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PURSUANCES AND CHALLENGES FOR STATE AID IN THE TIME OF CRISIS

Abstract. The State aid constitutes one of the instruments of the state policy. The State aid means winning financial benefits from the state resources in the way which might distort competition. The Lisbon 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 2000–2007 the total value of State aid in Poland amounted to € 20.2 billion, which gives an average level of € 2.5 billion per annum. The overall value of State aid in the period 2000–2007 for the 15 states of the European Union accounted for € 477.2 billion, which means an annual average level of € 3.9 billion per one state. The overall value of State aid in the period 2000–2007 for the 27 states of the European Union accounted for € 535.9 billion, giving an annual average level of € 2.5 billion per year per one state. It means that "new" member states have small influence on total State aid. It is also worth noting that the "old" countries of EU took advantage of State aid in the past (in the 80-ties and 90-ties).

Poland and other post-communistic states are 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 also worth noting that the states of the EU-15, currently being in a much more favourable situation than the remaining states. Yet the "old" States still expect of the "new", as they are in a worse position now than the EU-15 were several years ago, to comply with the same rules which are to be presently observed. 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.

It appears that financial crisis of 2007–2008 and accompanying slowdown in 2008 pose a new challenges for State aid policy of UE. It particularly refers to policy on rescue and restructuring. However, the current outcome shows that because of the crisis "old" member States have mostly benefited from the State aid so far. It should be noted that in Poland where there have no been significant need for State aid resulting from financial crisis, there are still needs for State aid due to other reasons (the uncompleted process of restructuring, the weaknesses of small and medium – sized firms).

Key words: State aid, Lisbon Strategy, financial crisis.

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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 liberalisation process. The problem got more exacerbated in the seventies of the 20th 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) and Art. 88 (93), and 89 (94) of the EC Treaty).

Under 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. 87 EC Treaty sets out some conditions under which this grant appears to be possible[1].

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[1] The EC Treaty states in Article No 87 1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or

Fairly soon the exceptions from the general prohibition on granting State aid turned into commonly followed standard (Misiąg F. [2005], p. 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 lobbing groups and the position of particular states rather than by the imperfections of the market mechanism (Misiąg F. [2005], p. 14–15).

The third stage of changes in the competition policy began in the late nineties of the 20th 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 M., McGowan L. [1998], p. 4). It was connected with the realisation of the Lisbon Agenda (2000) 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 (Karpińska-Mizielińska W., Smuga T. [2005]).

The Lisbon 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.

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threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market. 2. The following shall be compatible with the common market: (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned; (b) aid to make good the damage caused by natural disasters or exceptional occurrences; (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division. 3. The following may be considered to be compatible with the common market: (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment; (b) 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; (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest; (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest; (e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

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 (less and better targeted aid).

The European Commission has launched in June 2005 a comprehensive reform of State Aid rules and procedures under the title of State Aid Action Plan. It would aim to ensure that EC Treaty's state aid rules are better suited to encourage Member States to contribute to the Lisbon Strategy by focusing aid on improving the competitiveness of EU industry and creating sustainable jobs, on ensuring social and regional cohesion and improving public services. The process should be completed by 2009.

However, the level of aid is expected to rise in 2008 and next years due primarily to the banking crisis as well as a general downturn in the economy. Following the recent downturn in the economy, in particular the financial crisis, the State aid is likely to increase significantly for the year 2008 and even for the year 2009.

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 (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 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 2000 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). Such winning if to be regarded as the State aid should fulfill a few criteria (www.uokik.gov.pl/pl/pomoc-publiczna/l_kompetencje_prezesa_uokik_w_z and Vademecum Community Rules on State Aid http://ec.europa.eu/comm/ competition /state_aid):

– 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 E. [2001], pp. 31–35 and Czerwińska E. [2000], p. 1). Aid measures that satisfy all the criteria outlined above are in principle, incompatible wit the Common Market. However, EC Treaty specify a number of cases in which State aid could be considered acceptable, e.g.: aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment.

Community supervision of State aid is based on a system of ex ante authorization. Under this system, member States are required to inform the Commission of any plan to grant or alter State aid (individual aid and aid granted as a part of the aid scheme). Member States can not grant any State aid unless it has been notified and authorized by the Commission. However, in 1998 the council adopted regulations, which exempt certain categories of State aid from the requirement of prior notification and commission approval. At present, the Commission has adopted five block exemptions regulations. The block exemptions may refer to the support of employment, training, research and development, as well as aid for small and medium- sized enterprises. 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 (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). Such aid is also exempt from the obligation of notification to the European Commission.

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).

3. THE SCOPE OF STATE AID IN POLAND AND IN THE EUROPEAN UNION IN 2000–2007

The volume of State aid in Poland and in the European Union in the years 2000–2007 is presented in the table below.

Table 1. State aid value (€ bn)*

	2000	2001	2002	2003	2004	2005	2006	2007
Poland	2.1	1.5	1.0	6.4	3.1	1.9	2.4	1.8
UE-15	60.6	63.9	63.5	54.9	59.1	57.9	59.6	57.7
UE-27	66.3	68.8	71.6	67.4	66.9	64.1	66.0	64.8

* aid less railway

Source: http://ec.europa.eu/comm/competition/state_aid/scoreboard/indicators/ k1.html#data and State Aid Scoreboard, autumn 2008 update, Commission of the European Communities, Brussels, 17.11.2008, COM (2008) 751 final,

Total State aid granted by the member States stood at €65 bn in 2007. Germany granted in 2007 the most aid (€ 16.2 bn), followed by France (€ 9.8 bn), the United Kingdom (€ 6.2 bn), Spain (€ 5.4 bn) and Italy (€ 5.1 bn).

It is worth noting that in the years of 1992 – 1999 total value of State aid for UE-15 amounted to € 581.9 bn, while in the years of 2000–2007 amounted to € 477.2 bn. At the same time the total value of State aid for UE-27 in the years 2000–2007 amounted to € 535.9 bn. It means that:

1) the amount of total value of State aid for UE-15 is lower for the years 2000–2007 than for the years 1992–1999. It means that the “old” countries of

EU took in the past advantage of State aid and now is imposing on new UE members obeying new restrictive rules on granting State aid;

2) the amount of total value of State aid for UE-27 for the years 2000–2007 is lower than for the UE-15 in the 1992–1999 period. It means that "new" countries of UE are treated stricter than the "old" ones.

The value of State aid in the whole reviewed period 2000–2007 for the "old" states of the European Union accounted for € 477.2 billion, which means that its annual average is € 59.6 billion, and an annual average at the level of € 4.0 billion per state.

The overall value of State aid in the period 2000–2007 for the 27 states of the European Union accounted for € 535.9 billion, which means an annual average level of State aid granted in EU-27 amounted to € 66.9 billion, and per state it means an average at the level of € 2.5 billion per year.

It is important to note that the value of the annual average of State aid in EU – 15 per state is higher that the annual average of State aid granted in UE-27 in the reference years 2000–2007. The annual average of State aid in EU – 15 per state presents 160% of the average of State aid in UE-27 in the reviewed period.

In the period 2000–2007 the total value of State aid in Poland amounted to € 20.2 billion, which gives an average at the level of € 2.5 billion per annum. State aid above this average level was granted in Poland in the years 2003 and 2004. In the six years out of the eight years reviewed here, the value of aid granted did not exceed an annual average. In 2003 the value of aid significantly exceeded the average level. It was the consequence of realising the programme of restructuring coal mining sector. This aid was executed under the provisions of Act of 28 November 2003 on restructuring coal mining in the years 2003–2006. This aid was granted primarily in the form of tax remittance and other benefits. High level of State aid at this time was connected also with the execution of the provisions of the Act of 30 August 2002 on restructuring some of public and legal liabilities from enterprises and the Act of 30 October 2002 on State aid to enterprises of particular importance for job market.

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 annual average level of State aid awarded in Poland is similar in its value to an annual average of State aid per one state for EU-27. It is important to note that the value of the annual average of State aid in EU-15 per state is higher that the annual average of State aid granted in Poland in the reference years 2000–2007. The annual average of State aid in EU-15 per state presents 160% of the average of State aid in Poland in the reviewed period.

It seems necessary to illustrate State Aid in a relative perspective, i.e., in relation to GDP. The value of State aid in relation to GDP in the years 1992–2005 is presented in the table below.

Table 2. State aid* as percentage of GDP (%)

	2000	2001	2002	2003	2004	2005	2006	2007
Poland	1.0	0.6	0.4	3.0	1.4	0.8	0.9	0.6
UE-15	0.6	0.6	0.6	0.5	0.6	0.5	0,5	0,5
UE-27	0.6	0.6	0.6	0.6	0.6	0.6	0,6	0,5

* aid less railway

Source: http://ec.europa.eu/comm/competition/state_aid/scoreboard/indicators/k1.html#data and State Aid Scoreboard, autumn 2008 update, Commission of the European Communities, Brussels, 17.11.2008, COM (2006) 751 final.

Looking at the trend from long term perspective, the overall level of State aid in the 1980s for UE-15 was of 2% of GDP, fell to just below 1% in the 1990s and now stands at around 0.5%.

The decline in State aid expenditure can be explained in part by the work that began in the mid 1980s to make effective State aid control a key component of the Single Market Programme. It is also the result of a general recognition that a high volume of State aid not only hindered an efficient allocation of resources but also rendered economy as a whole less competitive. State aid was disciplined in 1990s and in 2000 due to Lisbon Council.

The average State aid share in relation to GDP in Poland in the period 2000–2007 accounted for 1.1%. State aid in relation to GDP was above this average level in the years 2003 and 2004. In the remaining six years out of the eight ones being reviewed the share of State aid in GDP did not exceed an average relation.

This evident downward trend of the relation of state aid value to GDP is in the line with the EC recommendations to reduce the amount of State aid and to decrease the share of State aid in GDP.

There is no big difference between the level of relation of State aid to GDP for UE-15 and UE-27. It means that twelve new countries are quite restrictive while granting State aid despite lower level of GDP.

The above table also shows that the level of State aid in relation to GDP in Poland as well as in the European Union in the reviewed period was lowered. It results from overlapping of two trends – the decrease of State aid and the increase of GDP value. The fall of State aid in relation to GDP has also other reason – pre-accession commitments of UE-12 and efforts after accession contributed in continuing to adjust their State aid policies and practices to the requirements under UE State aid law and policies.

The sharper fall in “State aid as percentage of GDP” indicator can be observed in Poland due largely to the hasing out of pre-accession measures and to the declining aid to the coal industry.

4. STATE AID – CHALLENGES FOR THE CRISIS TIME OF 2008

The crisis was initially triggered in mid 2007 by problems with sub-prime mortgage lending in the US that impacted heavily on other financial markets, leading to a loss of confidence between financial institutions and in particular to a freeze of interbank lending. In order to prevent insolvency of several banks, and potential contamination or negative spill over, Member States intervened with the adoption of the first rescue measures in favour of individual banks. The Commission tackled the individual cases during the first phase according to Article 87 (3) (c) of the EC Treaty and the *Community Guidelines on State aid for rescuing and restructuring firms in difficulty* (State Aid Scoreboard, Spring 2009 Update, Special Edition on State Aid Interventions in the Current Financial and Economic Crisis, Brussels, 08.04.2009, COM (2009) 164).

In autumn 2008, the deepening financial crisis increasingly affected the European financial sector. Several Member States began to set up general schemes in order to support the financial sector and to ensure financial stability. In October 2008, the Heads of State and Government agreed to implement national rescue packages for the European banking sector, with a view to safeguarding the stability of the sector, restoring the normal functioning of wholesale credit markets and underpinning the supply of credit to the real economy. In this context, on 13 October 2008 the Commission issued the Communication on the '*application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis*' (the 'Banking Communication'). In this Communication, the Commission sets out how Member States can best support financial institutions in the current financial crisis whilst respecting EU State aid rules and thus avoiding undue distortions of competition. In particular, the Commission guidance focused on State guarantees which had been widely announced by Member States at the time and which implied the danger of negative spill-overs in particular by attracting funds to 'first mover' states. In this context, Art 87 (3) (b) of the EC Treaty was considered to be an appropriate legal basis for State intervention. It stipulates that the Commission may allow State aid ‘to remedy a serious disturbance in the economy of a Member State’. Critically and to an unprecedented extent, by referring to Art 87 (3) (b) of the EC Treaty, the Commission acknowledged the exceptional circumstances and the systemic risks inherent to the financial crisis. The provision of Banking Communication allows for a flexible but controlled framework for aid to remedy the serious disturbance in the economy of a Member State and has been part of the State aid rules since the entry into force of the EEC Treaty in 1958. With one exception this provision has so far not been applied, not even during the recession phases in the 1970s and early 1980s.

Next, the Commission issued on 5 December 2008 the publication of a Communication on the '*Recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition*' (the 'Recapitalisation Communication'). While the Banking Communication already recognizes that recapitalisation is one of the key measures for restoring financial stability, the Recapitalisation Communication gives detailed guidance on the conditions under which specific forms of recapitalisation would be acceptable under State aid rules. Several national schemes and individual measures were assessed on this basis.

Lately, the Commission has issued on the 25 February 2009 the adoption of a Communication *on the Treatment of Impaired Assets in the Community Banking sector* (the "Impaired assets Communication"). The Communication took account of the recommendations of the ECB and has been discussed with Member States. It complements and refines the Banking Communication in relation to principles that must be followed by asset relief measures, in a similar vein as the recapitalisation communication detailed the application of the general principles to recapitalisation of banks.

Since the Commission adopted the Banking and Recapitalisation Communications, 23 schemes have been approved: 12 guarantee schemes, 5 recapitalisation schemes, 5 schemes combining several measures and one fund for the acquisition of financial assets (State Aid Scoreboard, Spring 2009 Update, Special Edition on State Aid Interventions in the Current Financial and Economic Crisis, Brussels, 08.04.2009, COM (2009) 164).

There are ten countries that adopted more than one measures: Denmark, France, Italy, Slovenia, Sweden, Germany, Greece, Hungary, Austria, United Kingdom. Among eighteen countries that took advantage of State aid there are only three Member States that entered European Union after 2000. At the same time there are only nine countries that didn't need to apply any measures of State aid in support of financial institution. Among them there are: Bulgaria, Czech Republic, Estonia, Cyprus, Lithuania, Malta, Poland, Romania, Slovakia. It is seen, that the most of measures are used by the "old" countries of EU.

The total approximate maximum volume of guarantees authorized by the Commission amounts to € 2.300 billion. The total volume of approved recapitalisation measures amounted to € 275 billion. In addition to the schemes approved under Banking and Recapitalisation Communication, some Member States have adopted ad hoc interventions in favour of individual financial institutions (rescue aid) amounting to a total volume of around € 400 billion.

Towards the end of 2008, the financial crisis has severely affected the real economy. Banks de-levereged and become much more risk-averse than in previous years. As a result, even healthy companies started to experience difficulties with access to credit. Some Member States reacted with State capital injection to financial institutions, not primarily to rescue them but rather to prevent credit supply restrictions and limit the pass-on of the financial markets' difficulties to the real economy. A serious downturn started to affect the wider economy and Member States announced national recovery plans to get their economies through the credit squeeze.

Indeed, most European economies are now 'officially' in recession (two consecutive quarters of negative growth). Europe is facing a period where consumer confidence, consumption and investment are shrinking sharply, households are under pressure and businesses' order books are down. The forecasts for the EU economy for 2009 are negative with rising unemployment across Europe.

In early November 2008, the European Union's Heads of State and Government agreed on the need for a coordinated response to the crisis. The Commission responded with the *European Economic Recovery Plan* a plan intended to contain the scale of the downturn, to stimulate demand and confidence, and to boost long-term competitiveness. It proposes a countercyclical macro-economic response to the crisis in the form of an ambitious set of actions to support the real economy. Some of the proposed measures include State aid. The challenge for the Community is to avoid public interventions which would undermine the objective of a level playing field for European companies and avoid protectionism disrupting the Internal Market.

As a result of the substantial modernisation of the State aid rules over the last years Member States currently dispose of an appropriate framework to better target public support towards sustainable goals such as stimulating research, development and innovation, making risk capital available to SMEs and start-ups, training, regional development and environmental protection. In addition, Member States are now in a position to grant no less than 26 different types of State aid without having to notify individual measures to the Commission and with minimum administrative burden. In the current economic situation Member States will probably use these possibilities to the full.

However, in view of the dimension of the crisis and the difficulties to find credit faced by all type of companies (SMEs and large companies), the Commission adopted the *Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis* (the 'Temporary Framework'*)* granting Member States additional ways to deliver finance to enterprises affected by the credit squeeze.

These additional possibilities are justified to remedy a serious disturbance in the economy and may be declared compatible with the common market on the basis of Article 87 (3) (b) of the EC Treaty.

The temporary measures are applicable until the end of 2010 and pursue two objectives (State Aid Scoreboard, Spring 2009 Update, Special Edition on State Aid Interventions in the Current Financial and Economic Crisis, Brussels, 08.04.2009, COM (2009) 164):

– to unblock bank lending to companies and thereby guarantee continuity in their access to finance; and

– to encourage companies to continue investing in the future, in particular in a sustainable growth economy including the development of green products.

The Commission has ensured swift decisions in cases where the notifications were complete and the conditions of the Temporary Framework respected. So far, the Commission has authorized 24 measures under the Temporary Framework:

– 8 schemes for aid up to € 500,000 per company proposed by Germany, France, Latvia, Luxembourg, Hungary, Portugal, the United Kingdom and Austria;

– 4 schemes for subsidized loan interests in Germany, Hungary and France;

– 3 risk-capital schemes in Germany, France and Austria;

– 3 schemes offering reduced interest loans to businesses investing in the production of green products in France, the United Kingdom and Spain;

– 6 guarantee measures in Belgium, Germany, France, Luxembourg, Hungary and the United Kingdom.

Regarding the aid instruments chosen in the aid measures, all intervening Member States except Belgium, Spain and Portugal selected multiple instruments, e.g. grants, interest subsidies, loans and guarantees.

Among ten countries that took advantage of State aid there are only two Member States that entered European Union after 2000. It is seen, that the most of measures are used by the "old" countries of EU. At the same time there are seventeen countries that didn't need to apply any measures of State aid in support of real economy. Among them there is Poland.

5. CONCLUSIONS

It is worth noting that the amount of total value of State aid for UE-15 is lower for the years 2000–2007 than for the years 1992–1999. It means that the "old" countries of EU took in the past advantage of State aid and now is imposing on new UE members obeying new restrictive rules on granting State aid. The amount of total value of State aid for UE-27 for the years 2000–2007 is lower than for the UE-15 in the 1992–1999 period. It also means that "new" countries of UE are treated stricter than the "old" ones.

It is important to point out that in the whole reviewed period 2000–2007 the value of the annual average of State aid in EU-15 per state is higher that the annual average of State aid granted in UE-27 in the reference years 2000–2007. The annual average of State aid in EU-15 per state presents 160% of the average of State aid in UE-27 in the reviewed period. The annual average level of State aid awarded in Poland is similar in its value to an annual average of State aid per one state for EU-27.

Looking at the trend from long term perspective, the overall level of State aid in the 1980s for UE-15 was of 2% of GDP, fell to just below 1% in the 1990s and now stands at around 0,5%. There is no big difference between the level of relation of State aid to GDP for UE-15 and UE-27. It means that twelve new countries are quite restrictive while granting State aid despite lower level of GDP.

The crisis was initially triggered in mid 2007 by problems with sub-prime mortgage lending in the US that impacted heavily on other financial markets, leading to a loss of confidence between financial institutions and in particular to a freeze of interbank lending. In order to prevent insolvency of several banks, and potential contamination or negative spill over Commission approached the resolution of the financial crisis in three steps: the 'banking Communication' adopted on October 2008 provided European framework to allow rescue operations in order to stop runs on financial institutions. In second step, the 'Recapitalisation Communication' of December 2008 identified set of standards and safeguards allowing Member States to recapitalise banks in order to ensure adequate levels of lending to the economy. The third step is the publication of the 'Impaired Assets Communication' of February 2009 providing the framework with regard to restoring confidence in the financial sector and the economy as a whole.

Since the Commission adopted the Banking and Recapitalisation Communications, 23 schemes have been approved: 12 guarantee schemes, 5 recapitalisation schemes, 5 schemes combining several measures and one fund for the acquisition of financial assets. But the most of measures are used by the "old" countries of EU.

Towards the end of 2008, the financial crisis has severely affected the real economy. The Commission adopted the *Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis* (the 'Temporary Framework'*)* granting Member States additional ways to deliver finance to enterprises affected by the credit squeeze. Among ten countries that took advantage of State aid there are only two Member States that entered European Union after 2000. It is seen, that the most of measures are used by the "old" countries of EU. At the same time there are seventeen countries that didn't need to apply any measures of State aid in support of real economy. Among them there is Poland.

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. However, it is also true that the situation in Poland with regard to the State aid is still considerably different from the situation in the European Union. 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.

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DOTYCHCZASOWE DOŚWIADCZENIA I WYZWANIA DLA POMOCY PUBLICZNEJ W CZASIE KRYZYSU

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

W latach 2000–2007 łączna wartość pomocy publicznej w Polsce wyniosła 20,2 mld euro, co daje wartość przeciętną na poziomie 2,5 mld euro rocznie. Łączna wartość pomocy publicznej w okresie 2000–2007 dla 15 krajów Unii Europejskiej wynosiła 477,2 mld euro, co w przeliczeniu na kraj oznacza średnią na poziomie 3,9 mld euro rocznie. Łączna wartość pomocy publicznej dla 27 krajów Unii Europejskiej wyniosła 535,9 mld euro, co w przeliczeniu na jeden kraj oznacza średnią roczną na poziomie 2,5 mld euro. Z powyższego wynika, że łączna wartość pomocy publicznej dla UE 27 stanowi 112% wartości pomocy publicznej UE 27. Oznacza to, że kraje nowe w UE oddziałują w niewielkim stopniu na pomoc publiczną ogółem. Należy też zwrócić uwagę, że kraje UE-15 dokonały restrukturyzacji swoich gospodarek w latach 80 i 90tych XX wieku.

Polska i inne kraje postkomunistyczne włączone w struktury UE są wciąż na początku drogi restrukturyzacji gospodarki, podczas gdy „stare" kraje Unii Europejskiej proces ten zakończyły. 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, stosowania zasad jakie same aktualnie stosują. Analizując problematykę 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.

Wydaje się, że kryzys finansowy lat 2007–2008 i wiążące się z tym spowolnienie gospodarcze w 2008 stawiają nowe wyzwania dla polityki Unii Europejskiej w zakresie pomocy publicznej, szczególnie tej przeznaczonej na ratowanie i restrukturyzację. Jednak dotychczasowe doświadczenia wskazują, że pomoc w związku z kryzysem została udzielona wyłącznie starym krajom UE. Należy zwrócić uwagę, że o ile w Polsce dotychczas nie było znaczących potrzeb pomocy w związku z kryzysem finansowym, jednak występują innego rodzaju potrzeby.

Słowa kluczowe: pomoc publiczna, Strategia Lizbońska, kryzys finansowy.