



Press Release

Luxembourg, 1 October 2020

EU oversight of State aid to banks needs a fitness check, say auditors

The European Commission has the legal powers and resources to control State aid to financial institutions. However, it had not always been in a position to use them to full effect, according to a new report from the European Court of Auditors (ECA). From 2013 to 2018, there were weaknesses in both compatibility assessment and performance monitoring. In addition, while State aid control rules were generally clear and straightforward, they had not been modified since 2013, despite a very different context. The auditors therefore call for the current rules to be re-evaluated.

Public financial support is generally prohibited under EU law. Following the 2007-2008 financial crisis, however, there was an unprecedented boom in State aid to financial institutions as it was considered necessary to limit the threat that banks posed to financial stability. Since then, the EU has made major reforms to its framework for the financial sector with the aim of rendering future bank bailouts unnecessary. Nonetheless, there are still cases of banks receiving taxpayers' money. It is the Commission's task to assess the compatibility of these measures with the EU's internal market. The auditors looked at whether, from the adoption of the new Banking Communication in August 2013 to the end of 2018, the Commission's control had been appropriate in ensuring that State aid remained exceptional and limited to the minimum necessary, as required under the EU Treaties.

"Compared to the aftermath of the financial crisis of 2007-2008, the circumstances have clearly changed, even given the unfolding COVID-19 crisis. The regulatory framework has been much strengthened, thus making banks more resilient and decreasing the need for them to rely on taxpayer support. Meanwhile, there is a recognised objective to pursue a more integrated banking sector in the EU", said Mihails Kozlovs, the Member of the European Court of Auditors responsible for the report. "Therefore we invite the Commission to consider streamlining State aid to the financial sector, in terms of both rules and practices".

Overall, the auditors acknowledge that the EU developed appropriate means and powers for the efficient control of State aid to banks. The Commission allocated the necessary resources and expertise, and established a robust ethical framework. The Commission also set up relevant processes and its case-handling activities were generally compliant. Yet, procedures were sometimes over-long and were not always fully transparent, mainly due to extensive use of informal pre-notification contacts.

The purpose of this press release is to convey the main messages of the European Court of Auditors' special report. The full report is available at eca.europa.eu.

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The auditors found the rules for the control of State aid to the financial sector to be generally well drafted and clear. The EU Treaties allow public support to banks on an exceptional basis to remedy serious disturbances in a Member State's economy. However, EU rules are not explicit enough on this point and do not define what a serious disturbance is, the auditors note. They also observed that the Commission did not contest Member States' assertions that the threat to financial stability existed in individual cases. Moreover, while the Commission required measures intended to limit distortion of competition, it did not analyse the actual impacts of each measure on competition. Nor were the Commission's performance indicators entirely fit for purpose, as they did not always reflect its work, reflecting instead external factors beyond its control.

Lastly, the auditors deplore that the Commission had not properly evaluated its crisis rules since 2013. Consequently, the rules remained unchanged despite the overhaul of the regulatory framework (including the fact that the Bank recovery and resolution directive has restricted the possibilities to grant aid to banks without triggering insolvency proceedings) and a considerably improved economic and financial climate (pre-COVID-19). There is therefore a risk that current EU rules may no longer be aligned with market realities, warn the auditors.

In the light of the above considerations and in order to streamline the EU's control of State aid to the financial sector, the auditors call on the European Commission to:

- evaluate by 2023 whether current rules are still appropriate and amends them where necessary;
- further enhance compliance with internal processes and best practices; and
- improve its performance measurement.

Notes to Editors

The Treaty on the Functioning of the European Union generally prohibits State aid unless justified for general economic development reasons or in well-defined exceptional situations. The European Commission has sole competence for State aid control. Its aim is to safeguard the integrity of the internal market by protecting against market distortion by Member States.

Special report No 21/2020 "Control of State aid to financial institutions in the EU: in need of a fitness check" is available in 23 EU languages on the ECA website (eca.europa.eu).

This audit is part of the [ECA's work on financial and economic governance](#). It complements previously published ECA reports on financial supervision and competition policy.

The ECA presents its special reports to the European Parliament and the Council of the EU, as well as to other interested parties such as national parliaments, industry stakeholders and representatives of civil society. The vast majority of the recommendations we make in our reports are put into practice.

Information on the measures the ECA has taken in response to the COVID-19 pandemic can be found [here](#).

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