

Notion of State aid

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State aid is any financial assistance provided or mediated from the State, municipal or European Community resources to an undertaking which causes or may cause restrictions of competition. For a measure facilitating a commercial activity to be classified as a State aid it has to correspond to the following four criteria simultaneously:

Aid provided from public resources (state, municipal or European Union resources). When determine whether particular measure is a State aid or not attention should be mainly paid to the sources of financing, rather than the institution providing the financing. So, resources of the European Union, state or municipality should be involved in a way of budget appropriation or decrease in budget revenue, for example, tax relieves.;

An undertaking receives an economic advantage that it would not receive in the normal course of business.For example, an undertaking buys publicly owned land at less than the market price or sells land to the state at higher than the market price, an undertaking pays less taxes comparing to general requirements etc.;

The implemented measure is selective by its nature. An aid is considered "selective" if it can be received by certain undertakings, undertakings operating in separate economic sectors or territories etc. Selective State aid measures should be differentiated from "general measures", namely measures which apply automatically to all undertakings in a Member State irrespective of the sector, location, size etc.

State aid effects competition and trade in Latvia's domestic market, as well as trade between EU Member States Aid measures are considered as aid in terms of Article 107 of the Treaty of the Functioning of the European Union [further – Treaty] only if they refer to a sector in which there is trade between Member States. Namely, pursuant to the established case law of the Court of Justice and First Instance Courts, the criterion of trade being affected is met if the recipient undertaking carries out an economic activity involving trade between Member States. It should be noted that small amount of aid (so called "de minimis" aid) does not have considerable effect on competition between Member States.

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