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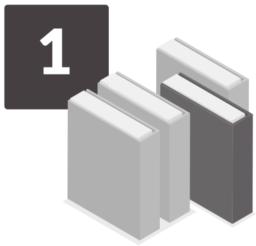

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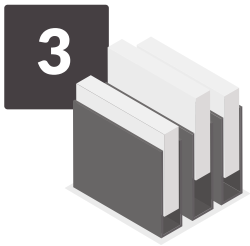

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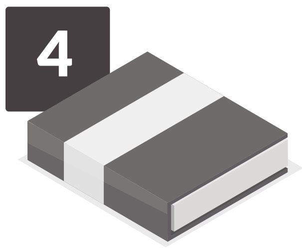

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facultas Universitätsverlag, 1050 Wien, Österreich

Druck: Facultas Verlags- und Buchhandels AG
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ISBN: 9783990710845

Vorwort

Mit dem Werk FlexLex „EU-Beihilferecht" soll Theorie- und Praxiswissen im Beihilferecht vereint werden. In das Werk fließen nicht nur die jahrelangen Erfahrungen als Universitätsassistent am Institut für Unternehmensrecht und Internationales Wirtschaftsrecht an der Karl-Franzens-Universität in Graz, sondern auch profundes Praxiswissen im EU-Beihilferecht. FlexLex „EU-Beihilferecht" soll Theoretiker und Praktiker in Rechts- und Wirtschaftsberufen bei der täglichen Anwendung beihilferechtlicher Vorschriften gezielt unterstützen.

Das EU-Beihilferecht gestaltet sich als eine komplexe, weitgreifende Materie, die von einer Flut an Rechtsnormen geprägt ist. Diese Normenflut resultiert zum größten Teil aus zahlreichen Bekanntmachungen, Mitteilungen und Leitlinien der Europäischen Kommission. Hinzu kommt die Rechtsprechung des Europäischen Gerichtshofs. FlexLex „Beihilferecht" soll den Rechtsanwender dabei unterstützen, sich durch den „Normendschungel" des Beihilferechts zu arbeiten.

Die erste Auflage des FlexLex „Beihilferecht" beinhaltet neben den verfahrensrechtlichen Vorschriften (Verf-VO, Verf-DVO) zahlreiche materielle Rechtsvorschriften wie die Allgemeine Gruppenfreistellungs-Verordnung (AGVO), das DAWI-Paket, die De-minimis-Regelungen sowie ausgewählte Bekanntmachungen, Leitlinien und Mitteilungen der Kommission. Aus aktuellem Anlass wurde auch der Befristete Rahmen für staatliche Beihilfen zur Stützung der Wirtschaft angesichts des derzeitigen Ausbruchs von COVID-19 („COVID-19") einschließlich der letzten drei Änderungen dieser Mitteilung in die Normenauswahl mitaufgenommen. An dieser Stelle gilt mein Dank der Generaldirektion Wettbewerb, die durch die Erteilung der Abdruckgenehmigung die Aufnahme des jährlichen State Aid Scoreboards möglich gemacht hat. Die erste Auflage des FlexLex „EU-Beihilferecht" bildet insgesamt den Stand 16.7.2020 ab.

Vereinzelt wird den Leitlinien bzw. Mitteilungen der Europäischen Kommission ein Inhaltsverzeichnis vorangestellt. Nicht alle Mitteilungen bzw. Leitlinien enthalten eine solche Übersicht. Aus diesem Grund wurden die Mitteilungen bzw. Leitlinien zu Beginn mit einer eigens gestalteten Übersicht versehen, um dem Rechtsanwender einen Überblick über die Struktur der jeweiligen Rechtsquelle zu geben. Durch die individuelle Gestaltung der Inhaltsverzeichnisse soll dem Leser ein bestmöglicher Überblick über den Aufbau der jeweiligen Mitteilungen bzw. Leitlinien verschafft werden. Die Gestaltung der Inhaltsverzeichnisse kann daher von den originalen Inhaltsverzeichnissen der Kommission abweichen.

Kürzlich wurden von der Kommission die Verlängerung der EU-Beihilfevorschriften und die gezielten Anpassungen zur Abfederung der Auswirkungen des COVID-19-Ausbruchs verlautbart.[1]

„*Wie in den vor Kurzem angenommenen Mitteilungen über einen europäischen Grünen Deal und die europäische Industriestrategie angekündigt, bereitet die Kommission derzeit eine etwaige Aktualisierung der Beihilfevorschriften im Rahmen der laufenden „Eignungsprüfung" und der laufenden Bewertung und künftigen Überarbeitung bestimmter Beihilfevorschriften vor. Im Interesse der Planungs- und Rechtssicherheit hat sie deshalb beschlossen, die folgenden EU-Beihilfevorschriften, die andernfalls Ende 2020 auslaufen würden, zu verlängern.*" (*Kommission*, Presseaussendung vom 2.7.2020)

<u>Bis 2021 wurden verlängert:</u> Leitlinien für Regionalbeihilfen 2014-2020, die Risikokapitalleitlinien, die Umweltschutzleitlinien, die IPCEI-Mitteilung und die Mitteilung zur Anwendung der Artikel 107 und 108 des Vertrags über die Arbeitsweise der Europäischen Union auf die kurzfristige Exportkreditversicherung.

<u>Bis 2023 wurden verlängert:</u> die AGVO, De-minimis-VO und die Rettungs- und Umstrukturierungsleitlinien.

Aus aktuellem Anlass wurde die Mitteilung der Kommission vom 2.7.2020 über die Verlängerung und Änderung zahlreicher Leitlinien,[2] („*Änderungs-Mitteilung 2020*") in die Sammlung mitaufgenommen. Jene Änderungen, die mit der Änderungs-Mitteilung 2020 verbunden sind, haben dabei bereits in die entsprechenden Mitteilungen und Leitlinien Eingang gefunden und wurden in grauer Schattierung als Änderungen kenntlich gemacht.

Durch die mittlerweile dritte Änderung des Befristeten Rahmens für staatliche Beihilfen zur Stützung der Wirtschaft angesichts des derzeitigen Ausbruchs von COVID-19 kommt es zu einer gewissen Unübersichtlichkeit. Aus diesem Grund wurde eine konsolidierte Fassung der COVID-19-Mitteilung erstellt,

[1] https://ec.europa.eu/commission/presscorner/detail/de/IP_20_1247.
[2] C(2020) 4355 final.

die sämtliche Änderungen für den Leser farblich aufbereitet darstellt und somit zur besseren Lesbarkeit der COVID-19-Mitteilung beitragen soll. In diesem Zusammenhang ist auf die unterschiedlichen Geltungsdaten der COVID-19-Änderungen besonders hinzuweisen (vgl. die Fußnoten der konsolidierten Fassung der COVID-19-Mitteilung). Die entsprechenden Änderungen und Anpassungen mit Stand 7.7.2020 konnten in der ersten Auflage noch berücksichtigt werden.

Für die erste Auflage des FlexLex „Beihilfenrecht“ bedanke ich mich herzlichst für die hervorragende Zusammenarbeit bei Frau *Mag.ª Paulina Scheiring, BA* sowie bei Herrn *Peter Wittmann* vom Verlag Facultas.

Für Verbesserungsvorschläge bin ich sehr dankbar. Sie erreichen mich unter koelbl.ch@gmail.com

Linz, am 16.7.2020 *Mag. iur. Christoph Kölbl*

European Commission

State aid Scoreboard 2019

Competition

1. State Aid Scoreboard 2019

EUROPEAN COMMISSION
DG Competition

Policy and Strategy
State aid Policy and Strategy

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1. State Aid Scoreboard 2019

Executive Summary

State aid expenditure has kept increasing in 2018 – According to the national expenditure reports for 2018, State aid spending increased in 2018, both in absolute amounts and relative to GDP, excluding aid to agriculture, fisheries and railways. Member States spent 120.9 billion EUR, i.e. 0.76% of GDP, on State aid at European Union level, an increase of about 0.01 p.p. of GDP compared to 2017. In nominal terms, this represents an increase of about 4.3% compared to 2017 expenditure (+ 5 billion EUR).

State aid finances objectives of common European interest - About 55% of total spending (66.5 billion EUR), excluding aid to agriculture, fisheries and railways, was attributed to State aid to environmental and energy savings. For all other objectives, Member States spent about 54.4 billion EUR, i.e. 0.34% of GDP, on State aid at European Union level. Research, development and innovation and regional development represent around 9% of total spending each (11.3 and 10.6 billion EUR respectively), while sectoral development represents 7% (8.4 billion EUR).

Direct grants are still the preferred State aid instrument - Direct grants are still by far the most popular aid instrument in 2018, representing 60.5% of total expenditure, and even grew increasingly popular over time (it was 51% in 2009 and 53% in 2013). In 2018, tax exemptions/reductions/deferrals represented a lower share of total spending (31.8% of total expenditure) than in the past (2009, 39.2% and 2013, 35.0%).

Co-financed projects - Compared to 2017, total spending on co-financed projects slightly increased from about 12.5 billion EUR to about 13.3 billion EUR in 2018, thus registering a 800 million EUR (+7%) increase. On the contrary, spending on co-financed projects decreased substantially in Poland (-1.6 billion EUR) and Hungary (-583 million EUR). These findings reflect the State of implementation of the European Structural and Investment Funds (ESIF) 2014-2020[1]. Having allocated most of their available funds under the 2014-2020 Multiannual Financial Framework (MFF) in previous years, these Member States are now reducing their co-financed expenditure.

Railways - Subsidies to the rail sector tend to be stable and show an increasing trend in the last 3 years, reaching 50 billion EUR in 2018. On average, infrastructure aid represents slightly more than half of all subsidies to railways.

Aid to the financial sector, agriculture and fisheries – Both the State aid approved and used in the financial sector have further decreased in 2018 compared to previous years. State aid to agriculture has diminished by approximately one third, from 9 billion EUR in 2014 to slightly more than 6 billion EUR in 2018. State aid to the fisheries and aquaculture sector remained stable between 2014 and 2018 at around 40 million EUR.

State aid schemes are highly heterogeneous in terms of expenditure – The State aid measures currently in force are very heterogeneous in terms of expenditure. In total, 20 schemes have reported expenditure above 1 billion EUR in 2018, while 155 are above 100 million EUR. For this reason, the 2019 Scoreboard pays particular attention to the largest State Aid schemes in terms of expenditure and displays data at the scheme level. In particular, one single measure accounts for 28.9 billion EUR expenditure in 2018, i.e. one fifth of the total 2018 State aid expenditure[2].

Has the State Aid Modernisation (SAM) reached its objectives? – The 2019 Scoreboard has assessed the implementation of SAM in practice, and its impact on State aid spending, with the following main results:

- **GBER uptake is steady, but has not yet reached its full potential –** As observed in previous Scoreboards, Member States are increasingly using GBER. 1666 new GBER measures were implemented in 2018, corresponding to 94.7% of the new State aid measures. Leaving aside the largest State aid scheme, the share of GBER in State aid spending (49% and 45.0 billion EUR) is at a comparable level as

[1] https://cohesiondata.ec.europa.eu/overview
[2] Excluding aid to agriculture, fisheries and railways.

spending for notified schemes (51% and 46.8 billion EUR) in 2018[3]. Moreover, by now Member States are implementing large GBER schemes for a wide variety of objectives.

- **Does DG COMP case practice focus on the potentially most distortive aid measures? –** As a result of SAM, the median budget size of notified measures has increased from around 12 million EUR to more than 17.5 million EUR in 2018. Actual spending under notified measures almost doubled since 2014. SAM has therefore allowed the Commission to focus its attention on larger schemes.

- **Has SAM enabled faster decisions? –** Due to the large GBER uptake, State aid measures can be processed much more rapidly, since an increasing share of measures under GBER do not require any decision from the Commission before being implemented.

- **How has State aid spending capacity evolved in the EU?** – Overall, Member States' State aid spending capacity has increased in the last five years. All Member States that were spending below EU average five years ago, mostly EU13 or Member States seriously affected by the European sovereign debt crisis, are catching up. Some of the largest and wealthiest Member States, which were spending above EU average in 2013, have further increased their spending capacity. Only a few smaller Member States have decreased their spending capacity.

- **To which extent has SAM contributed to foster public investment for the protection of the environment and the transition towards renewable energy sources? –** State aid spending for environmental and energy aid corresponded to 55% of total State aid spending in 2018. Environmental protection and energy savings is the prime objective in 20 Member States. However, expenditure still remains highly concentrated in only 5 Member States (79.7%). Moreover, the largest State aid measure spent around 130.8 billion EUR between 2014 and 2018, corresponding to 48% of the total EU State aid expenditure for environmental and energy savings in the same period. Without the largest scheme, the share of spending under block-exempted measures for this objectives corresponds to around 40% of the total.

[3] Excluding aid to railways, agricultural aid and fisheries.

1. Introduction

The Single Market is one of Europe's major achievements and its best asset in times of increasing globalisation, with its 24.5 million small, medium-sized and large companies competing to serve 500 million consumers. This vibrant internal market contributes to the competiveness of EU industry and sustainable development of the European economy based on competitive social market values.

Competition is a prerequisite to reap the benefits of the Single Market, to ensure equity and a level playing field among the companies operating in the EU. Healthy competition gives companies incentives to innovate, enter new markets and improve efficiency. This brings greater choice and lower prices for consumers. It also makes European firms more competitive on the world stage. On the contrary, favouring some firms to the detriment of others might create inefficiencies by letting less efficient companies survive or even expand at the expense of the more efficient.

A company which receives government support through State aid gains a competitive advantage over the other players in the market. State aid is an advantage conferred on a selective basis to undertakings by national public authorities. This is why the Treaty on the Functioning of the EU generally prohibits State aid unless it is justified by the EU common interest. To ensure that this prohibition is respected and exemptions are applied equally across the European Union, the European Commission is in charge of ensuring that State aid implemented by Member States complies with EU competition rules.

In some circumstances, government interventions are necessary for a well-functioning and equitable economy. Therefore, the Treaty leaves room for a number of policy objectives for which State aid can be considered compatible. State aid control therefore does not prevent Member State governments from supporting businesses. State aid control ensures that any detriment arising from distortions of competition is outweighed by the public purpose pursued by the aid. It also ensures an efficient use of taxpayers' money while maximising available resources from limited national budgets which need to target many essential purposes, such as education, health, national security or social protection. Moreover, by steering public aid towards objectives of common interest that otherwise would not be realised (e.g. R&D&I, major infrastructure projects, investment in renewable energy), State aid control helps ensure benefits for society and minimise distortions of competition.

Over the past half-century, a large body of secondary legislation and guidelines has developed in order to give practical application to these fundamental principles. The rules have evolved to keep pace with economic and technological change, with the emergence of new political priorities (such as increased emphasis on the protection of the environment) and new developments in economic theory. Consequently, EU State aid policy has undergone a number of important changes in recent years.

In particular, since 2013, the Commission has implemented a major reform package, the **State aid Modernisation (SAM)**[4]. The objectives of the State aid Modernisation were threefold: 1) to foster sustainable, smart and inclusive growth in a competitive internal market; 2) to focus the Commission's ex-ante scrutiny on cases with the biggest potential impact on the internal market, and 3) to streamline the rules and provide for faster decisions. One of the key components of SAM is the wider number of categories which fall under the **General Block Exemption Regulation (GBER)**[5] and hence for which aid can therefore be granted without prior notification and approval by the Commission, provided that certain conditions are met. More than 94% of new State aid measures are now implemented by Member States without the need for such prior approval.

[4] On 8 May 2012, the Commission set out an ambitious State aid reform programme in the Communication on State aid modernisation (COM/2012/0209).

[5] Commission Regulation (EU) N°651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187 26.6.2014, p. 1), amended by Commission Regulation (EU) 2017/1084 of 14 June 2017 (OJ L 156, 20.6.2017, p. 1–18)

At the same time, measures that might seriously harm competition or fragment the Single Market are subject to more careful scrutiny, and a number of new control mechanisms have been introduced, in particular **transparency requirements, the ex-post evaluation** of State aid schemes and **increased monitoring.**

Therefore, the post-SAM State aid control should facilitate the treatment of aid which is well-designed, targeted at identified market failures and objectives of common interest, and least distortive ("good aid"). This should ensure that public support stimulates innovation, green technologies, human capital development, avoids environmental harm and ultimately promotes growth, employment and EU competitiveness. In a nutshell, **with the implementation of the State Aid Modernisation,** State aid control should have become lighter and smarter.

On 7 January 2019, the Commission launched the “fitness check”, an evaluation of the rules adopted during the State aid Modernisation, in line with the Commission's Better Regulation Guidelines[6].

The effects of State aid modernisation have only recently started to be tangible. Therefore, **this 2019 edition of the Scoreboard focuses on assessing the impact of SAM on State Aid spending, to inform future decision making in light of the ongoing evaluation of the rules**.

1.1. What is the State aid Scoreboard?

Context – Under Article 6 of Commission Regulation (EC) 794/2004, the European Commission must publish, annually, a State aid synopsis ("State aid Scoreboard" or “Scoreboard”) based on the expenditure reports provided by Member States[7].

Objective – The Scoreboard is the European Commission’s benchmarking instrument for State aid. It was launched by the Commission in July 2001 to provide a transparent and publicly accessible source of information on the overall State aid situation in the Member States and on the Commission's State aid control activities. Furthermore, the data in the report are used for further statistical analysis and represent an important source of information. Scoreboard data are also used by Member States and external stakeholders.

Apart from providing the aggregated information on State aid expenditure at the EU and national levels, the Scoreboard is a key component of the State aid monitoring toolbox for tracking and assessing the effects of the main past and ongoing policy developments in the State aid field. It gives the reader complementary information on the impact of recent developments in State aid policies and additional opportunities for analysis. It also highlights the role of State aid control in steering public aid towards objectives of common interest.

This 2019 edition includes a more detailed analysis of on the effects and progress of the State Aid Modernisation, based on three focus points:

- To what extent has the State aid Modernisation reached its objectives?
- How has State aid spending capacity evolved in the EU?
- To which extent has the State aid Modernisation contributed to foster public investment in the protection of the environment and the transition towards renewable energy sources?

Open data – The Scoreboard is supplemented by further information. The Annexes provide additional material (illustrative tables and charts) to allow a more informed reading of the

[6] https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en.

[7] Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004)

2019 Scoreboard results. **State aid expenditure data gathered by DG Competition is also available on its data repository webpage**[8].

1.2. What is the methodology of the State aid Scoreboard?

Scope – The Scoreboard contains primarily information about Member States' expenditure for all existing State aid measures in favour of industries and services (including agriculture and fisheries), for which the Commission has either adopted a formal decision or received a summary information sheet from the Member States for measures qualifying for exemption under the General Block Exemption Regulation (GBER).

Cases which are still under examination are excluded. General measures that do not favour certain enterprises or sectors, and public subsidies that do not affect trade or distort competition, are not covered by the Scoreboard as they are not subject to the Commission's investigative powers under the State aid rules or deemed not to constitute State aid[9]. Therefore, the data presented in the Scoreboard do not include funding granted under the *de minimis* rules[10].

Furthermore, State aid expenditure data presented in the Scoreboard exclude most of the aid to railways[11], services of general economic interest and schemes approved under the Temporary Framework (TF)[12], for which the corresponding legal bases impose limited reporting obligations on Member States. Railways and crisis aid to the financial sector are covered separately in Sections 3.6 and 3.7.

Data and methodology – The State Aid Scoreboard comprises aid expenditure made by Member States from 1.01.2009 to 31.12.2018 which falls under the scope of Article 107(1) TFEU. The data is based on the annual reporting by Member States pursuant to Article 6(1) of Commission Regulation (EC) 794/2004. **The accuracy of the data remains the responsibility of Member States**.

The actual data on State aid expenditure concerning previous years may differ from data previously published for the same year. Indeed, Member States may have replaced provisional figures or estimates from previous years by final actual expenditure, in particular, as regards expenditure in tax schemes.

State aid expenditures are presented in terms of **aid element** granted by the Member State to the recipient of the aid. The aid element does not represent the nominal amount spent by the public authority, but measures the economic advantage passed on to the undertaking. More detail on the methodology used in this Scoreboard is provided in Annex I.

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[8] https://webgate.ec.europa.eu/comp/redisstat/databrowser/explore/all/COMP_TOP?display=card&sort=category.

[9] Subsidies granted to individuals or general measures open to all enterprises are not covered by this definition since they do not constitute State aid.

[10] Commission Regulation (EC) N.1407/2013 (18.12.2013), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013, p. 9–17) and Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45–54)

[11] Subsidies to railways are excluded from the total State aid figures as they fall under Article 93 TFEU and corresponding regulations. They however appear in a dedicated table in the Scoreboard, together with data falling under Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (OJ L 354, 23.12.2016), which are reported on a voluntary basis by Member States.;

[12] SGEI package: European Union framework for State aid in the form of public service compensation (OJ C 8, 11.1.2012); Communication of the Commission — Temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis (Official Journal C6, 11.1.2011).

2. The State aid Modernisation (SAM) and its implementation

The State Aid Modernisation – Since May 2012, the Commission has implemented a major reform package, the State aid Modernisation (SAM).

One of the cornerstones of the reform is the revision of the General Block Exemption Regulation (GBER), which simplifies aid-granting procedures for Member States by empowering Member States to authorise aid without prior notification. This is possible for a wide range of measures fulfilling horizontal common interest objectives. Similar block-exemption regulations have been adopted in the agricultural sector (ABER[13]) and for fisheries (FIBER[14]). The SAM reform also modernised several State aid regulations and sectoral guidelines.

Due to the implementation of the new set of State aid rules, granting authorities in Member States have been given a much wider scope to design and implement aid measures. **At the same time, the Commission still plays its role as guardian of fair competition within the single market.** The post-SAM rules have been designed to strike a balance between wider scope for the Member States and proper compliance and smarter State aid control. **Therefore, a complete toolbox for smart and targeted State aid control striking the right balance between flexibility and responsibility is at the disposal of the European Commission**:

- **Transparency**[15]: since July 1st 2016, aid awards exceeding 500,000 EUR need to be published by Member States on the Transparency Award Module (TAM)[16] or a national or regional register. This aims to ensure discipline, public control and greater accountability;

- **Monitoring**: the European Commission has strengthened its ex-post controls of Member States' compliance with the GBER conditions;

- **Ex post evaluation of large schemes**[17]: the ex-post evaluation of certain large aid schemes is now required both under the General Block Exemption Regulation, when the scheme's annual aid budget exceeds 150 million EUR, and different State aid guidelines.

The Fitness check – A number of State aid rules adopted as part of the State Aid Modernisation are due to expire by the end of 2020. Others have no fixed expiry date.

In 7 January 2019, the Commission launched an evaluation of the State aid Modernisation rules as required by the Commission's Better Regulation requirements. This evaluation takes the form of a "fitness check"[18]. Its aim is to assess whether State aid rules are still "fit for purpose", taking into account the general SAM objectives, the specific objectives of the legal framework, the current and (already known) future challenges and whether the objectives of SAM have been met.

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[13] Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

[14] Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fisheries and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

[15] Article 9 and Annex III of GBER, the corresponding provisions of FIBER and ABER, and similar provisions in the related guidelines.

[16] https://webgate.ec.europa.eu/competition/transparency/public/search/home?lang=en

[17] Defined in Article 1(2) GBER and corresponding provisions in the State aid guidelines and Commission staff working document, Common methodology for State aid evaluation (SWD(2014) 179)

[18] The progress of the fitness check can be followed on the Better Regulation Portal: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6623981_en.

1. State Aid Scoreboard 2019

The fitness check covers the General Block Exemption Regulation (GBER), *de minimis* Regulation, the Regional aid Guidelines, the Research, Development and Innovation (RDI) Framework, the Communication on State aid for important projects of common European interest (IPCEI), Risk finance, the Airport and aviation Guidelines, the Energy and Environmental Aid Guidelines (EEAG), the Rescue and restructuring Guidelines, but also the Railways Guidelines[19] and the Short-term export-credit Communication[20] (the latter not part of the 2012 SAM package).

In addition to the results of a stakeholder consultation, the "fitness check" will take account of evidence gathered via studies, monitoring results, evaluation reports, the Commission's extensive case practice and internal statistics. As a key element of the State aid control toolbox, **the Scoreboard provides key insights on the impact of the implementation of the SAM reform to feed into the possible future revision of the State aid rules**.

Pending the conclusion of the fitness check, the validity of the current State aid rules will be prolonged.

[19] Community guidelines on State aid for railway undertakings (2008/C 184/07).

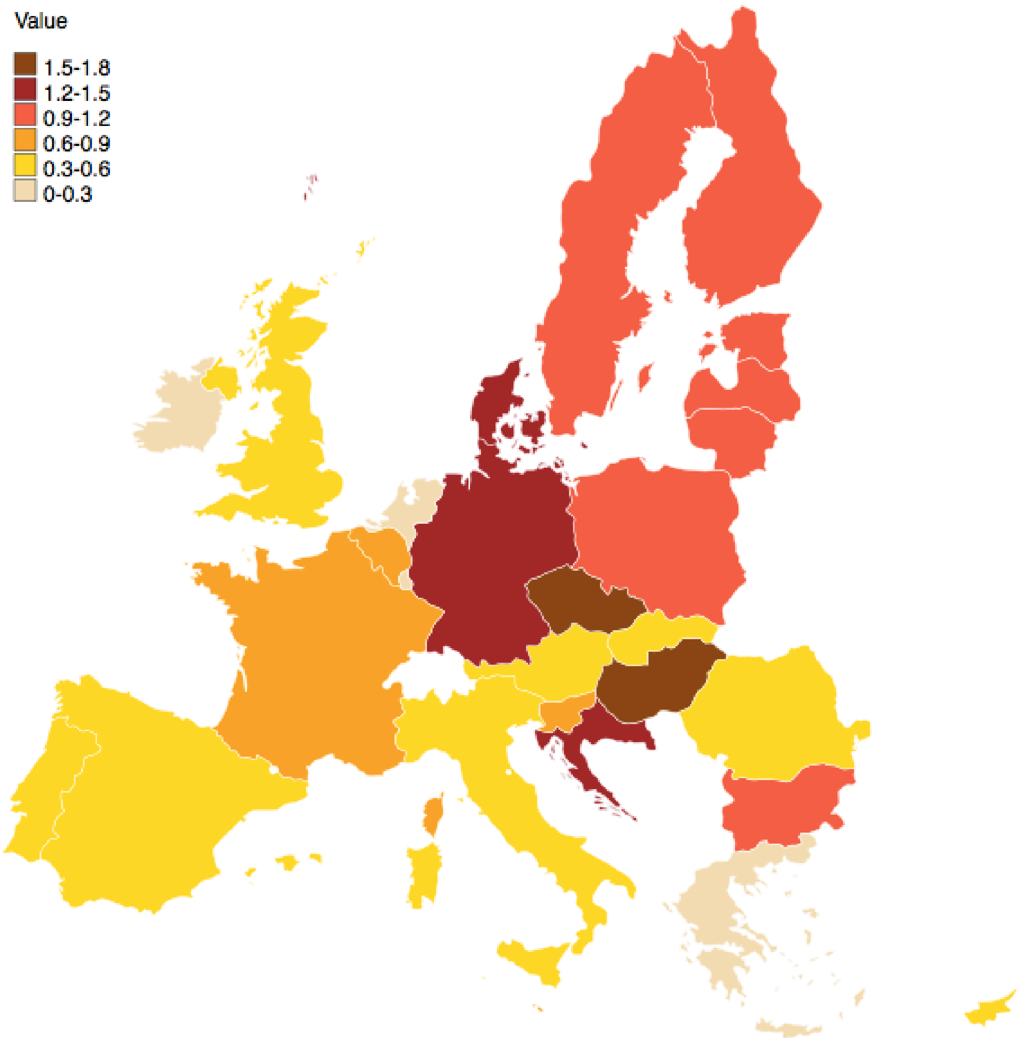
[20] Communication from the Commission to the Member State on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (2012/C 392/01).

3. Overall trends of State aid expenditure

3.1. Total State aid expenditure has kept increasing in 2018

According to the national expenditure reports for 2018[21], Member States spent **120.9 billion EUR**, i.e. **0.76% of GDP**, on State aid at European Union level, excluding aid to agriculture, fisheries and railways. This amount represents a nominal increase of about 4.3% compared to 2017 expenditure (**+5 billion EUR**) and an increase of about 0.01 p.p. of GDP in relative terms. Looking at the distribution of State aid expenditure at the Member State level as a share of national GDP (Figure 1), there is a large variety across Member States. The Member States spending most, spend around 1.5-1.8 percent of their national GDP (notably, Czechia and Hungary), while the Member States spending least, spend around 0.16-0.3 percent of GDP (notably, Ireland, Luxembourg, Greece and the Netherlands).

Figure 1: Total State Aid expenditure, excluding aid to agriculture, fisheries and railways, as % of national GDP by Member State

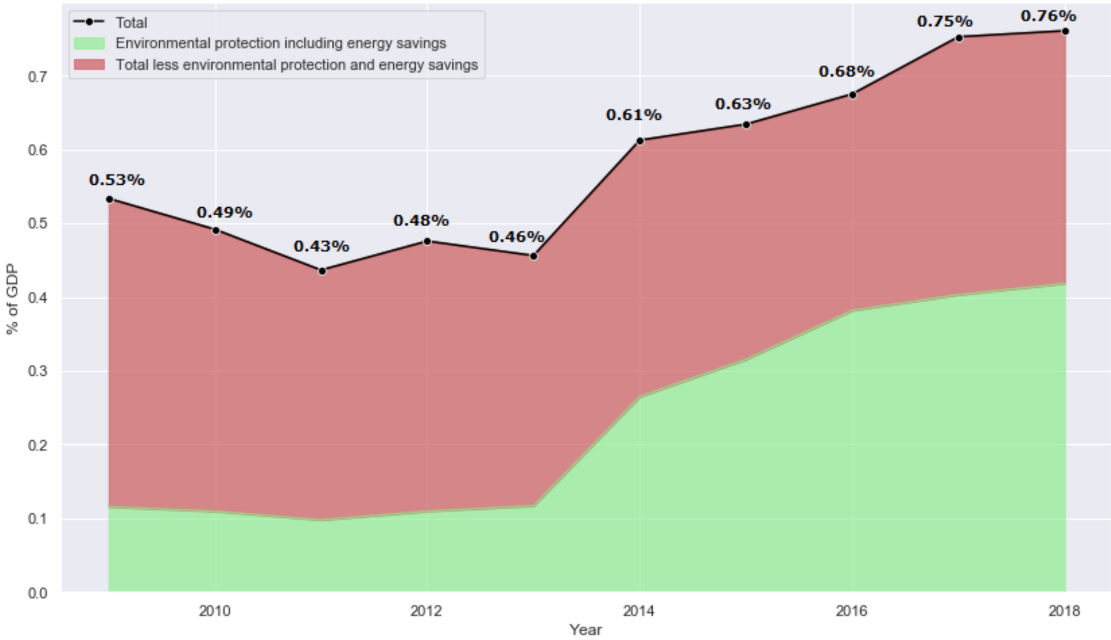


In nominal terms, State aid spending has been increasing since 2014. In relative terms, overall State aid expenditure as a share of EU GDP has remained stable in the last two years

[21] Submitted in conformity with Article 6(1) of Commission Regulation (EC) 794/2004

(+ 0.01 p.p. of GDP between 2017 and 2018). As shown in Figure 2, a large part of the increase registered since 2014 is due to a sharp increase in spending for environmental protection and energy savings (green stacked area), mainly driven by the inclusion of one specific renewable energy scheme.

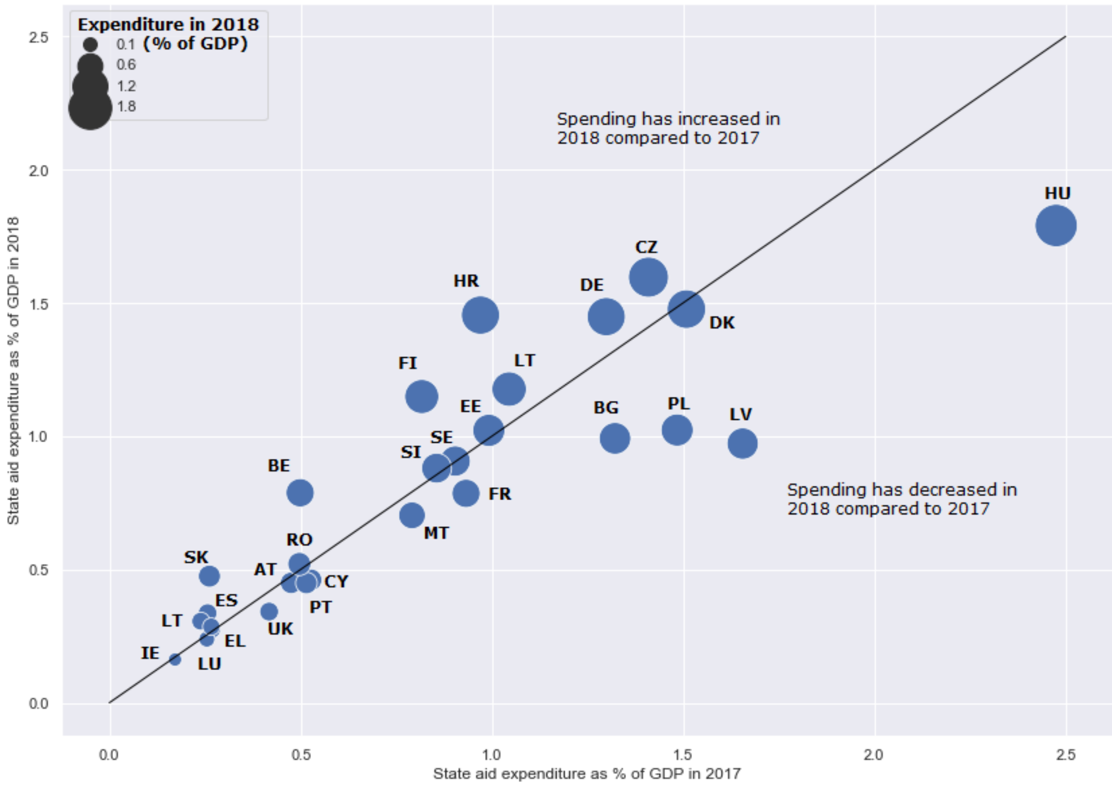
Figure 2: Total State Aid expenditure, excluding aid to agriculture, fisheries and railways, as % of EU 28 GDP



In 2018, spending was reported for **4121 active measures, of which a large majority were schemes** (71%). Among them, **1760 are new measures (42%)**. While only about 13% of these measures (i.e. 521 cases) concerned environmental protection and energy savings, they cover, on average, much higher budgets and spending compared to other objectives. **About 55% of total spending** (66.5 billion EUR), excluding aid to agriculture, fisheries and railways, **was attributed to State aid to environmental and energy savings**. For all other objectives, Member States spent about **54.4 billion EUR**, i.e. **0.34% of GDP**, on State aid at European Union level (see Figure 2).

As regards both the levels and changes in total expenditure, there are **large differences between Member States** (see Figure 3). Figure 3 reports expenditures in 2017 (x axis) and in 2018 (y axis) as a percentage of national GDP. Member States above the 45 degrees line reported an increase in total State aid expenditure in 2018 as compared to 2017, those below a decrease. The highest **increase** in expenditure was recorded in **Croatia** (+0.48p.p. of GDP). Other Member States, e.g. **Finland** (+0.33p.p. of GDP), **Belgium** (+0.29p.p. of GDP) and **Slovakia** (+0.21p.p. of GDP) also recorded large increases. On the contrary, a substantial **reduction** in State aid expenditure has been observed in **Hungary** and **Latvia** (both of -0.68p.p. of GDP) and, to a lesser extent, in **Poland** (-0.46p.p. of GDP) and **Bulgaria** (-0.33p.p. of GDP).

Figure 3: Total State Aid expenditure, excluding aid to agriculture, fisheries and railways, as % of GDP in 2017 and 2018



3.2. Total State aid expenditure by policy objectives: environmental aid remains the main policy focus of Member States

To be compatible with the State aid rules, measures must contribute to a well-defined common interest objective, referred to as "policy objective". However, in practice State aid measures are often mutually complementary and some of the objectives might overlap[22].

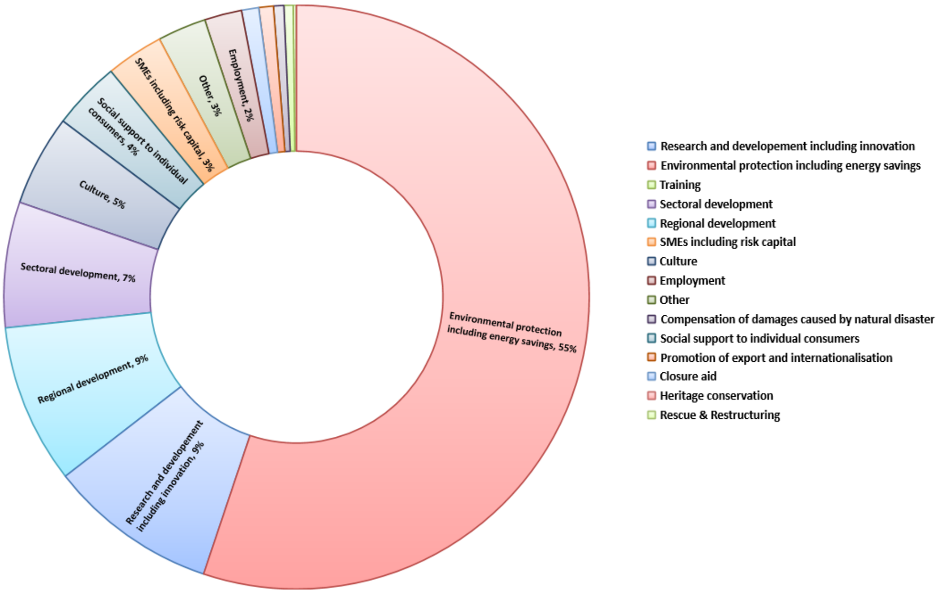
At EU level in 2018, as depicted in Figure 4, more than half (55%) of all spending, i.e. 66.5 billion EUR corresponding to 0.42% of EU 28 GDP, is allocated to **environmental protection and energy savings**, with the remaining 45% dedicated to the various other policy objectives. **Research, development and innovation** (R&D&I) and **Regional development** represent around 9% of total spending each (11.3 and 10.6 billion EUR respectively), while **Sectoral development[23]** represents 7% (8.4 billion EUR). These 4 biggest policy objectives make up 80% of total State aid spending in 2018.

[22] For example, a regional aid scheme might be targeted at the sole benefit of SMEs located in an assisted region.

[23] This objective includes a large variety of measures, across different sectors and for various purposes (*i.a.* investment for port and airport infrastructure, aid for press and television, etc.).

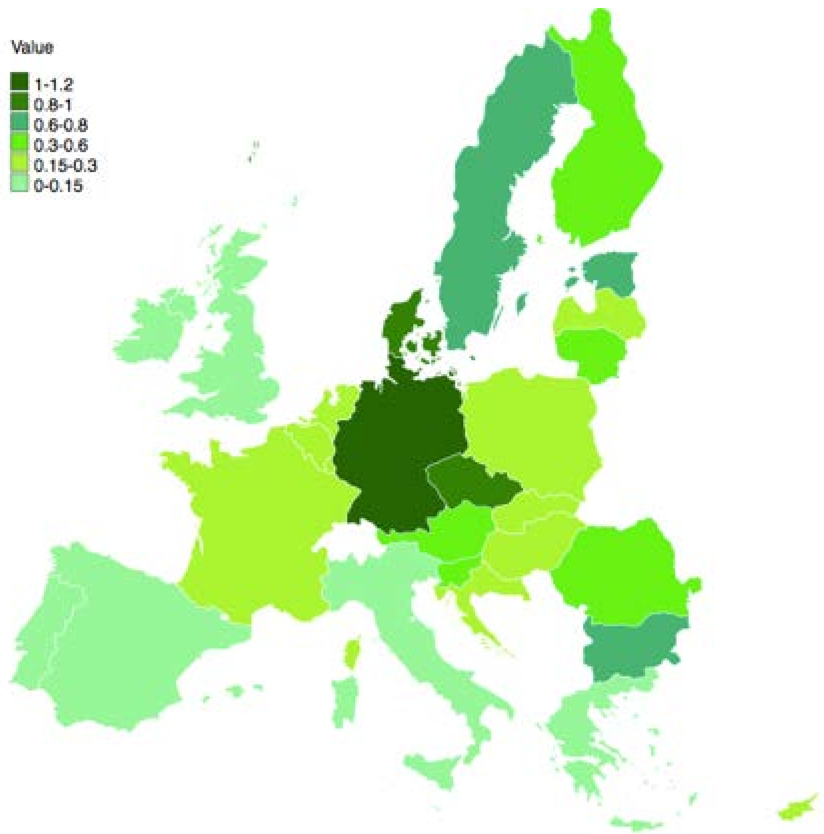
1. State Aid Scoreboard 2019

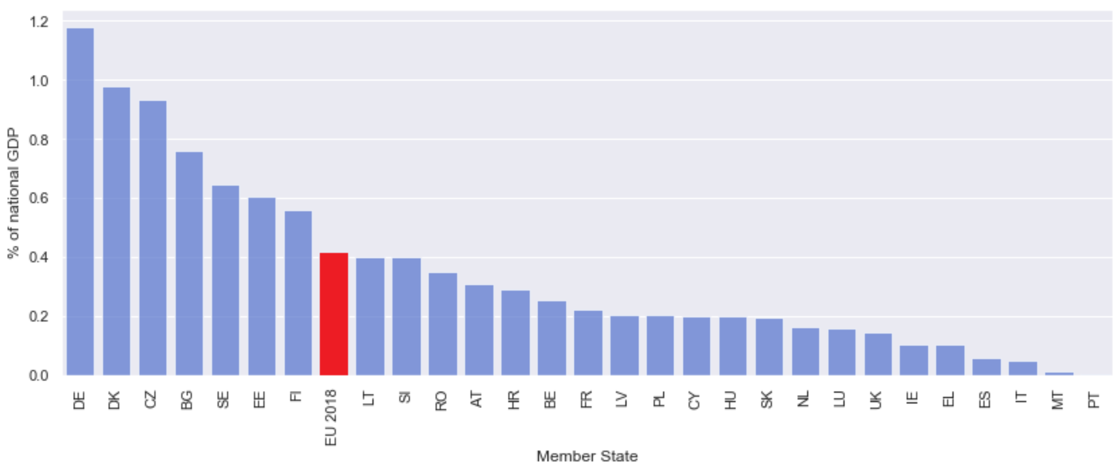
Figure 4: Total State Aid expenditure, excluding aid to agriculture, fisheries and railways, by policy objective in 2018



In relative terms, Germany, Denmark and Czechia are the Member States spending the most on **environmental protection and energy savings** measures, namely 1.18%, 0.98% and 0.93% of national GDP respectively. They are followed by Bulgaria, Sweden, Estonia and Finland, which are all above the EU 28 average. The bar plot in Figure 5 shows the full distribution.

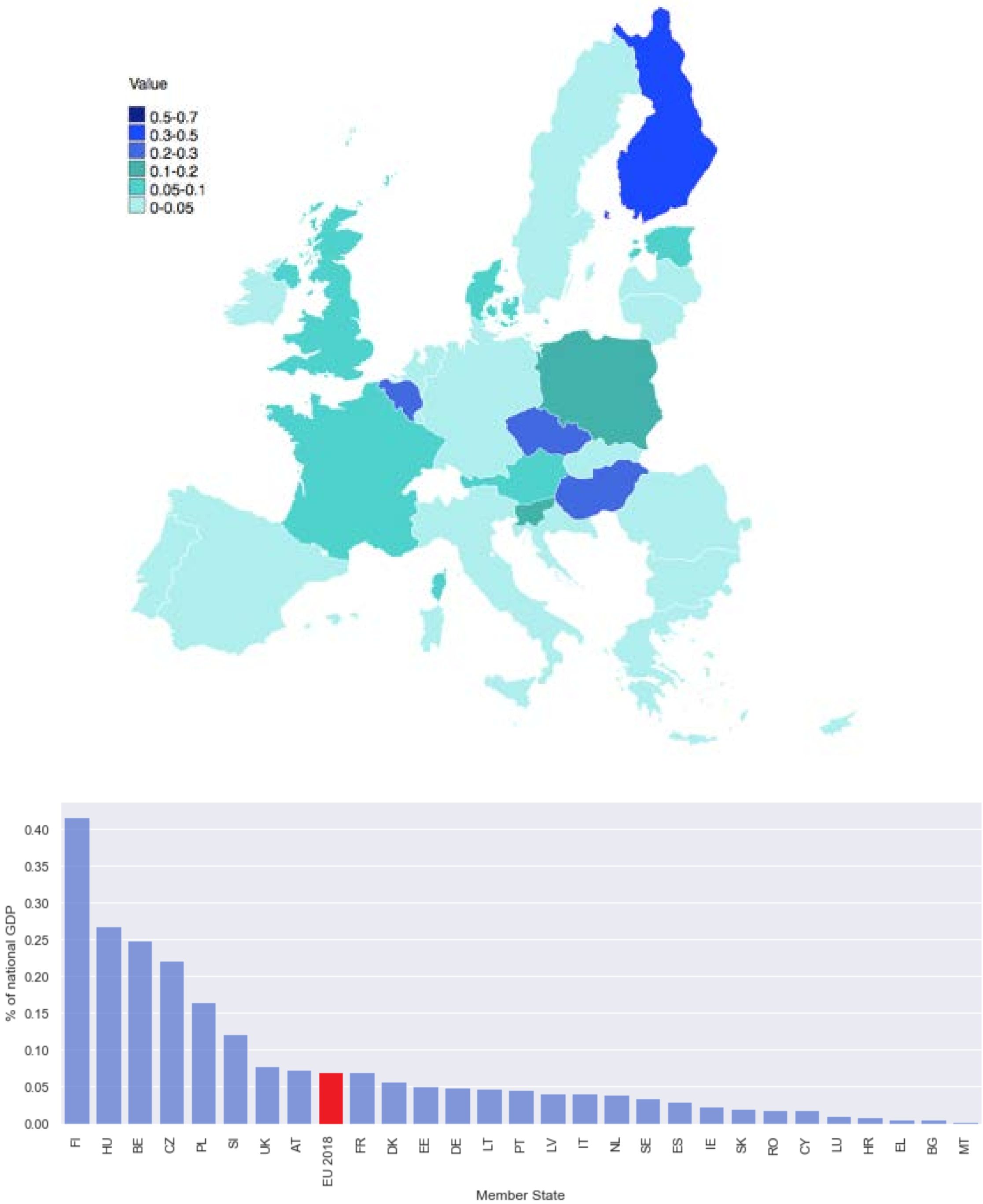
Figure 5: State aid expenditure in Environmental protection and energy savings by Member State, as % of national GDP in 2018





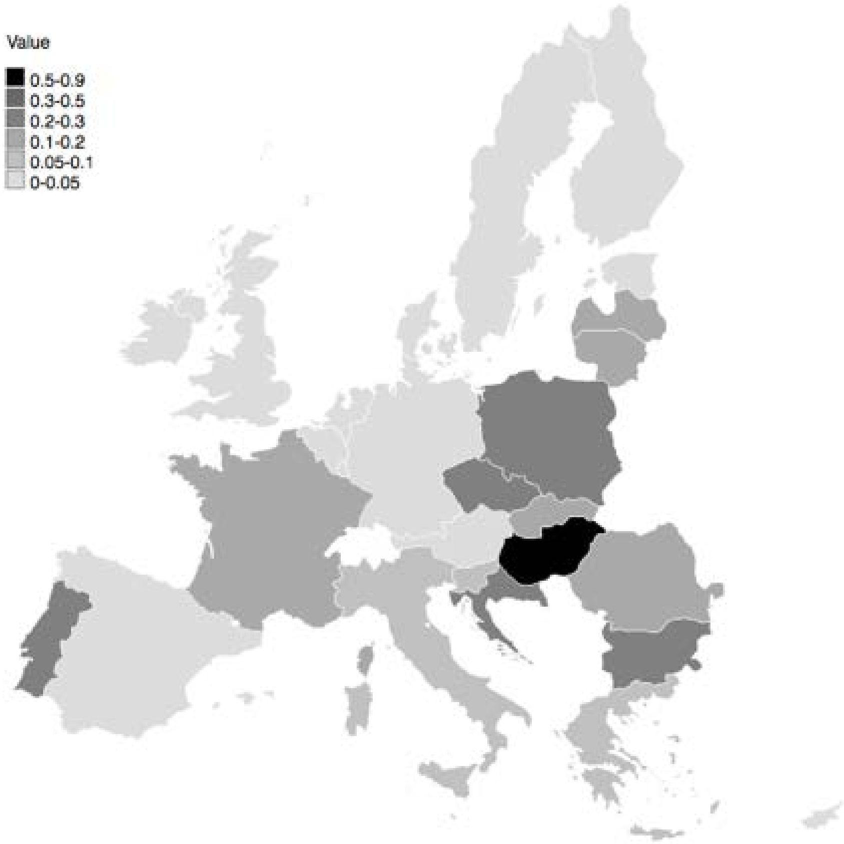
Finland spent around 0.42% of its GDP on **research, development and innovation** measures. Hungary, Belgium, Czechia, Poland and Slovenia come next, but with considerably lower spending (see Figure 6).

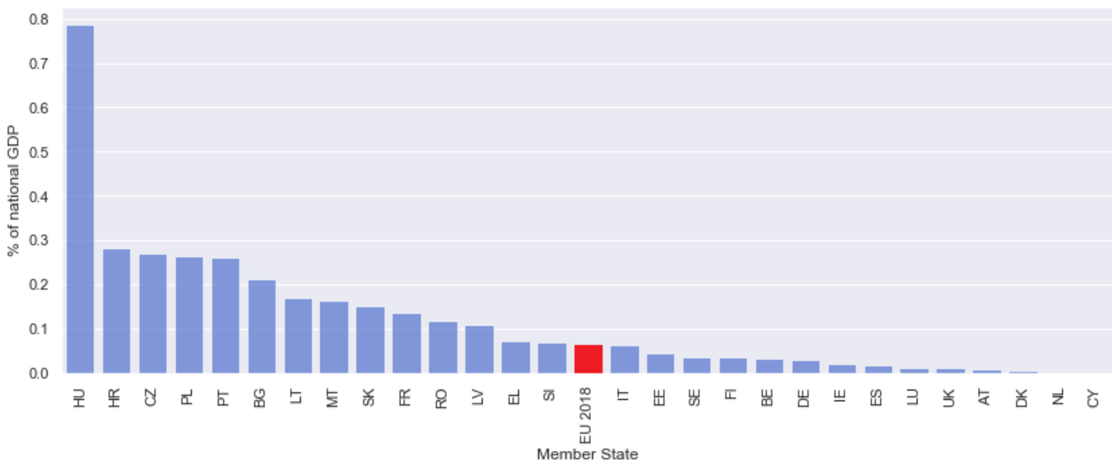
Figure 6: State aid expenditure in R&D&I by Member State, as % of national GDP in 2018



Regional development represents a significant share of State aid expenditure in Hungary (0.79% of national GDP), as displayed in Figure 7. The next ranked Member States – Croatia, Czechia, Poland and Portugal account for less than half of Hungary's share (below 0.3% of GDP, respectively).

Figure 7: State aid expenditure in Regional development by Member State, as % of national GDP in 2018

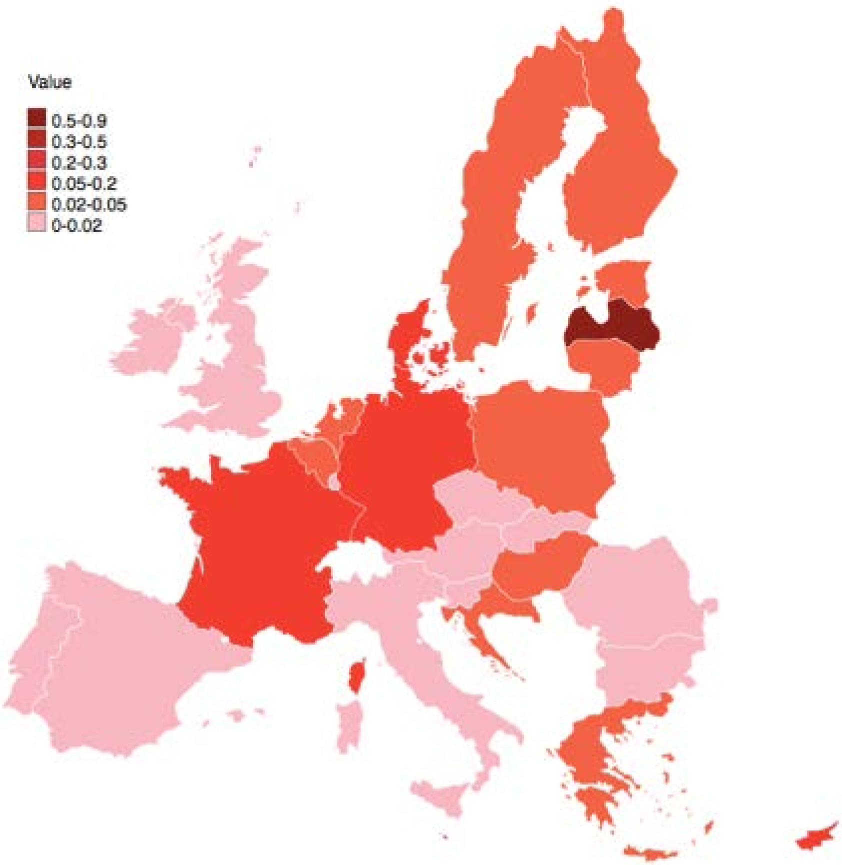


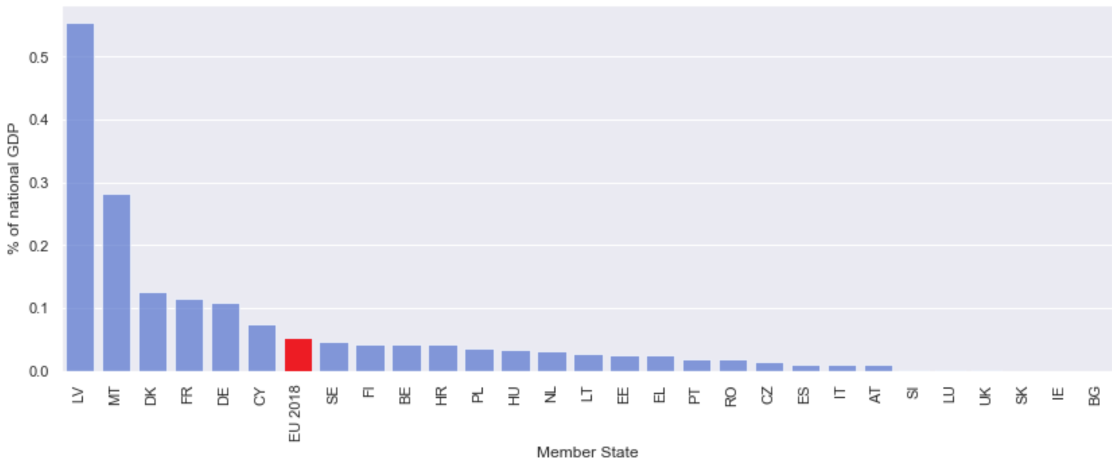


1. State Aid Scoreboard 2019

Latvia is the Member State with the relative largest share (0.55% of GDP) of State aid expenditure in **Sectoral development** (see Figure 8), mainly due to a measure providing support to energy producers, followed by Malta whose expenditure is concentrated in a measure concerning Maritime Infrastructure.

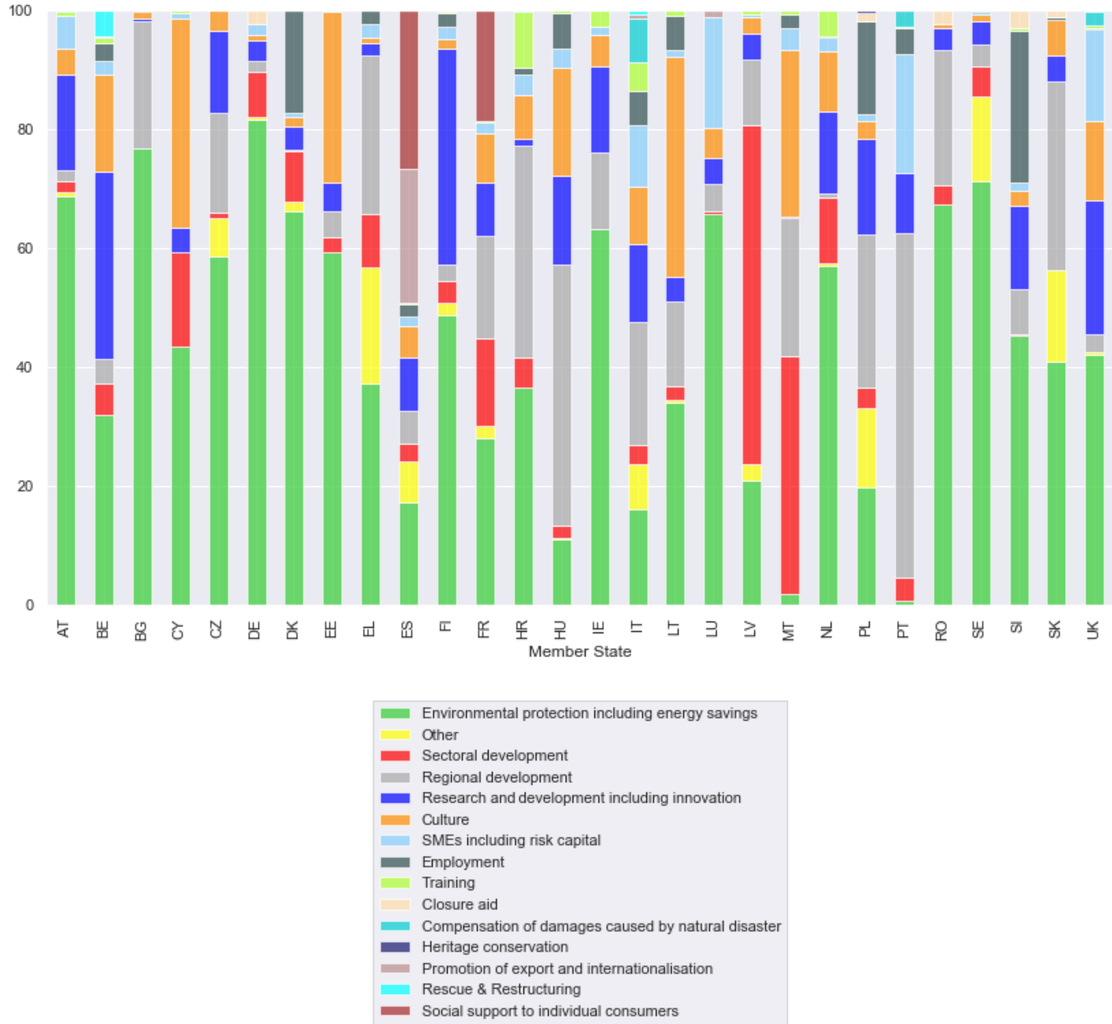
Figure 8: State aid expenditure in Sectoral development by Member State, as % of national GDP in 2018





As the previous graphs have shown, Member States grant State aid for rather diverse objectives. Figure 9 shows the 2018 State aid expenditure by policy objectives by Member State. In order to make them comparable across Member States, amounts are reported in percentages of total State aid spending in each Member State.

Figure 9: Share of State aid expenditure, excluding aid to agriculture, fisheries and railways, by Member State in 2018 (in %)



As regards the four prime objectives at EU level:

- **Environmental protection and energy savings** is the prime objective in 20 Member States. It represents more than 50% of total spending in 11 Member States (Austria, Bulgaria, Czechia, Germany, Denmark, Estonia, Ireland, Luxembourg, the Netherlands, Romania and Sweden);

- **R&D&I** is the second most important objective in Belgium, Finland, Austria, Ireland, the Netherlands and the United Kingdom;

- **Regional development** is the prime objective in Portugal, Hungary, Poland and Italy;

- **Sectoral development** is the prime objective in Latvia and Malta.

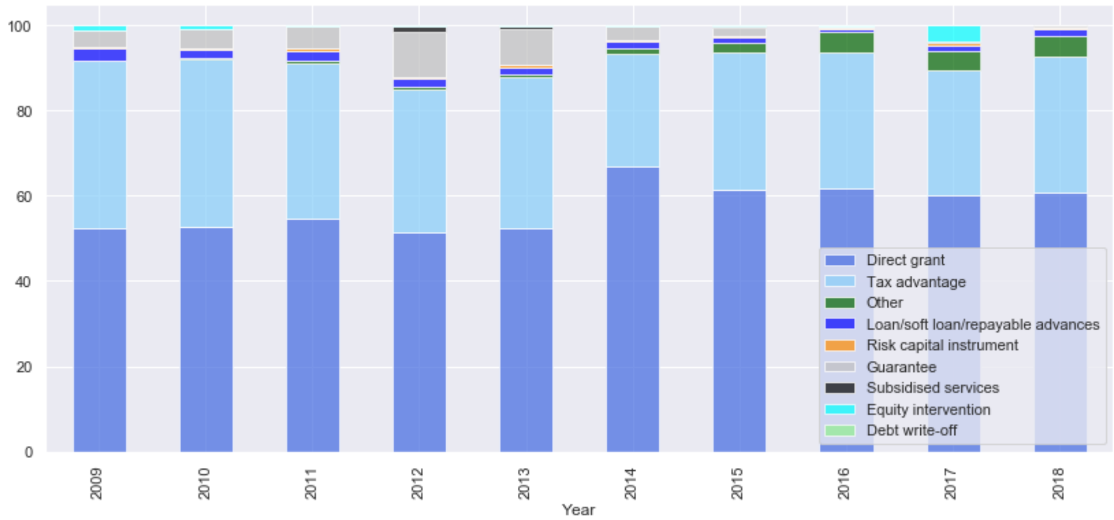
In some Member States, the four largest objectives, accounting for 80% of overall expenditure at EU level, represent a minor share of State aid spending at national level. This is in particular the case of **Spain**, where these objectives only represent around 35% of total spending, while Social support to individual consumers is the prime objective. Moreover, in **Italy** a large share of national resources is channelled to aid for SMEs and Culture (around 10% each). Culture is even the prime objective in **Lithuania**, while Croatia has devoted more than 45% of its 2018 State aid expenditure to Rescue and Restructuring aid.

3.3. Total State aid expenditure by instrument: different practices across Member States

State aid can take numerous forms, *i.a.* direct grants, tax advantages (exemptions, reductions or deferrals), equity investments, soft loans/repayable advances, or guarantees. The choice of the most appropriate aid instrument should normally be made in view of the market failure that the aid seeks to address, to generate the lowest possible distortive effects on competition and trade.

Comparing the evolution of expenditure by aid instrument from 2009 to 2018 (see Figure 10), **direct grants**[24] are by far the most popular aid instrument in 2018, representing 61% of total expenditure, and even grew increasingly popular over time (compare 51% in 2009 and 53% in 2013). In 2018, **tax exemptions/reductions/deferrals** represented a lower share of total spending (32% of total expenditure) than in the past (2009, 39% and 2013, 37%). Since 2012, the share of spending in the form of guarantees has decreased, while the use of other State aid instruments has increased (the residual category 'other' represents 5% of total spending in 2018). Equity interventions have been used for large amounts in 2017 only.

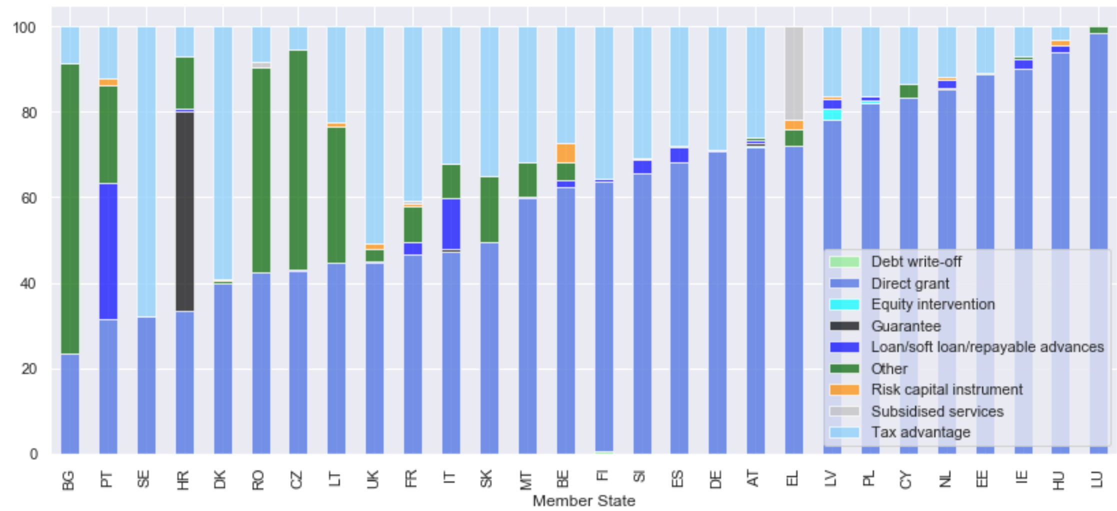
Figure 10: Share of total State Aid by aid instrument, excluding aid to agriculture, fisheries and railways (in %)



However, practices among Member States largely differ: direct grants cover less than 50% of State aid expenditure in 11 Member States (Bulgaria, Portugal, Sweden, Denmark, Czechia, Romania, Lithuania, United Kingdom, Italy, France and Slovakia), see Figure 11. Guarantees accounted for more than 45% of Croatia's 2018 State aid expenditure.

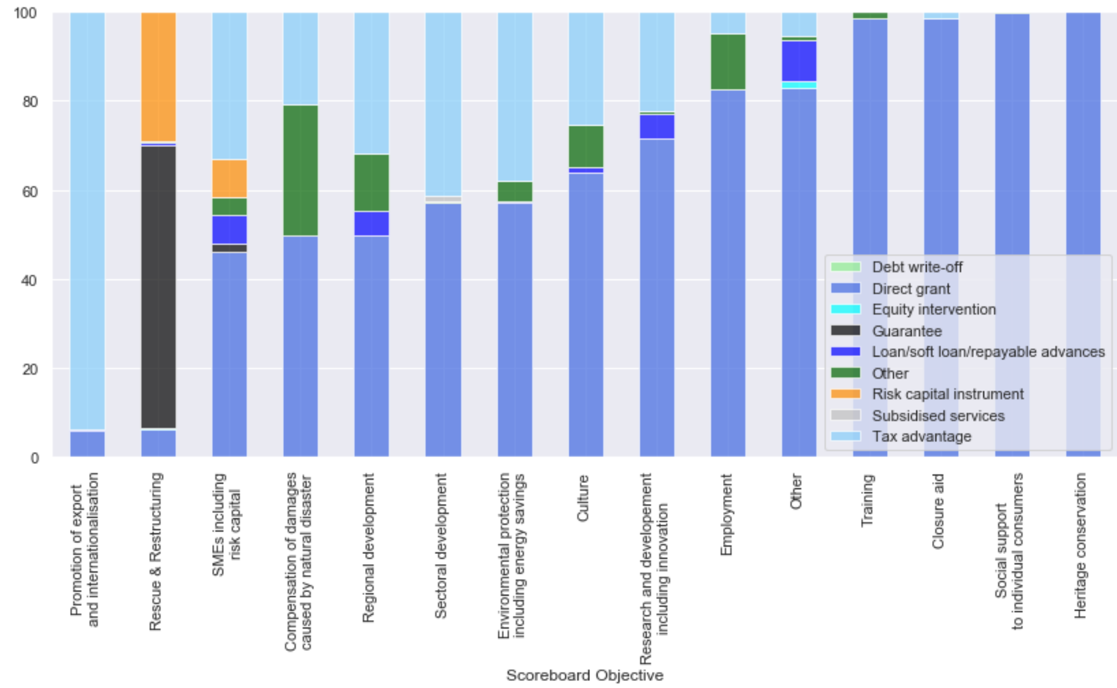
[24] Including interest subsidies.

Figure 11: Share of total State aid expenditure, excluding aid to agriculture, fisheries and railways, disbursed through direct grants (including interest subsidies) and other instruments in 2018 (in %)



Looking at the use of aid instrument by policy objective, direct grants (including interest rate subsidies) accounted for less than 20 percent of total aid spent for specific objectives e.g. rescue and restructuring, promotion of export and internationalisation, and still less than 50% for SMEs including risk capital or regional development (see Figure 12). On the contrary, 100% of the aid was disbursed through direct grants and interest subsidies for heritage conservation and social support to individual consumers.

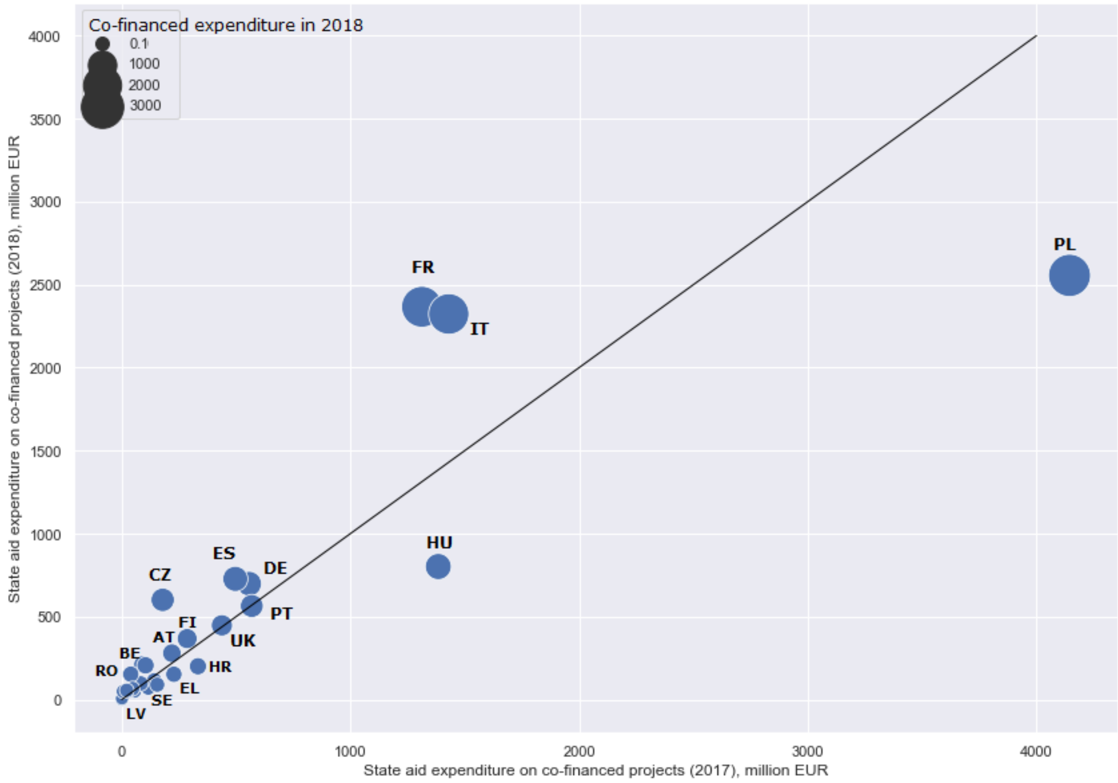
Figure 12: Share of total State aid expenditure, excluding aid to agriculture, fisheries and railways, disbursed through direct grants (including interest subsidies) and other instruments by main policy objectives, in 2018 (in %)



3.4. Total State aid expenditure on co-financed projects: a slight increase

Since 2014, Member States must report the total amount of co-financed aid, including both national and EU Structural Funds expenditure[25]. Figure 13 shows the relative increase or decrease of spending on co-financed projects per Member State from 2017 to 2018.

Figure 13: State aid expenditure on co-financed projects excluding aid to agriculture, fisheries and railways, in 2017 and 2018, million EUR



Compared to 2017, **total spending on co-financed projects slightly increased** from about 12.5 billion EUR to about **13.3 billion EUR in 2018**, thus registering a **800 million EUR (+7%) increase**. As shown in Figure 13, the largest increases were recorded in France (+1 billion EUR), and Italy (+893 million EUR); increases were also recorded in 15 other Member States (all Member States above the 45 degrees line). On the contrary, spending on co-financed projects decreased substantially in Poland (-1.6 billion EUR) and Hungary (-583 million EUR). These findings reflect the State of implementation of the European Structural and Investment Funds (ESIF) 2014-2020[26]. Member States (including Poland and Hungary) which appear below the dotted line are early spenders of cohesion funds. Having allocated most of their available funds under the 2014-2020 Multiannual Financial Framework (MFF) in previous years, these Member States are now reducing their co-financed expenditure.

[25] The corresponding projects are funded under the sole responsibility of the Member States; financing granted under the Structural Funds qualifies as State aid, since EU funds are integrated in the national budget and Member States are free to select beneficiaries (Art 107 TFEU).

[26] https://cohesiondata.ec.europa.eu/overview