Plenary sitting

A7-0204/2013

6.6.2013

REPORT

on regional policy as a part of wider State support schemes
(2013/2104(INI))

Committee on Regional Development

Rapporteur: Oldřich Vlasák

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(*) Associated committee – Rule 50 of the Rules of Procedure

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(*) Associated committee - Rule 50 of the Rules of Procedure

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on regional policy as a part of wider State support schemes

(2013/2104(INI))

The European Parliament,

– having regard to Articles 174 et seq. of the Treaty on the Functioning of the European Union (TFEU), which establish the objective of economic, social and territorial cohesion and define the structural financial instruments for achieving this,

– having regard to Article 107(3) (a) and (c) TFEU, which provide for the eligibility for regional State aid to promote the economic development of certain disadvantaged areas in the European Union,

– having regard to the Commission proposal of 6 October 2011 for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (COM(2012)0496), as amended (COM(2013)0146),

– having regard to its resolution of 17 January 2013 on State aid modernisation[1],

– having regard to the Opinion of the Committee of the Regions No 2232/2012 of 1 February 2013 on the regional State aid guidelines for 2014-2020,

– having regard to the Opinion of the European Economic and Social Committee INT/653 of 26 March 2013 on the internal market and State aid for the regions,

– having regard to the Commission Guidelines on national regional aid for 2007-2013[2],

– having regard to the Commission communication of 8 May 2012 entitled ‘EU State aid Modernisation (SAM)’ (COM (2012)0209),

– having regard to the decision of the Commission, C(2012) 7542 final, in the case SA 33243 Jornal da Madeira,

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[1] Texts adopted, P7_TA (2013)0026.

[2] OJ C 54, 4.3.2006, p. 13.

– having regard to the Commission's 'Paper of the services of DG Competition containing draft guidelines on regional State aid for 2014-2020'[1],

– having regard to point 57 of the European Council Conclusions on the Multiannual Financial Framework (7-8 February 2013 – Regional Aid)[2],

– having regard to the communication from the Commission to the Member States of 1998 on 'the links between regional and competition policy – reinforcing concentration and mutual consistency' (COM(98)0673),

– having regard to the judgment of the Court of Justice of the European Union in Joint Cases T-443/08 and T-455/08T (Mitteldeutsche Flughafen and Flughafen Leipzig/Halle v Commission),

– having regard to the Commission communication entitled '"Think Small First"- A "Small Business Act" for Europe', (COM(2008)0394),

– having regard to Rule 48 of its Rules of Procedure,

– having regard to the report of the Committee on Regional Development and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Employment and Social Affairs (A7-0204/2013),

A. whereas the Commission is carrying out the process of State aid modernisation (SAM), the objectives of which are to foster growth, focus on major cases, and simplify, streamline and hasten the implementation of the relevant rules;

B. whereas the legal basis for the new proposals, as stipulated by Article 109 TFEU, provides only for the consultation of Parliament and not for the ordinary legislative procedure; whereas Parliament has no say in the adoption of the guidelines on regional State aid for 2014-2020;

C. whereas the ordinary legislative procedure on the Cohesion Policy legislative package on the European Structural and Investment Funds for 2014-2020 has not yet been concluded;

D. whereas the most common forms of State support schemes take the form of grants and subsidies, tax deductions, waivers, incentive awards, soft loans, guarantees, preferential borrowing rates and equity participation granted by national, regional and local government, as well as by publicly controlled entities and through an increasing number of forms of public-private partnership;

E. whereas there are a number of rules on State aid, as well as guidelines which apply at regional, sector-specific or horizontal levels, while the choice of which type of aid to apply is to a certain extent left to the discretion of the Member States;

F. whereas, according to the Commission, the purpose of its Regional Aid Guidelines (RAG)

[1] Brussels, 2012 (no date).

[2] EUCO 37/13, 08.02.2013, p.22.

is to promote a competitive and coherent single market, while at the same time ensuring that the distorting effects of aid are kept to a minimum;

G. whereas State aid should complement and seek balance with the objectives of other EU policies, in particular Cohesion Policy;

H. whereas the application and interpretation of State aid rules also depend heavily on the case-law of the Court of Justice;

I. whereas the existence of a mechanism ensuring the effective implementation and application of EU State aid is one of the general ex ante conditionalities provided for in the draft set of regulations on Cohesion Policy for 2014-2020;

J. whereas the ex post impact of State aid and State aid controls on Member States, regions and local authorities, as well as on companies, markets and the overall economy, has not been sufficiently assessed, as the Court of Auditors points out in its report entitled 'Efficiency of Commission in assessing State aid'[1];

K. whereas anxiety over administrative burdens is the main concern affecting beneficiaries when dealing with State aid or Cohesion Policy rules;

Coordination of State aid rules and Cohesion Policy

1. Welcomes the Commission's draft regional aid guidelines for 2014-2020 as an integral part of the State aid modernisation (SAM) programme; reiterates its support for an approach where the compatibility rules to assess State aid are rooted on common principles and are consistent across the General Block Exemption Regulation[2] (GBER) and the different guidelines; favours the adoption of simpler, predictable and more effective State aid control and enforcement rules based on sound economic analysis;

2. Takes the view that the implementation of both Cohesion Policy and the rules on State support schemes to reinforce local and regional investment and public-private partnerships are of key importance for promoting economic, social and territorial cohesion, regional and local development, smart, sustainable and inclusive growth, and job creation; is, however, concerned as to whether the State aid rules are consistent with the implementation of the European Structural and Investment Funds; urges the Commission, therefore, to ensure consistency of the SAM with the Cohesion Policy regulations 2014 – 2020, so that there are no major variations in treatment of areas belonging to the same category of region within the framework of Cohesion Policy;

3. Regrets that Article 109 TFEU – the Treaty basis for the enabling regulation and, indirectly, the GBER – provides only for consultation of Parliament, not codecision; believes that this democratic deficit cannot be tolerated; proposes that this deficit be overcome as soon as possible, through interinstitutional arrangements in the field of

[1] Court of Auditors Special Report no. 15: Efficiency of Commission in assessing State aid. 2011.

[2] Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3.

competition policy, and corrected in the next Treaty change; points out that the Commission blueprint for a deeper Economic and Monetary Union foresees proposals for a Treaty change by 2014; deems that such a proposal should include, inter alia, a specific proposal amending Article 109 TFEU in order to adopt the regulations referred to in that Article in accordance with the ordinary legislative procedure;

4. Encourages the Commission to continue to issue soft law guidelines in the field of competition policy, in particular on State aid, duly taking into account the existing Court of Justice case law, in order to ensure some legal certainty for the stakeholders;

5. Underlines the fact that the primary role of State aid control is to ensure a level playing field in a competitive and coherent internal market; fully supports the SAM overall aim of tailoring State aid rules to the need to promote economic growth in the EU; notes that it is particularly relevant to promote economic growth in the most disadvantaged regions of the EU, keeping distortive effects of aid within the internal market to a minimum;

6. Emphasises that the State aid rules, as well as the Cohesion Policy objectives, should lead to improving the situation of the regions and the most disadvantaged areas, and that the SAM process must reflect the objectives of cohesion throughout the EU, i.e. to contribute to the sustainable development of the regions and improve wellbeing; believes that the modernisation of competition rules needs to be grounded in full awareness of the impact of the rules at subnational level;

7. Calls on the Commission to ensure that promoting smart, sustainable and inclusive growth through State aid is implemented in overall consistency with credible strategies for long-term fiscal consolidation; suggests that the Commission take better account of links between State aid policies and fiscal surveillance in drafting Country Specific Recommendations, and calls on the Member States to take these links into account when drafting their Stability and Convergence Programmes and National Reform Programmes; underlines the need for a simplification of rules and for less, but better-targeted, State aid, keeping in mind that State aid is meant to be an exception, not the rule; emphasises the need to prevent and avoid subsidy races between Member States, particularly in times of tight budgetary constraints across the EU;

8. Believes that regional aid can only play an effective role if it is used sparingly and proportionately and is concentrated on the most disadvantaged regions of the EU, where it is needed the most; emphasises the structural contribution of aid to regional development, particularly in the current context of deep economic crisis; calls on the Commission to recognise that the crisis criterion of 'serious disturbance in the economy of a Member State' still applies in the real economy as well as in the financial sector, and to clarify and standardise the criteria for making this assessment;

9. Notes that there is a margin of overlap between Cohesion Policy structural funds and State aid to companies; highlights that a significant part of the expenditure under EU Cohesion Policy in the period 2014-2020 falls under the GBER and that not only the RAG but also other horizontal or sector-specific guidelines are relevant in this context; notes that all these State aid instruments have to be coherent among themselves and with the Cohesion Policy objectives, and that all these rules should ultimately ensure effective spending of public money and promote growth;

10. Notes the importance of the GBER in the whole SAM process as a block exemption from the notification requirement for certain categories of aid can seriously reduce the administrative burden for Member States, while allowing the Commission to concentrate its resources on the most distortive cases and better prioritise its enforcement activities; believes, therefore, that the draft new GBER and its set of common principles should have been published by the Commission before any specific guidelines;

11. Welcomes the Commission's aim in the SAM process to make the principles clearer, more straightforward and easier; takes the view that these principles should be both well coordinated with other EU policies and sufficiently clear, predictable and flexible to meet the needs of certain Member States and their regions which are facing a time of crisis and severe economic hardship; reiterates its recognition of the role played by State aid and public investment in addressing the economic crisis and achieving the objectives of growth and employment; believes, in this regard, that the Commission should ensure that the aid intensities laid down in the future RAG are not applied to public subsidies from the European Structural and Investment Funds; expresses its concern that the proposal as published for consultation is not sufficiently evidence-based and could go against the objective of simplification;

Territorial coverage of regional State aid 2014-2020

12. Notes that, contrary to other types of State aid which can be granted across the EU, regional aid should by definition have a limited geographical scope and population coverage;

13. Takes the view that the geographical zoning of the new RAG 2014-2020, however, should be preserved or should go beyond the current level of 45 %, and that the aid intensity should be maintained at the present level, given the political, economic and social situation in the Member States as well as the natural, geographic and demographic handicaps of certain regions; points out that, in the global context, the EU and EEA economies could be placed at a disadvantage relative to third countries benefiting from less stringent employment models or lower costs, thus jeopardising the attractiveness of the former; points out that in the disadvantaged areas of the EU necessary balance-sheet adjustments in the private sector, austerity-driven cuts in public finances and economic uncertainty are undermining investment and access to finance, thus increasing disparities across regions;

14. Is of the opinion that the new rules should not have a restrictive impact on investment in and growth of regions as they move from the less developed to the more developed category; is aware that certain regions eligible for State aid under the current system might not meet the zoning criteria of the RAG in the future period and might face exclusion from the zoning scheme; believes that those regions should have a special safety regime, similar to that for transition regions under Cohesion Policy, which would provide for more consistency between the Cohesion Policy regulations 2014 - 2020 and competition rules and would allow Member States to cope with their new situation; in this regard proposes that the regions considered as 'a' regions in the period 2007 - 2013 should have the predefined status of 'c' regions for the period 2014-2020; asks the Commission to ensure the possibility of increasing the maximum aid intensity in former 'a' regions including the

statistical effect regions, and in “c”‘’ regions, accordingly;

15. Highlights the role of State aid in economies which have been particularly hard hit by the crisis and for which public funding under Cohesion Policy might be the only source of investment; proposes, in this connection, that consideration be given to specific regional derogations outside the regional aid maps, to allow Member States to tackle the backlash effects of the crisis; points out that, as regards economic development, the period 2008-2010 and, as regards unemployment, the period 2009 - 2011 are to be used by the Commission as a basis for State aid eligibility, despite the fact that those years cannot yet constitute a measure for the territorial impact of the disruption caused by the crisis and by natural disasters; asks the Commission to act on the basis of more recent and specific data; proposes that, in order to avoid a gap, the Commission should extend the validity of the current RAG and regional maps by at least 6 months, since the new maps will not have been approved in time; welcomes the Commission’s intention to carry out a mid-term review of the regional maps of the ‘c’ regions in 2017;

16. Calls on the Commission to consider the economic effects of its regional aid decisions in a wider geographical context as border regions can compete with the EEA territory for economic activity location; recommends that the Commission take this point into consideration in its EU neighbourhood policy and in negotiations with candidate countries;

17. Recalls the position of the European Council, which has instructed the Commission to ensure that the particular situation of regions bordering convergence regions is accommodated for; highlights, therefore, the importance of a balanced approach to the designation of so-called ‘a’ and ‘c’ areas with a view to minimising the disparities in aid intensity between regions from different Member States sharing the same border; asks the Commission to ensure that regions ineligible for State aid that border on “a”‘’ areas of another country are granted a specific allocation in terms of ‘c’ coverage; considers that this allocation should, by way of derogation from the overall coverage ceiling, be assigned to the Member States in addition to the allocation of predefined and non-predefined ‘c’ areas; insists that the difference in aid intensity between all categories of region and all sizes of company should be limited to a maximum of 15 %;

18. Draws the Commission’s attention to the situation of the outermost and sparsely populated regions and of the island regions; proposes State aid as an adequate compensation for their insularity, remoteness, small size, difficult topography, climate and market-size limitations; asks for the alignment of the cohesion legislative package with the operating aid of the competition policy requirements for these territories; requests that the Commission clearly restates in the new RAG the principles of non-degressivity and non-limitation in time for operating aids in these regions; asks the Commission to clarify its definition of State aid granted to outermost regions, with specific reference to additional transport costs;

19. Calls on the Commission to include all NUTS 2 level regions consisting solely of an island or of several islands in the list of ‘predefined “c” areas’ covered by Article 107(3)(c) TFEU;

20. Proposes that the Member States should be allowed to use a broader set of parameters for

determining regional disadvantages, so that besides low population density other criteria, such as geographical disadvantages, demographic handicaps or liability to natural disasters, are taken into account when determining spatial eligibility for State aid; takes the view that State aid represents a legitimate compensation for the handicaps of insularity, remoteness and small size of a territory, and that such a condition should be considered as an independent criterion for the purposes of the territorial coverage of regional State aid for 2014–2020, in order to enable island territories to overcome their structural handicaps and ensure the conditions for economic, social and territorial growth;

Administrative constraints of the State aid rules in the context of Cohesion Policy

21. Believes that the application of State aid rules within the Cohesion Policy programmes could be better achieved by focusing on large-scale and better-targeted aid, simplified rules including the notification rules, and extension of the horizontal categories in the Enabling Regulation[1] and the scope of the block exemption rules in the GBER; recommends increasing the de minimis ceilings; points out that raising the de minimis threshold, especially for the agricultural, fisheries and transport sectors in the outermost regions and island territories could help them equalise their competitiveness with the mainland regions;

22. Reiterates its call on the Commission to provide promptly for clear guidance for assessing what is and is not State aid under the definition of Article 107(1) TFEU, as well as for detailed criteria for distinguishing between important and less important State aid cases as announced in the SAM roadmap;

23. Takes the view that with regard to the ruling of the Court of Justice in the Joint Cases Mitteldeutsche Flughafen and Flughafen Leipzig/Halle v Commission, it is important to guarantee a correct application of the State aid rules within the Cohesion Policy programmes in infrastructure projects used for economic activities, so as to ensure that local and regional authorities and/or their public entities are not faced with additional administrative burdens; stresses that the implementation of these projects should not be jeopardised by the demanding financial management rules, including the decommitment rules pertaining to Cohesion Policy and the complaint practice in the State aid procedure;

24. Reiterates, in order to ensure a simplified but consistent approach, its request for clarification regarding the assessment of the State aid granted under the Block Exemption Regulations by the Member States, since this is likely to present particular difficulties not only for SMEs but also for local and regional authorities and their entities under the Cohesion Policy programming for 2014-2020; stresses that simplification should not be sought at the expense of enforcement;

25. Highlights that the general ex ante conditionality regarding State aid within Cohesion Policy requires that the Commission should apply a more proactive approach to State aid cases, in particular if the size and scope of aid exempt from notification increases; endorses the Court of Auditors' view that the Commission should raise awareness concerning the obligation to notify, promote best practices, provide targeted information on the different types of notification, provide for the publication of a regularly updated

[1] Council Regulation No 994/98 of 7 May 1998. OJ L 142. 14.5.1998, p.1.

section addressing frequently asked questions on its competition website, and set up a helpdesk for questions relating to the interpretation of the guidelines;

26. Believes that the Member States and regions should coordinate their activities with the Commission better, in terms of the quality and timeliness of the information they submit and the notifications they prepare; calls on the Member States to ensure the proper application of the State aid ex ante conditionality under Cohesion Policy, as well as better compliance with State aid rules at national level;

27. Calls on the Commission and the Member States to target their information campaigns regarding State aid rules specifically on regional and local bodies, many of which have only occasionally granted State aid and therefore have limited knowledge of the rules applying to it; calls on the Commission to take this into consideration when assessing the ex ante conditionality applying to State aid in Member States;

28. Calls on the Commission to ensure the administrative, legal and transparency obligations of application of the SAM rules remain as clear as possible; believes that certain newly proposed rules in the draft RAG for 2014-2020 – such as counterfactual scenarios, clear evidence that the aid has an impact on the investment choice, or the condition that work on the project must not start before a decision to award aid is taken by public authorities – which the Commission wishes to apply in the coming period, both to companies applying for incentives and to the Member States and their subnational government structures – are not compatible with the principle of simplification and 'debureaucratisation' as promoted under Cohesion Policy and other EU and national policies; reiterates that such rules may mean that certain projects will be excluded from investment aid or will never get off the ground; considers that the requirement of a regular assessment of the desirability of State aid in the outermost regions could jeopardise the security and predictability that are needed if investors and enterprises are to seek market opportunities in the regions concerned;

Attractiveness of regions and State aid rules

29. Stresses the importance of ensuring clear and straightforward rules for regional as well as sector-specific State aid for attracting foreign direct investment to the EU and its regions and for ensuring their global competitiveness as well as their economic, social and territorial cohesion;

30. Welcomes the new proposed rules on transparency (paragraphs 127 and 128 of the draft guidelines); encourages the Member States to comply with these rules and to publish in a central website complete and accurate information about granted aid;

31. Urges the Commission to make access to State aid for SMEs in those most disadvantaged regions simpler and clearer, recognising the importance of those entities for regional development; at the same time, asks the Commission to step up enforcement efforts in bigger, potentially more distortive cases;

32. Acknowledges the problems regarding investment aid to large enterprises indicated by the Commission, given that evidence suggests a lack of incentive effect; believes that, although State aid should be primarily provided to SMEs, excluding large enterprises, a

category which also includes family-owned enterprises exceeding the definition of SMEs or mid-cap companies, from State aid rules in areas covered by Article 107(3)(c) TFEU is not justified given their contribution to employment, the supply chains they create with SMEs, their common involvement in innovation, research and development, and their positive role in combating the economic crisis; takes the view that the presence of large undertakings is often key to the success of SMEs that benefit from clusters led by large companies and from their subcontracting activities; recalls that it was the Commission itself that recognised the contribution of investment by large enterprises to creating knock-on effects and to access for the EU to the world markets; stresses that a decision to exclude large enterprises in “”‘c’ areas could lead to job losses, reduced economic activity in the regions, reduced regional competitiveness, reduced attractiveness for foreign investment and the relocation of companies to other regions either within or outside the EU; considers, therefore, that such companies should remain eligible for State aid in “”‘c’ areas, subject to particular scrutiny following individual notification and to additional compatibility criteria concerning incentive effect and contribution to regional development through clusters and subcontracting;

33. Believes that the eligibility of large enterprises for State aid incentives should be determined not only on the basis of the size of the enterprise or the sector in which it operates, but also on the basis of the estimated number of jobs that could be created and preserved under the incentive, the quality and the sustainability of the jobs or project concerned and the long-term effects for the development of the region, including the social aspects; stresses that, in compliance with the principle of subsidiarity, decisions determining which particular projects have the highest potential to achieve the objectives of EU policies should be left to the Member States, the regions concerned and the local authorities;

34. Agrees with the Commission that it should be avoided that State aid leads to relocation of an activity from one site to another within the EEA; expresses doubts, however, about the proposed draft paragraphs 24-25 and 122-124, believing them to be insufficiently complementary to Cohesion Policy and incompatible with the objective of simplification; notes, in particular, that the figure of two years is necessarily arbitrary and that this rule may be impossible to enforce, as any causal link and the existence of a plan two years ahead will be difficult to prove; is concerned that this rule may favour non-European over European companies and that it may lead to relocation outside the EEA when an activity could otherwise be attracted by regional aid to the assisted area;

35. Notes the risks of relocation of companies granted State aid, both within and outside the EU, which are very real for the regions; notes the safeguard clause proposed by the Commission, which would oblige companies to maintain investment and jobs created in the area where the aid was awarded or, otherwise, reimburse the aid; draws the Commission’s attention to the ongoing negotiation of the Cohesion Policy regulations for 2014-2020, and requests that the respective periods under Cohesion Policy and competition policy for maintaining investment and jobs by companies granted EU funds / State aid be aligned;

36. Expresses doubts also about the ineligibility for regional aid of ‘firms in difficulties within the meaning of the Community guidelines on State aid for rescuing and restructuring firms

in difficulty' (paragraph 11 of the draft guidelines); believes that companies undergoing restructuring should not be exposed to more stringent measures, especially when a priori negative assessment of aid requests from these companies might lead to relocation outside the EU; points out that responsible company restructuring in today's uncertain and constantly changing business environment is the main measure to provide the long-term sustainability of investment, jobs and growth; notes that the proposed rule as drafted is not only inconsistent with helping firms affected by the economic crisis in assisted regions but also impossible to implement, given that those guidelines explicitly contain no precise definition of firms in difficulty; recalls its resolution of 15 January 2013 with recommendations to the Commission on information and consultation of workers, anticipation and management of restructuring[1] calling for a legal act on those matters, and requests that the Commission acts without delay;

37. Is convinced that it is essential that some margin of flexibility for the revision of the guidelines is kept, as mentioned in draft paragraph 177, in order to allow for any future required adjustments, since these guidelines are designed to cover a period of 7 years;

38. Instructs its President to forward this resolution to the Council and the Commission.

[1] Texts Adopted, P7_TA(2013)0005.

EXPLANATORY STATEMENT

Introduction

The European Commission started the debate on the package of Cohesion Policy legislation in June 2011. Its focus is to contribute to more competitive European Union and to Europe 2020 Strategy by Cohesion Policy investments while helping the less developed regions balance their development with the more developed ones. Due to the changes introduced by the Lisbon Treaty the Cohesion Policy legislation is subject to ordinary legislative procedure, which enables the European Parliament incorporate its political message to the regulations. The inter-institutional debates are not yet finished and a compromise on many issues is still being sought.

From the Stat Aid perspective the Cohesion Policy legislative package introduces the State aid ex-ante conditionality which has to be fulfilled by Member States. Its aim is to ensure effective implementation and application of EU State aid law within Cohesion Policy and should be applied to all types of support (including *de minimis* aid, grants or aid provided via financial instruments). The Commission will supervise whether the Member States comply with this ex-ante conditionality and whether the national administration is capable to handle the cases, including their timely recovery.

In May 2012 the Commission commenced the process of State aid rules modernisation by issuing its Communication on State aid modernisation. The three main objectives of this process are concentration on growth while keeping the internal market strengthened, dynamic and competitive, focusing on the biggest State aid cases which distort the internal market and streamlining and fastening the decisions relating to State aid procedures. The process was followed by issuing a range of new drafts of issue papers for the sector-specific State aid rules and a new draft guideline for the Regional State aid rules. All these documents were open for public consultation between February and April 2013 and their formal approval by the Commission is expected before summer.

The draft of the Regional State aid Guidelines (RSAG) as published by the Commission at the beginning of this year has introduced a range of new issues, the most important being:

- Reconsideration of the territorial zoning of the new Guidelines and decreasing the overall coverage ceiling of the eligible areas to 42 %
- Decreasing the aid intensity in “A” areas
- Introduction of some new administrative obligations to be fulfilled by beneficiaries
- Exclusion of large enterprises from aid in “C” regions and limitation of productive investments for them in “A” regions.

The RSAG will be supplemented by amended General Block Exemption Rules (expected at the end of 2013), which together with *de minimis* rule, aid granted under existing schemes, aid for projects entrusted as SGEI in accordance to Commission’s SGEI decision[1] and aid to which Regulation 1370/2007[2] applies create a group of exemptions from the prior

[1] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012XC0111(02):EN:NOT

[2] Regulation (EC) No 1370/2007of 23 October 2007 on public passenger transport services by rail and by road

notification.
In the process of SAM the European Parliament's has only a consultative, not co-decisive role. The European Parliament expressed its concern over the democratic deficit of such decision-making in its resolution of 17 January 2013 on State aid modernisation. From the regional perspective the important issues of the resolution pointed out to the role of State aid incentives for Member States and regions in the time of crisis, called on the Commission to be more pro-active in distinguishing between the important and less important cases and drew attention to the 40 % of cases under the General Block Exemption Regulation which is, according to the Court of Auditors, problematic.

In December 2012 the European Court of Justice issued a judgment in the Leipzig-Halle case. The Court decided that there is a link between the exploitation of infrastructure as an economic activity and the construction for the purposes of its later exploitation. As the Members States often tend to consider construction of infrastructure as not subject to State aid rules (due to its public interest task), notification process to the Commission has often been omitted. This should not be the case any more as the Court's ruling on the public infrastructure has clarified the issue. Nevertheless, this would mean more pressure on public authorities financing construction of public infrastructure under future Cohesion Policy as well as fear of more administrative constraints for local and regional governments investing into such projects.

With a view to the above mentioned issues which are interconnected and will impact the shape and implementation of Cohesion Policy post 2014 the REGI committee decided to react and issue its draft motion for resolution of the European Parliament.

Coordination of State aid rules and Cohesion Policy

According to the Treaty on Functioning of the EU Cohesion Policy should concentrate on economic, social and territorial situation of the affected and less developed regions[1]. The Treaty also stipulates that aid provided for better structural, economic and social situation of less developed regions is considered compatible with EU internal market[2]. Although both EU policies - on State aid as well as on Cohesion - have different backgrounds, there are some shared values: to help less developed regions, promote their development, support areas with lower standards of living or hit by unemployment.

The EU institutions should strive for coordinated approach to both policies. However, the current schedule of works on main legislative pieces of both policies as well as their different approval procedures do not provide for at least a partial clarity on interaction of both of them. The State aid rules, or more specifically important for the regional development the Regional State aid Guidelines, are likely to be adopted by the Commission before the conclusion of the Cohesion Policy inter-institutional negotiations on the legislative package. This may in fact lead to different approaches in both policies and insufficient provision for clear, predictable and flexible rules compatible with Cohesion Policy.

Territorial coverage of the Regional State aid 2014 - 2020

[1] Art. 174 of TFEU.
[2] Art. 107 of TFEU.

Introduction of the new ceiling to the geographical coverage of the new State aid rules as well as lowering of the aid intensity in "A" regions are one of the crucial issues of the new RSAG. The rapporteur would like to put that in question since there are some concerns within the EU which support the idea that this decision should not be made now.

The first argument is the crisis and the role of public investments in the course of economic hardships of Member States. The role of State aid granted during this time is crucial for regional development and cannot be underestimated. As the Court of Auditors says, *"State aid to the industry and services sector (excluding railways, other transport, agriculture and fisheries) fluctuated around 0,5 % of EU-27 GDP until the outbreak of the financial crisis in the second half of 2008, but rose to 3,5 % of GDP or 410 billion euro in 2009, which is the highest level since the Commission started its State aid surveys in 1990"*[1]. It is clear that granting state support schemes and incentives help certain Member States and their regions overcome their economic situation and contribute to growth and jobs.

Nevertheless, it is not only the argument of crisis in Member States which teaches us that the SAM must be cautious and reflect on reality. There are also other issues - competitiveness of the EU on the global market compared to third countries benefitting from looser employment schemes or lower costs or political and social situation in the Member States. These should all be arguments strong enough to abandon the initially intended decrease in territorial coverage of the new Guidelines on regional State aid 2014 - 2020 (RSAG) or limiting the aid intensity in regions. SAM must take into account the realistic situation of Member States and the regions by understanding the impact of the new rules at sub-national level.

Very difficult is also the situation of regions which fall out of the regional State aid maps. Not helping these regions by means of some special, safety net similar to transition regions in Cohesion Policy would be considered unfair and could make it harder for them to meet the objectives of EU 2020. A solution might be that e.g. all current "A" areas would be treated as "C" areas, regardless their formal economic statistical situation.

Administrative constraints of the State aid rules in the context of Cohesion Policy

For efficient and easier application of the State aid rules under Cohesion Policy it is important that SAM concentrate on large-scale aid and on simplifying rules. This could be done by increasing the *de minimis* ceiling or extending the horizontal categories in the Enabling Regulation[2] and the scope of the block exemption rules in the General Block Exemption Regulation[3].

This will also need better application of the exemption rules by the Commission and the Member States. The Commission should clarify on which criteria apply for important and less important cases, while the Member States should provide information on time and in full when being asked by beneficiaries on individual issues. In rapporteur's opinion approach of the Commission should be more pro-active and lead to raising awareness on State aid cases, specifically as regards local and regional authorities which only occasionally grant State aid.

[1] Court of Auditors Special Report no. 15: Efficiency of Commission in assessing State aid. 2011.

[2] Council Regulation No 994/98 of 7 May 1998.

[3] General Block Exemption Regulation of the European Commission (800/2008) of 6 August 2008.

After the ECJ ruling in the joint cases Mitteldeutsche Flughafen and Flughafen Leipzig/Halle v Commission, Member States and local and regional authorities expect higher volume of State aid administration and bureaucracy with administering their projects within Cohesion Policy. This is particularly relevant for projects concentrating on bigger infrastructure, if considered for future economic activity.

The CoA Report draws attention to the lengthiness of the preliminary and the notification processes. For 40 % of cases it takes more than 6 months to reach a decision. The Commission often uses its right to request for clarifying information from the Member State, which is often done close to the legal deadline. Since the Member State in many cases do not reply in time and prolong their answer, the process becomes unbearably long. The same applies in case of formal investigation procedure - complaints procedure is very long and is not transparent enough. Bearing that in mind local and regional authorities can have problems with fulfilling the strict financial management rules including the de-commitment rule in Cohesion Policy.

The intention to simplify the Cohesion Policy implementation as well as other EU policies is put to question with the new State aid rules. More need for preliminary notification or notification also under ERDF or CF infrastructure projects add more bureaucracy to the projects. More administration is planned also for enterprises within the Regional State aid rules 2014 - 2020 e.g. by introducing things such as counterfactual scenarios, clear evidence that the aid has an impact on the investment choice or the condition that the work on the project must not start before the decision by public authorities to award the aid is taken. Due to the fact that the procedures are already lengthy and the Member States themselves often lack understanding of what they should assess and how, it may in fact lead to exclusion of certain projects from investment aid.

Attractiveness of regions through State aid rules

An opportunity to provide incentives for Member States, either by form of e.g. grants, tax deductions, incentive awards, loans or guarantees often bring more attractiveness to regions concerned as regards foreign direct investments. However, the conditions in areas allowed for granting aid for large enterprises should be, according to the draft RSAG, limited. They provide for exclusion of large enterprises in “C” regions and limit productive investments in “A” regions. In these regions, according to the Commission draft, productive investments should be allowed for SMEs and should be capped for large undertakings.

This decision is, however, also interlinked with Cohesion Policy. In the draft regulation to the European Regional Development Fund from May 2011 the Commission proposed a general exclusion of large enterprises from productive investments. But this was opposed both by the European Parliament and the Council which, during the inter-institutional negotiations, expressed their will to open certain investment priorities also to these companies and their productive investments.

The new RSAG should reflect on the current progress in negotiations on the ERDF and on the message which both institutions send as regards their view on the participation of nonSMEs in regional development. Relevant is the argument that the decision on which company should or should not be granted aid in areas covered by RSAG should be left, in compliance with the principle of subsidiarity, up to the national or subnational level. But the rapporteur also has the view that the criterion for granting aid should not be the size of an undertaking, but its contribution to regional development, employment, quality of investment or sustainability of the project.

28.5.2013

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS(*)

for the Committee on Regional Development

on regional policy as a part of wider State support schemes
(2013/2104(INI))

Rapporteur (*): Sharon Bowles

(*) Associated Committee – Rule 50 of the Rules of Procedure

SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Regional Development, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the Commission's draft regional aid guidelines (RAG) for 2014-2020 as an integral part of the State aid modernisation (SAM) programme; reiterates its support for an approach where the compatibility rules to assess State aid are rooted on common principles and are consistent across the General Block Exemption Regulation (GBER) and the different guidelines; favours the adoption of simpler, predictable and more effective State aid control and enforcement rules based on sound economic analysis;

2. Notes the importance of the GBER in the whole SAM process as a block exemption from the notification requirement for certain categories of aid can seriously reduce the administrative burden for Member States, while allowing the Commission to concentrate its resources on the most distortive cases and better prioritise its enforcement activities; believes, therefore, that the draft new GBER and its set of common principles should have been published by the Commission before any specific guidelines;

3. Regrets that Article 109 TFEU – the Treaty basis for the enabling regulation and, indirectly, the GBER – provides only for consultation of Parliament, not codecision; believes that this democratic deficit cannot be tolerated; proposes that this deficit be overcome as soon as possible, through interinstitutional arrangements in the field of competition policy, and corrected in the next Treaty change; points out that the

Commission blueprint for a deeper Economic and Monetary Union foresees proposals for a Treaty change by 2014; deems that such a proposal should include, inter alia, a specific proposal amending Article 109 TFEU in order to adopt the regulations referred to in that Article in accordance with the ordinary legislative procedure;

4. Encourages the Commission to continue to issue soft law guidelines in the field of competition policy, in particular on State aid, duly taking into account the existing ECJ case law, in order to ensure some legal certainty for the stakeholders;

5. Welcomes the new proposed rules on transparency (paragraphs 127 and 128 of the draft guidelines); encourages the Member States to comply with these rules and to publish in a central website complete and accurate information about granted aid;

6. Underlines the fact that the primary role of State aid control is to ensure a level playing field in a competitive and coherent internal market; fully supports the SAM overall aim of tailoring State aid rules to the need to promote economic growth in the EU; notes that it is particularly relevant to promote economic growth in the most disadvantaged regions of the EU, keeping distortive effects of aid within the internal market to a minimum;

7. Calls on the Commission, however, to ensure that promoting smart, sustainable and inclusive growth through State aid is implemented in overall consistency with credible strategies for long-term fiscal consolidation; suggests that the Commission take better account of links between State aid policies and fiscal surveillance in drafting Country Specific Recommendations, and calls on the Member States to take these links into account when drafting their Stability and Convergence Programmes and National Reform Programmes; underlines the need for a simplification of rules and for less, but better-targeted, State aid, keeping in mind that State aid is meant to be an exception, not the rule; emphasises the need to avoid subsidy races between Member States, particularly in times of tight budgetary constraints across the EU;

8. Believes that regional aid can only play an effective role if it is used sparingly and proportionately, and is concentrated on the most disadvantaged regions of the EU where it is needed the most; believes, consequently, that State aid policy and Cohesion Policy are, to a large extent, complementary and mutually reinforcing; in this regard, urges the Commission to ensure that State aid modernisation will be consistent with the proposed changes in the General Regulation on the Structural Funds and to prevent areas belonging to the same category and experiencing similar economic difficulties from being treated unequally; emphasises the structural contribution of aid to regional development, particularly in the current context of deep economic crisis; calls on the Commission to recognise that the crisis criterion of ‘serious disturbance in the economy of a Member State’ still applies in the real economy as well as in the financial sector, and to clarify and standardise the criteria for making this assessment;

9. Notes that there is a margin of overlap between Cohesion Policy structural funds and State aid to companies; highlights that a significant part of the expenditure under EU Cohesion Policy in the period 2014-2020 falls under the GBER and that not only the RAG but also other horizontal or sector-specific guidelines are relevant in this context; notes that all these State aid instruments have to be coherent among themselves and with the Cohesion Policy objectives and that all these rules should ultimately ensure effective spending of

public money and promote growth;

10. Stresses that, in light of the upcoming changes in the General Regulation on the Structural Funds for period 2014-2020, changes in Cohesion Policy legislation, especially the new categorisation of regions, need to be taken into careful consideration when modernising not only RAG but also other horizontal or sector-specific guidelines for State aid; insists that real synergies be established between all State aid instruments and Cohesion Policy to eliminate any disturbing discrepancies and ensure maximum consistency of the two policies;

11. Acknowledges the problems regarding investment aid to large enterprises indicated by the Commission, given that evidence suggests a lack of incentive effect; is, however, of the opinion that total exclusion of large undertakings from State aid rules in areas covered by Article 107(3)(c) TFEU is not justified given their contribution to employment, their subcontracting activities benefiting SMEs and their involvement in research and development; takes the view that the presence of large undertakings is often key to the success of SMEs that benefit from clusters led by large companies and from their sub-contracting activities; highlights that such exclusion of large undertakings may lead to job losses and reduced economic activity in the regions concerned as well as to relocation of activity to other regions, either within or outside the EU; suggests that regional aid to large undertakings in areas covered by Article 107(3)(c) TFEU should be permitted, subject to particular scrutiny following individual notification and to additional compatibility criteria concerning incentive effect and contribution to regional development through clusters and subcontracting;

12. Urges the Commission to make access to State aid for SMEs in those most disadvantaged regions simpler and clearer, recognising the importance of those entities for regional development; at the same time, asks the Commission to step up enforcement efforts in bigger, potentially more distortive cases;

13. Notes that, contrary to other types of State aid which can be granted across the EU, regional aid should by definition have a limited geographical scope and population coverage;

14. Calls on the Commission to consider the economic effects of its regional aid decisions in a wider geographical context as border regions can compete with the EEA territory for economic activity location; recommends to the Commission to take this point into consideration in its EU neighbourhood policy and in negotiations with candidate countries;

15. Agrees with the Commission that it should be avoided that State aid leads to relocation of an activity from one site to another within the EEA; expresses doubts, however, about the proposed draft paragraphs 24-25 and 122-124, believing them to be insufficiently complementary to Cohesion Policy and incompatible with the objective of simplification; notes, in particular, that the figure of two years is necessarily arbitrary and that this rule may be impossible to enforce as any causal link, and the existence of a plan two years ahead will be difficult to prove; is concerned that this rule may favour non-European over European companies and that it may lead to relocation outside the EEA when an activity could otherwise be attracted by regional aid to assisted area;

16. Expresses doubts also about the ineligibility for regional aid of 'firms in difficulties within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty' (paragraph 11 of the draft guidelines); believes that companies undergoing restructuring should not be exposed to more stringent measures, especially when a priori negative assessment of aid requests from these companies might lead to the relocation outside the EU; points out that responsible company restructuring in today's uncertain and constantly changing business environment is the main measure to provide the long term sustainability of investment, jobs and growth; notes that the proposed rule as drafted is not only inconsistent with helping firms affected by the economic crisis in assisted regions but also impossible to implement, given that those guidelines explicitly contain no precise definition of firms in difficulty; recalls its resolution of 15 January 2013 calling for a legal act on information and consultation of workers, anticipation and management of restructuring[1], and requests that the Commission acts without delay;

17. Is convinced that it is essential that some margin of flexibility for the revision of the guidelines is kept, as mentioned in draft paragraph 177, in order to allow for any future required adjustments, since these guidelines are designed to cover a period of 7 years.

[1] Texts adopted, P7_TA(2013)0005.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	28.5.2013
Result of final vote	+: 38 –: 1 0: 3
Members present for the final vote	Burkhard Balz, Elena Băsescu, Jean-Paul Besset, Sharon Bowles, Udo Bullmann, Diogo Feio, Markus Ferber, Elisa Ferreira, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Liem Hoang Ngoc, Gunnar Hökmark, Syed Kamall, Othmar Karas, Wolf Klinz, Jürgen Klute, Rodi Kratsa-Tsagaropoulou, Werner Langen, Astrid Lulling, Arlene McCarthy, Marlene Mizzi, Sławomir Nitras, Ivari Padar, Alfredo Pallone, Anni Podimata, Antolín Sánchez Presedo, Olle Schmidt, Peter Simon, Theodor Dumitru Stolojan, Ivo Strejček, Kay Swinburne, Sampo Terho, Marianne Thyssen, Ramon Tremosa i Balcells, Pablo Zalba Bidegain
Substitute(s) present for the final vote	Thijs Berman, Philippe De Backer, Bas Eickhout, Sari Essayah, Mojca Kleva Kekuš, Thomas Mann

30.5.2013

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Regional Development

on regional policy as a part of wider State support schemes
(2013/2104(INI))

Rapporteur: Pervenche Berès

SUGGESTIONS

The Committee on Employment and Social Affairs calls on the Committee on Regional Development, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

– having regard to the Commission Communication to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 25 June 2008 entitled ‘Think Small First’: A ‘Small Business Act’ for Europe (COM(2008)0394),

– having regard to its resolution of 5 July 2011 on the Commission’s Fifth Cohesion Report and strategy for the post-2013 Cohesion Policy,

A. whereas development in the most disadvantaged regions can be achieved as a result of State support schemes which would encourage future private investments in those regions and underpin positive impact on employment;

B. whereas State aid should be better aligned with the targets set out by the Lisbon European Council of March 2000 and the objectives of the EU 2020 strategy, while at the same time complementing the objectives of other EU policies, in particular the Cohesion Policy;

1. Takes the view that the implementation of both the Cohesion Policy and the rules on State support schemes to reinforce local and regional investments are of key importance for promoting economic, social and territorial cohesion, regional and local development, smart, sustainable and inclusive growth, including in industry and job creation; is, however, concerned about whether the State aid rules are consistent with the targets set by the Europe 2020 strategy and the implementation of the European Structural and Investment Funds; asks, therefore, for a coordinated approach to State aid and cohesion

policies in order to achieve the social objectives of Europe 2020;

2. Regrets that the legal basis of this reform does not provide for a greater involvement of Parliament in the debate through the ordinary legislative procedure; asks the Commission to consult Parliament on the conditions for the oversight of decisions and acts by national and local authorities;

3. Highlights the fact that public investment and State aid are of particular importance for sustaining economic recovery in Europe and that they play a crucial role in financing the development of industries in sectors with a high growth and job-creation potential, such as NTIC and the green economy;

4. Welcomes the Commission's aim of making the principles of the SAM process clearer, more straightforward and easier; takes the view that these principles should be both well coordinated with other EU policies and sufficiently clear, predictable and flexible to meet the needs of certain Member States and their regions which are facing a time of crisis and severe economic hardship; reiterates its recognition of the role played by State aid and public investment in addressing the crisis; expresses its concern that the proposal, as published for consultation, is not sufficiently evidence-based, will go against the objective of simplification and does not sufficiently complement the Cohesion Policy, in particular the rules for preventing relocation;

5. Taking into account the alarming unemployment situation, especially among young people, with levels reaching 50 % in some regions, calls on Member States, regions and competent authorities to prioritise investments focused on job creation;

6. Stresses that regional State aid for the most deprived regions should encourage employment and employment of young people, and recalls that national regional aid should be implemented in a moderate and proportional way in order to obtain efficient and effective results;

7. Calls for geographical zoning to be harmonised with the Commission's new proposals for cohesion policy and, in particular, the creation of a new category of transition regions whose GDP is between 75 % and 90 % of the EU average, and proposes a simplified system in which all transition regions would be regarded as predefined areas covered by Article 107(3)(c);

8. Believes that support for the rescue and restructuring of enterprises in crisis should go hand in hand with the definition of a regional development strategy with clear objectives;

9. Takes the view that State aid should mainly focus on SMEs, because in general terms they employ most of the European population and have a better knowledge of regional needs, but without excluding large enterprises, which have an important impact on both direct and indirect employment and which foster the development of the region in which they operate;

10. Believes that the eligibility of large enterprises for State aid incentives should be determined not only on the basis of the size of the enterprise or the sector in which it operates but also on the basis of the number of jobs that could be created under the

incentive, the quality and sustainability of these jobs, or the overall sustainability of the project, including the long-term effects on the development of the regions concerned and the employment situation in those regions; stresses that, in compliance with the principle of subsidiarity, decisions to determine what particular projects have the highest potential to achieve the objectives of EU policies should be left to the Member States, the regions concerned and local governments;

11. Draws attention to the model of social and inclusive economy as an economic model which, given its contribution to economic development and social cohesion, should be supported; asks, therefore, for differentiated treatment of this sector;

12. Welcomes the safeguard clause proposed by the Commission, which would oblige large companies to maintain the investment and the jobs created in the area where aid was awarded for a period of five years, or three years in the case of SMEs.

13. Suggests the inclusion of a clause on the full recovery of aid, modelled on Article 57 of the current General Regulation of the Structural Funds; this recovery clause would apply during the five years following the grant of aid if the nature of the co-financed operation or the conditions for implementing it were affected, if the operation conferred an undue advantage on a company or public body, if the ownership of an item of infrastructure changed, or if a productive activity ceased; the Member States and the Commission should ensure that undertakings which are, or have been, subject to a recovery procedure following the transfer of a productive activity to another area within a Member State or to another Member State do not receive a contribution from the Structural Funds.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	29.5.2013
Result of final vote	+: 36 –: 1 0: 3
Members present for the final vote	Regina Bastos, Edit Bauer, Heinz K. Becker, Pervenche Berès, Vilija Blinkevičiūtė, Philippe Boulland, David Casa, Alejandro Cercas, Ole Christensen, Derek Roland Clark, Minodora Cliveti, Marije Cornelissen, Emer Costello, Andrea Cozzolino, Sari Essayah, Richard Falbr, Marian Harkin, Nadja Hirsch, Danuta Jazłowiecka, Martin Kastler, Ádám Kósa, Jean Lambert, Verónica Lope Fontagné, Olle Ludvigsson, Thomas Mann, Csaba Őry, Siiri Oviir, Sylvana Rapti, Licia Ronzulli, Elisabeth Schroedter, Joanna Katarzyna Skrzydlewska, Jutta Steinruck, Traian Ungureanu, Andrea Zanoni
Substitute(s) present for the final vote	Françoise Castex, Jürgen Creutzmann, Filiz Hakaeva Hyusmenova, Ria Oomen-Ruijten, Antigoni Papadopoulou, Csaba Sógor

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	30.5.2013
Result of final vote	+: 33 –: 6 0: 3
Members present for the final vote	Luís Paulo Alves, Jean-Jacob Bicep, John Bufton, Nikos Chrysogelos, Francesco De Angelis, Danuta Maria Hübner, Filiz Hakaeva Hyusmenova, Vincenzo Iovine, María Irigoyen Pérez, Seán Kelly, Mojca Kleva Kekuš, Constanze Angela Krehl, Petru Constantin Luhan, Iosif Matula, Erminia Mazzoni, Ana Miranda, Jens Nilsson, Jan Olbrycht, Wojciech Michał Olejniczak, Markus Pieper, Tomasz Piotr Poręba, Georgios Stavrakakis, Csanád Szegedi, Nuno Teixeira, Lambert van Nistelrooij, Oldřich Vlasák, Kerstin Westphal, Hermann Winkler, Joachim Zeller, Elżbieta Katarzyna Łukacijewska
Substitute(s) present for the final vote	Martina Anderson, Karin Kadenbach, Lena Kolarska-Bobińska, Elisabeth Schroedter, Patrice Tirolien, Evžen Tošenovský, Giommaria Uggias, Manfred Weber, Iuliu Winkler
Substitute(s) under Rule 187(2) present for the final vote	Albert Deß, Takis Hadjigeorgiou, Katarína Neveďalová