

ABSTRACT

This doctoral thesis examines the protection of the rights of legal entities affected by the granting of unlawful State aid through an analysis of the preventive mechanisms established under European Union law and the role of national authorities in ensuring compliance with competition rules.

The research is based on the premise that State aid is not intended solely to control public intervention in the economy, but also to protect economic operators affected by distortions of competition resulting from the granting of unauthorised selective advantages. The main objective of the thesis is to analyse the applicable legal framework, the protection mechanisms available to affected parties, and their effectiveness in the context of European Union law.

The first chapter explores the theoretical foundations of the research, presenting the genesis and evolution of the concept of State aid, the development of economic competition, and the role of competition law in a market economy. It examines the concepts necessary for identifying State aid, namely the relevant market, competition, and competition law, highlighting the relationship between these notions and the legal regime governing State aid.

The chapter underlines that the definition of the relevant market is not merely an economic analytical tool but also an essential criterion for identifying parties affected by the granting of a selective advantage. Furthermore, it analyses the concept of unlawful State aid and identifies the categories of economic operators likely to be harmed by measures incompatible with European Union competition rules. The chapter demonstrates that State aid must be assessed in close connection with the objectives of competition law, since any selective State intervention may influence market structure and the position of competitors.

The second chapter is devoted to the legal framework of State aid under European Union law. It examines the constituent elements of State aid within the meaning of Article 107(1) TFEU, namely the use of State resources, the granting of an economic advantage, the selective nature of the measure, and its potential to distort competition and affect trade between Member States. The research highlights the central role of the European Commission in State aid control and analyses the notification, authorisation and investigation procedures provided for under Article 108 TFEU. The chapter presents the main categories of aid compatible with the internal market, including regional

aid, aid for small and medium-sized enterprises, aid for research and innovation, as well as rescue and restructuring aid.

The analysis demonstrates that the State aid regime seeks to maintain a balance between public interest objectives and the need to safeguard effective competition within the internal market. It also highlights the criteria used by the European Commission in assessing the compatibility of aid measures and the limits within which Member States may intervene in the economy without affecting competition.

The third chapter analyses unlawful State aid and the protection mechanisms available to affected parties. Particular attention is paid to the prior notification obligation and the standstill effect, which prohibits the implementation of aid before its authorisation by the European Commission. The chapter examines the *de minimis* regime as an exception to the notification requirement, the principle of sincere cooperation between Member States and European Union institutions, and the obligation to recover aid granted in breach of European Union rules. The research demonstrates that a breach of the notification obligation produces immediate legal effects and activates a set of remedies that may be invoked by affected parties before national courts, a situation frequently encountered in practice.

The chapter also analyses the legal concepts forming this framework, namely the limits of the recovery obligation, including the principles of legal certainty, protection of legitimate expectations, absolute impossibility of recovery, and limitation periods. It concludes that European Union law provides a coherent set of mechanisms aimed at restoring competitive balance and preventing the consolidation of advantages granted in breach of State aid rules.

The fourth chapter is dedicated to the role of national courts in applying State aid rules and ensuring the effective protection of affected parties. The analysis demonstrates that national courts do not perform a merely subsidiary function in relation to the European Commission but exercise autonomous and direct powers in guaranteeing compliance with Article 108(3) TFEU.

National courts may suspend the implementation of unlawful measures, order the recovery of aid, require beneficiaries to pay interest and, where appropriate, award damages to injured parties. The chapter examines the principles of procedural autonomy, equivalence and effectiveness, the preliminary reference procedure, the principle of *res judicata*, and the role of the private investor test in assessing the existence of an economic advantage and, consequently, the existence of unlawful State aid.

The chapter highlights that the effective protection of affected parties depends to a large extent on the ability of national courts to intervene promptly and efficiently in order to restore competitive balance. The research shows that national courts are genuine guarantors of the effectiveness of European Union law, being called upon to ensure the immediate application of the obligations arising from Articles 107 and 108 TFEU.

The fifth chapter analyses significant State aid cases in Romania during the period 2020–2025. The research draws upon both the practice of the European Commission and the case law of the European Union Courts through representative case studies involving Blue Air, CFR Marfă, the National Uranium Company and TAROM, each illustrating distinct legal particularities.

The analysis of the Blue Air case highlights the dynamic nature of State aid compatibility and the importance of maintaining over time the conditions that justified the authorisation of the measure. The CFR Marfă case study demonstrates that an economic advantage may result from a succession of apparently distinct interventions which, when assessed together, lead to a distortion of competition. With regard to the National Uranium Company and TAROM, the research reveals the difficulties encountered by the State in justifying public interventions in sectors considered strategic and emphasises the strict requirements imposed by European Union law concerning the compatibility of rescue and restructuring aid.

The analysis of these cases confirms that the principal vulnerabilities of State intervention do not necessarily derive from the absence of an initial justification but rather from the inability to maintain over time the conditions that underpinned the compatibility of the measure. Moreover, the case studies demonstrate the active role played by competitors in initiating and shaping State aid control procedures.

The fundamental conclusion of the research from six chapter is that legal entities affected by unlawful State aid are genuine holders of a legally protected interest under European Union law. Their protection is not merely a secondary consequence of the control exercised by the European Commission but an essential component of the system established by Articles 107–109 TFEU.

The research demonstrates that the effectiveness of State aid rules depends not only on the intervention of the European Commission but also on the capacity of national courts and national authorities to ensure compliance with procedural obligations and to provide effective remedies to affected parties.

From the perspective of its original contributions, the thesis proposes an integrated approach to the concept of unlawful State aid, analysing it simultaneously as a procedural, economic and judicial phenomenon. The thesis highlights the legal function of the relevant market in identifying affected parties and develops a methodology that correlates the analysis of selective advantage, the definition of the relevant market and the choice of appropriate remedies.

Furthermore, the research reassesses the role of national courts within the architecture of State aid law and demonstrates that they are central actors in ensuring both the protection of competition and the effectiveness of European Union law.

From a *de lege ferenda* perspective, the thesis supports strengthening the preventive dimension of State aid control through the introduction of mandatory ex ante assessment mechanisms for measures liable to constitute State aid, enhancing the powers of the Romanian Competition Council, developing early consultation procedures with the European Commission and strengthening the judicial protection of affected parties.

The thesis also proposes accelerated judicial procedures for State aid litigation, clarification of the compensation regime applicable to injured parties and the development of specialised judicial structures in the fields of competition law and State aid.

In conclusion, the research confirms the fundamental hypothesis that the protection of legal entities affected by unlawful State aid constitutes an intrinsic component of the State aid discipline. European Union law protects not only the abstract functioning of the internal market but also the concrete legal positions of economic operators exposed to selective distortions of competition.

The effectiveness of this system depends on cooperation between European Union institutions, national authorities and courts, as well as on the existence of prompt and effective remedies capable of preventing the consolidation in the market of advantages granted in breach of European Union law.

Accordingly, the thesis demonstrates that State aid law must be understood simultaneously as a mechanism for controlling public intervention, an instrument for protecting competition and a guarantee of the rights and legitimate interests of economic operators affected by the granting of unlawful selective advantages.

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