



Bartniczak B. (2014), *Granting State Aid in the Context of Sustainable Development Principles*, "Equilibrium. Quarterly Journal of Economics and Economic Policy", Volume 9, Issue 2, pp. 41-54, DOI: <http://dx.doi.org/10.12775/EQUIL.2014.010>

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Granting State Aid in the Context of Sustainable Development Principles

JEL Classification: *H23*

Keywords: *state aid, sustainable development principles*

Abstract: *Implementation of the concept of sustainable development requires the use of a variety of instruments. These instruments may be legal or financial. One of the financial instruments to support sustainable development might be state aid. However, not all aid is beneficial from the point of view of sustainable development. Therefore, an important task is to identify the types of aid that have a positive impact on sustainable development, and on the other hand to show aid which is harmful from the point of sustainable development view. The purpose of this article is to group the principles of sustainable development, in the context of individual order creating sustainable development. The article will also specify the objectives to be achieved by providing different types of support. Then an attempt will be made to answer the question how different types of aid contribute to the achievement of sustainable development.*

Introduction

Sustainable development is a widely applicable concept of development. This concept involves the integration of economic, environmental and social objectives. In order for these objectives to be achieved, it is necessary to define and classify the principles of sustainable development which can be found in various documents. This will allow for the selection of such instruments by which to achieve these objectives will be fully possible. One of the financial instruments that can be used to achieve the goals of sustainable development is the state aid. State aid is a concept, introduced and used by the European Commission, which refers to the various forms of support provided by public enterprises in a selective manner with potential negative effects on competition and trade between Member States of the European Union. Properly targeted state aid can become an instrument through which one can effectively implement the principles of sustainable development.

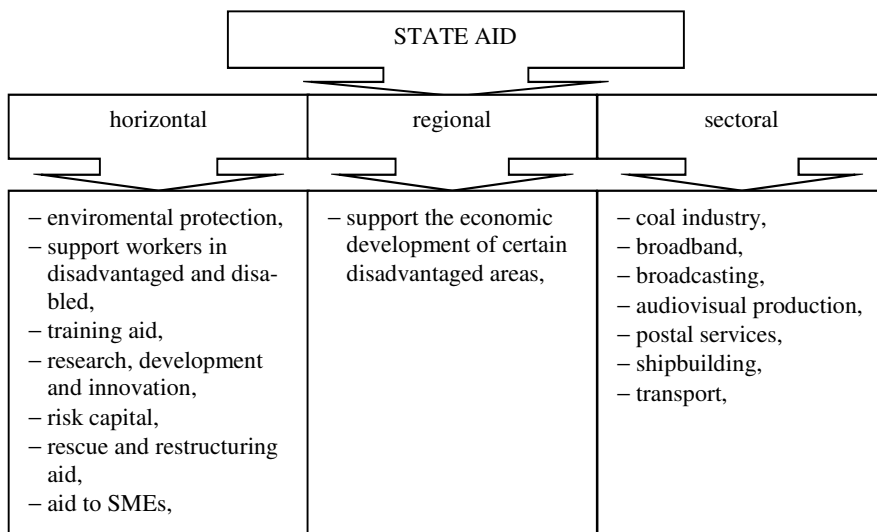
The purpose of this article is to seek answers to the question whether and to what extent aid can become an effective instrument for implementing the concept of sustainable development. In this paper various types of state aid are presented, as well as the targets which are to be achieved thanks to it. Next, the principles of sustainable development will be classified. In the last stage of the objectives of the specific types of aid will be combined with the principles of sustainable development, which will help identify how and to what extent the public contributes to the implementation of the concept of sustainable development .

The objectives of granting state aid

The term state aid is very difficult to define clearly. Neither literature nor existing legislation has introduced a single, universally accepted definition. A commonly used interpretation says that in order for a measure to be regarded as state aid four conditions have to be fulfilled, such as a transfer of public funds, donations benefit on terms more favorable than those offered on the market, the transfer must be selective, i.e. to favor certain entities or the production of certain goods, and the transfer must violate or may violate the conditions of competition and affect trade (European Commission, 2010). Those conditions are set out in the Treaty on the Functioning of the European Union, and their total fulfillment means that the measure can be regarded as state aid.

The most commonly used classification allows to divide state aid into horizontal, regional and sectoral. The structure of the types of state aid is presented on Graph 1.

Graph 1. The types of permissible state aid



Source: European Commission, http://ec.europa.eu/competition/state_aid/legislation/legislation.html.

Each of these types of aid has been introduced for a specific objective. However, these objectives are not always clearly defined. The exact definition of the purpose of each type of state aid will indicate how the objective can be achieved with a given support, and how this can be then placed within the principles of sustainable development. This will indicate what type of aid is most beneficial from the point of view of the implementation of the concept of sustainable development.

In the case of aid granted in the area of environmental protection, in the guidelines (European Commission, 2008b) it is stated explicitly that state aid in this area can help to promote sustainable development. The primary purpose of granting state aid in this area is to improve the state of environment. The specific objectives are the provision of support and the purchase of new means of transport, which contribute to raising the level of environmental protection, support for research in the fields of environment, energy efficiency, promotion of renewable energy sources, support for cogeneration and communal heating, waste management, remediation of contaminated sites, support of relocations of enterprises and the emissions trading.

In the guidelines on supporting disadvantaged and disabled workers (European Commission, 2009b) it is stated that the purpose of the provision of such assistance is to support the recruitment of disadvantaged and disabled workers. The specific objective is to integrate these workers into the labor market and to increase the number of jobs dedicated to those workers.

The aim of granting training aid showed in Communication from the Commission – Criteria for the compatibility analysis of state aid to disadvantaged and disabled workers subject to individual notification (European Commission, 2009b) is the development of human capital as the main instrument affecting the growth, productivity and employment. Skilled workers contribute to the increase of efficiency and competitiveness of businesses in which they are employed.

Community Framework for State aid for Research and Development and Innovation (European Commission, 2006a) indicate that the purpose of the provision of such assistance is to enhance economic efficiency, understood as an optimization of the total wealth in the market or in the economy, and thus contribute to sustainable growth and job creation. Increasing economic efficiency will be performed by shifting market demand towards new or improved products, processes or services, which is equivalent to the decrease in the prices of these goods in the quality adjusted. The specific objectives are to support young innovative companies in covering the cost of industrial property rights for SMEs, to support innovative enterprises, to promote innovation in process and organizational innovation in services, to support services for innovation advisory and innovation support services, to support for lending highly qualified personnel. It can also be supported by the development of innovative clusters.

The aim to support risk capital is founding the capital of partnerships, which have a potential of sudden growth in the early stages of their development (European Commission, 2006b). The demand for risk capital typically comes from companies with growth potential that do not have sufficient access to capital markets, while the offer of risk capital comes from investors ready to take high risk in exchange for a potentially higher than average return on invested capital.

Granting aid for rescue and restructuring aid (European Commission, 2004) is to provide temporary assistance to keep on ailing firm afloat for the time needed to work out a restructuring and liquidation plan. In the case of restructuring aid, the aim is to restore the long-term viability.

The purpose of providing support for SMEs (European Commission, 2008a) is to facilitate access to capital, including venture capital or loans. The aim is also to increase the availability of information on new technologies and potential markets. The specific objectives are designed to facilitate the establishment of small businesses, investments and employment of businesses started by women.

In the case of regional aid, one can define two main goals of its admissibility under the provision of granting of such aid on the basis of two different articles of TFEU. The purpose of assistance under Article. Paragraph 107. Point 3 of the TFEU is to promote economic development of areas

where the standard of living is abnormally low, or where there is serious underemployment, and of the 'most distant' regions¹, in view of their structural, economic and social situation. This type of support may be considered to be compatible with the internal market. It can also be compatible with the internal market under Article. Paragraph 107. 3 point. c aid to facilitate the development of certain economic activities or of certain economic areas. Such aid does not adversely affect trading conditions to an extent contrary to the common interest (European Commission, 2008c).

In the case of aid to the coal sector, it can now be given only to facilitate the closure of uncompetitive coal mines (European Commission, 2010). The purpose of this support is to cover the costs arising from or arising as a result of the closure of mines, with the costs not being associated with the ongoing activities of the company. This has consequently led to the closure of unprofitable mines, which will contribute to a better environment.

The purpose of support in the cinematography is to promote cultural activities by supporting film and audiovisual art (European Commission, 2002).

In the case of state aid for the rapid construction/expansion of broadband network, it aims to support the construction of this type of network, which is of strategic importance for economic growth and innovation in all sectors of the economy, as well as for social and territorial cohesion. The creation of broadband infrastructure will contribute to the competitiveness and innovation in Europe and to create jobs for young people to prevent the transfer of economic activity and attract external investment (European Commission, 2013).

In its Communication on the application of State aid to public service broadcasting (European Commission, 2009c) it is indicated that public media are widely regarded as a reliable source of information and serve a significant part of the population as the main source of information. They enrich the public debate and can allow all citizens to participate in public life.

The support provided in the postal sector (European Commission, 1998) is the support of postal services, which play a key role in strengthening economic and social cohesion. Market mechanisms are effective in creating the best services, but these mechanisms can sometimes be ineffective and do not lead to a fair distribution of resources, which could result in the exclusion of the public in terms of the availability of certain services.

The purpose of state aid specified in the guidelines on state aid to the shipbuilding sector (European Commission, 2011) is to foster innovation, which will lead to the implementation of such measures which have not been

¹ These regions are listed in the Article. 349 TFEU. These are: Guadeloupe, French Guiana, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, the Azores, Madeira and the Canary Islands.

implemented or its implementation have been limited. This assistance can be allocated to the construction, expansion or modernization of vessels.

The provisions also allow the state aid in the transport of air, sea and rail. In the aviation sector it is allowed to provide support for the financing of airports and start-up airlines departing from regional airports (European Commission, 2005). The purpose of support in this area is to provide citizens with a high quality service at an affordable price, provided continuously and throughout the territory. Member States may provide, in a clearly defined legal framework, commitments for the provision of public services, due to the frequency, punctuality of service, availability of seats or preferential rates for certain categories of users. The application of these obligations for the provision of public services, air transport will significantly contribute to the efforts to ensure economic and social cohesion and sustainable development of the regions. The Guidelines for rail and road passenger transport (European Commission, 2007) indicated that not all services in land passenger transport which are important from the point of view of public interest can be provided on a commercial basis. Therefore, in order to enable the provision of these services can provide state aid.

Principles of sustainable development

The implementation of the concept of sustainable development in practice boils down to the three complementary and intersecting goals: economic, social, and environmental development. Achieving these goals is possible while respecting the principles of sustainable development. These rules are written in a variety of documents, making it difficult to classify them and make a list of where you can find all the rules. The most commonly used are the rules that have been defined in the Declaration of Rio de Janeiro Earth Summit, adopted after the 1993 declaration of the defined 27 principles that apply to each of the areas of sustainable development (Table 1).

Table 1. Principles of sustainable development defined at the Earth Summit in Rio de Janeiro

Principle	Characteristics of principles
1.	Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.
2.	States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.
3.	The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.
4.	In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.
5.	All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.
6.	The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.
7.	States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.
8.	To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.
9.	States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.
10.	Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Table 1 continued

Principle	Characteristics of principles
11.	States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.
12.	States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.
13.	States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.
14.	States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.
15.	In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
16.	National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.
17.	Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.
18.	States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.
19.	States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

Table 1. continued

Principle	Characteristics of principles
20.	Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.
21.	The creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.
22.	Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.
23.	The environment and natural resources of people under oppression, domination and occupation shall be protected.
24.	Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.
25.	Peace, development and environmental protection are interdependent and indivisible.
26.	States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.
27.	States and people shall cooperate in good faith and in a spirit of partnership in the fulfillment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.

Source: Report of the United Nations conference on environment and development (Rio de Janeiro, 3-14 June 1992), <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>.

Other documents, where one can find the rules for sustainable development are: Stockholm Declaration on the Human Environment Natural adopted in 1972, World Charter for Nature adopted by the UN General Assembly in 1982, United Nations Millennium Declaration adopted in New York in 2000, Johannesburg Declaration on Sustainable Development adopted at the World Summit in 2002 (Skowrońska, 2009, pp. 33-40).

Impact of state aid of implementing the concept of sustainable development

State aid can contribute to the implementation of the concept of sustainable development (to be consistent with the principles of sustainable development) – then it can be described as favorable. However, it may be contrary to the principles of sustainable development – if it is defined as harmful to sustainable development. Having difficulty with a clear classification of the

type of help, one can indicate that it is neutral from the point of view of the implementation of the concept of sustainable development.

In most cases, this evaluation will be subjective, because it is very difficult to link the objectives which are to be achieved by state aid with sustainable development principles. Pointing out whether granting state aid contributes to achieving environmental, social and economic objectives can make this assessment easier. If one would like to objectify an assessment in its greatest extent, a special form should be created, involving the answers to specific questions. Only then can it be pointed out what kind of state aid one is to deal with. An example of such a scheme is the following ratings:

1. Indication of whether the guidelines provided state aid contributes to the implementation of sustainable development (yes or no),
2. Indication of whether state aid will contribute to achieving the environmental objective (yes or no),
3. Indication of whether state aid will contribute to achieving the economic objective (yes or no),
4. Indication of whether state aid will contribute to achieving the social objective (yes or no),
5. The possibility of linking with the principles of sustainable development as defined in the Declaration of Rio de Janeiro (indication of the number of principles),
6. Determine the type of aid in terms of its impact on the implementation of the concept of sustainable development (beneficial, harmful, neutral).

Evaluation for different types of public assistance is provided in Table 1.

Table 1. The evaluation scheme of state aid

Type of state aid	A reference in the guidelines for sustainable development	Implementation of the environmental objectives	Implementation of the economic objectives	Implementation of the social objectives	The possibility of linking with the principles of sustainable development as defined in the Declaration of Rio de Janeiro	Type of state aid from sustainable development point of view
environmental protection	yes	yes	no	yes	11	beneficial
support workers in disadvantaged and disabled	no	no	no	yes	1	neutral
training	no	no	yes	yes	1	beneficial

Table 1 continued

Type of state aid	A reference in the guidelines for sustainable development	Implementation of the environmental objectives	Implementation of the economic objectives	Implementation of the social objectives	The possibility of linking with the principles of sustainable development as defined in the Declaration of Rio de Janeiro	Type of state aid from sustainable development point of view
research, development and innovation	yes	yes	yes	no	9	beneficial
risk capital	no	no	yes	no	brak	neutral
rescue and restructuring aid	no	no	yes	yes	8	neutral
aid to SMEs	no	yes	yes	yes	8	beneficial
support the economic development of certain disadvantaged areas	yes	yes	yes	yes	12	beneficial
coal industry	yes	yes	yes	no	8	beneficial
broadcasting	no	no	yes	no	lack	neutral
broadband	no	no	yes	yes	lack	neutral
audiovisual production	no	no	no	yes	lack	neutral
postal services	no	no	yes	yes	lack	neutral
shipbuilding	no	no	yes	yes	lack	neutral
transport	yes	yes	yes	yes	8	beneficial

Source: own study based on the guidelines.

The tool applied allowed to classify different types of state aid from the of view their impact on sustainable development concept. The analysis allowed to point out that a positive impact on sustainable development is to assist the state aid in the area of environmental protection, training, research and development, small and medium-sized enterprises, to support economic development of certain disadvantaged areas, in the coal sector and transport. In other cases, aid is defined as neutral from the point of view of sustainable development. Neutrality assistance, mainly due to the fact that those are very

difficult goals, can be assigned to provide support for the sustainable development. One can even specify that the creation of these rules was held without an assessment of their potential impact on sustainable development. It is worth emphasizing that any kind of state aid has not been defined as a negative for sustainable development. A full and objective analysis, however, would require a detailed analysis of the various directions of support on the basis of specific provisions. The analysis of the subject should therefore be subjected to any kind of help individually. Aid granted under specific provisions of the act should be subject to individual assessment. It may turn out that the assessment made on the basis of the act as a whole will be beneficial to show its impact on sustainable development, and a review of each specific aid granted can lead to opposite conclusions.

It should also be noted that only five of the guidelines contained a direct reference to sustainable development. Such a small amount causes a surprise, due to the fact that sustainable development is one of the strategic objectives of the European Union.

Conclusions

The study showed that state aid can be an important instrument in contributing to the implementation of the concept of sustainable development. However, it is necessary to carefully analyze the current guidelines from the point of view of the provisions contained in them on the impact of aid granted for sustainable development. Therefore, one should periodically review the various types of support in terms of their impact on sustainable development. Such analysis must be carried out on many levels. It should involve the analysis of sustainability goals that are achievable through the granting of such aid.

An important aspect of the analysis should be assigning the purpose of giving aid to those relating to sustainable development. One should look to answer the question about the implementation of the principles of sustainable development which contribute to the provision of aid. A full analysis in this area, however, would require the creation of a single list of all the principles of sustainable development. These principles are in fact located in different documents and were created in different periods of time, which makes the creation of a single list a very difficult operation.

Objective indication of how a particular type of state aid affects the implementation of the concept of sustainable development requires an analysis of the aid given on the basis of the guidelines. A detailed analysis will indicate what is the amount of support that goes to projects having a positive impact on the implementation of the concept of development.

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