daje wartość przeciętną na poziomie 2,5 mld euro (13,2 mld zł) rocznie. Wartość

pomocy przeznaczonej na ratowanie i restrukturyzację wyniosła 35,8 mld zł, co stanowi 45,3% łącznej wartości pomocy udzielonej w Polsce w tym okresie. Przeciętna wartość pomocy przeznaczonej na ratowanie i restrukturyzację wyniosła więc ok. 5,9 mld zł, tj. ok. 670 mln euro.

Łączna wartość pomocy publicznej w okresie 2000-2005 dla 15 krajów Unii Europejskiej wynosiła 348,3 mld euro, co w przeliczeniu na kraj oznacza to średnią na poziomie 3,9 mld euro rocznie. Dla UE – 15 łączna wartość pomocy na ratowanie i restrukturyzację wyniosła 15.548 mln euro. Oznacza to średnioroczny poziom przypadający na 1 kraj na poziomie 172,7 mln euro. Pomoc restrukturyzacyjna w 15 krajach UE stanowiła 4,5% łącznej wartości pomocy udzielonej w tym okresie

Analizując problematykę restrukturyzacyjnej pomocy publicznej zwrócić należy uwagę na specyfikę uwarunkowań Polski w porównaniu do krajów Europy Zachodniej. Polskę charakteryzuje relatywnie wysoka stopa bezrobocia, niedokończony proces restrukturyzacji, słabość strukturalna sektora małych i średnich przedsiębiorstw.

Dodatkowo podkreślić należy fakt, że Polska jest na początku drogi restrukturyzacji gospodarki, podczas gdy „stare” kraje Unii Europejskiej proces ten zakończyły. Odzwierciedlane jest to wysoką wartością pomocy publicznej w UE w końcu lat 80-tych, kiedy to sięgała ona 2% PKB (aktualnie stanowi 0,6% PKB). Zauważyć należy, że kraje UE-15, będąc aktualnie w dużo lepszej sytuacji niż pozostałe kraje, wymagają od pozostałych krajów, które znajdują się w gorszej sytuacji niż ta, w której się znajdowały one kilkanaście lat temu, wymagają stosowania zasad jakie same aktualnie stosują.

**Słowa kluczowe:** pomoc publiczna, strategia lizbońska, pomoc publiczna na ratowanie i restrukturyzację, przedsiębiorstwo zagrożone, środki wyrównawcze, notyfikacja przez Komisję Europejską.