

GHEORGHE OPRESCU

REPORT
**on the fulfillment of the granting conditions
of state aid in deprived areas and
the measures taken by the Competition Council**

According to the provisions of point 4 -The competition policy - from the ANNEX VII at the Treaty regarding the accession to the European Union of The Republic of Bulgaria and Romania, approved by the Law no. 157/2005¹, Romania has to send the European Commission information concerning the eligible costs of the investments made, effectively supported by the undertakings, according to the provisions of G.E.O. no.24/1998 regarding the regime of the deprived areas, with the subsequent modifications and amendments, and concerning the total amount of aids received by undertakings.

Thereby, this report illustrates the situation of the aids granted to the undertakings in deprived areas, until the end of 2007, situation elaborated upon the

¹ The law no.157/24 may 2005 for the ratification Treaty between The Kingdom of Belgium, The Czech Republic, The Kingdom of Denmark, The Federal Republic of Germany, The Republic of Estonia, The Hellenic Republic, The Kingdom of Spain, The French Republic, Ireland, The Italian Republic, The Republic of Cyprus, The Republic of Latvia, The Republic of Lithuania, The Grand Duchy of Luxembourg, The Republic of Hungary, The Republic of Malta, The Kingdom of Netherlands, The Republic of Austria, The Republic of Poland, The Portuguese Republic, The Republic of Slovenia, The Slovak Republic, The Republic of Finland, The Kingdom of Sweden, The United Kingdom of Great Britain and Northern Ireland (UE state members), and The Republic of Bulgaria and Romania regarding The Republic of Bulgaria and Romania accessing the UE, signed by Romania at Luxembourg on the 25th of April 2005, published on the 1st of July 2005 in the Official Gazette no. 465.

data and information sent by the grantor, respectively the Ministry of Economy and Finance (MEF).

According to the attributions conferred by the provisions of Law no.143/1999 concerning state aid², the Competition Council has executed until the 1st of January verifications of the undertakings with investor certificates in the deprived areas, in order to evaluate the aids granted, to check with the fulfillment of the granting conditions, as well as the evaluation of the their impact upon the level of the social-economic development within the deprived areas.

Following the 1st of January 2007, when G.E.O. no.117/2006 regarding the national procedures within the state aid field came into force, approved by the Law no. 137/2007, and according to the provisions of article 18(1) of this normative act, the state aid grantors have the task to follow the way in which the aids are being operated, and also, they have to submit to the Competition Council all the data and information required in order to monitor state aids at a national scale.

Thus, the data presented in this Report comprehend the information obtained during the previous actions of control undertaken by the Competition Council, completed with the data sent by the grantor, respectively the Ministry of Economy and Finance.

Undertakings with investor certificates located in 28 deprived areas whose life period exceeds the year 2007 were verified, and the data presented in the evolution contain information about the undertakings in the mining area of Hunedoara in the Hunedoara County, area which lasted until the end of 2005.

The deprived areas which have a life period that exceeds the year 2007 can be grouped as follows:

- 3 deprived areas, which have a life period that lasts until the end of 2008:
 - The mining area BRAD – Hunedoara County;
 - The mining area VALEA JIULUI – Hunedoara County;
 - The mining area BALAN – Harghita County.
- 22 deprived areas, which have a life period that lasts until the end of 2009:
 - The mining area ALBENI – Gorj County;

² Law no 143/1999 on state aid, republished in the Official Gazette no. 744 of August 16th, 2005

- The mining area SCHELA – Gorj County;
 - The mining area MOTRU-ROVINARI – Gorj County;
 - The mining area STEI-NUCET – Bihor County;
 - The mining area BOROD-SUNCUIUSI-DOBRESTI-VADU CRISULUI – Bihor County;
 - The mining area POPESTI-DERNA-ALESD – Bihor County;
 - The mining area RUSCA-MONTANA – Caras-Severin County;
 - The mining area BOCSA – Caras-Severin County;
 - The mining area MOLDOVA NOUA-ANINA – Caras-Severin County;
 - The mining area IP – Salaj County;
 - The mining area HIDA-SURDUC-JIBOU-BALAN – Salaj County;
 - The mining area SARMAAG-CHIEJD-BOBOTA – Salaj County;
 - The mining area BAIA MARE – Maramures County;
 - The mining area BORSA-VISEU – Maramures County;
 - The mining area FILIPESTI – Prahova County;
 - The mining area CEPTURA – Prahova County;
 - The mining area COMANESTI – Bacau County;
 - The mining area BUCOVINA – Suceava County;
 - The mining area BARAOLT – Covasna County;
 - The mining area ALDAN TEPE – Tulcea County;
 - The mining area RODNA – Bistrita Nasaud County;
 - The mining area APUSENI – Alba County.
- 3 deprived areas, which have a life period that lasts until the end of 2010:
- The mining area ZIMNICEA – Teleorman County;
 - The mining area COPSA MICA – Sibiu County;
 - The town of CUGIR – Alba County.

The processing and centralization of the data obtained, in order to determine the state aid intensity, have been realized taking into consideration the provisions of the normative acts by which the G.E.O. no.24/1998 was modified and completed, respectively the provisions of the Law no. 239/2004 and the Law no. 507/2004, for

the approval of the G.O. no. 94/2004 regarding the regulation of some financial measures.

According to the provisions of the normative acts mentioned above, only the undertakings which have their establishment in the deprived area and operate within that area, and have obtained the investor certificate prior to the 1st of July 2003, can benefit from regional state aid.

Therewith, in order to determine the state aid intensity, it was taken into consideration **the value of the state aid received by undertakings starting with the 2nd of January 2003 and up to the end of the year 2007, while the eligible costs related to the investments were taken into account considering the quantum of the investments realized until the 15th of September 2004** (according to the provisions of G.O. no.94/2004 with the subsequent modifications and amendments).

During the actions undertaken, besides the specific information regarding state aid monitoring, other additional data and information have been recorded related to: the field of activity of the undertaking, the total number of employees, the recorded turnover, other data required for determining the dimension or the category of the verified undertaking.

Following the processing and centralization of all the data and information obtained, the following aspects have been recorded:

- the vast majority of the deprived areas are all ex mining fields where the mining activity was considerably limited during the last years and as a consequence the unemployment rate is up to 90% of the county unemployment rate;
- generally, the undertakings set up in these areas have focused their activities in the manufacturing industry, respectively wood exploitation and processions, textiles, pastry, metallic constructions, constructions and installations, trade and so on.

Following the performed assessments, it resulted that the vast majority of the verified undertakings are SMEs.

1. The results of the monitoring activities

The situation of the undertakings verified between June 2005 and June 2008 together with the results of the performed controls, is presented in the table no.1.

No.		Number of undertakings verified during the monitoring actions:					
		June 2005	October 2005	June 2006	October 2006	January 2007	June 2008
1	Number of undertakings verified	1848	1679	1497	1393	1321	1340
2	Undertakings with exceeded intensity	32	24	6	0	0	80
3	Undertakings with maximum intensity	31	37	45	35	50	75
4	Undertakings which may further benefit from state aid	1649	1522	1377	1318	1250	971

Table no.1 – The situation of the verified undertakings between June 2005 and June 2008

The number of the undertakings eligible to receive state aid decreased from one year to the other, mainly because of **the elimination of the undertakings which didn't meet the eligibility conditions in order to further benefit from state aid (passed intensity, maximum limit reached), of those which have entered the judicial liquidation procedure, of those which don't operate any longer in the deprived area as well as to the expiring of the deadline for the deprived area (for example, the deprived area of Hunedoara).**

The evolution of the verified undertakings and of those which may further benefit from state aid is presented in the following chart:

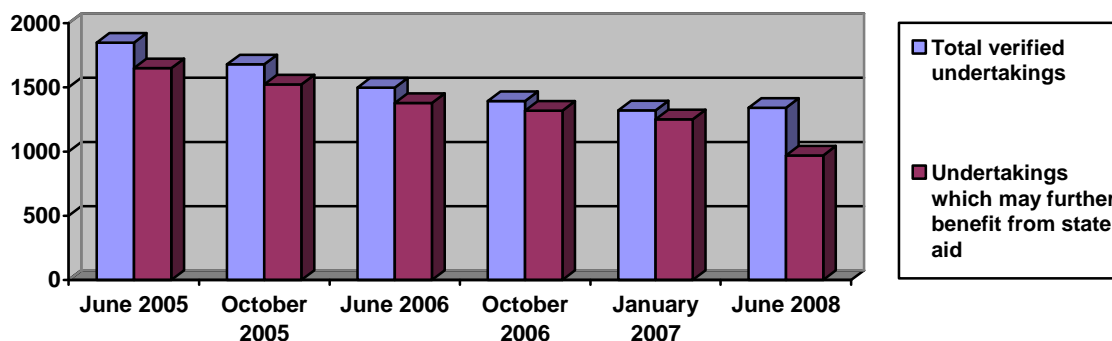


Chart no.1 – The evolution of the number of verified undertakings

The continuous actions of monitoring and dissemination of the competition and state aid regulations led to the undertakings' acknowledgement of state aid rules. Thus, after the moment of reaching the maximum admissible level of state aid intensity, the undertakings became profit tax payers and even voluntarily reimburse the amounts that have exceeded this threshold.

The undertakings identified by the grantor in the monitoring actions undertaken **at the beginning of the year 2008 (after the submission of the balance sheet)**, which have exceeded the maximum admissible level of state aid or have reached that level, will be part of several fiscal inspections, in order to apply the required measures of regaining or stopping the aids, according to the provisions of the Order no. 1133/2008 *regarding the approval of the methodological Norms for the application by the Ministry of Economy and Finance of the provisions of the article 18 from the G.E.O. no.117/2006 regarding the national procedures within the state aid field, approved with modifications and amendments by the Law no.137/2007.*

The evolution of these undertakings is illustrated in chart no.2

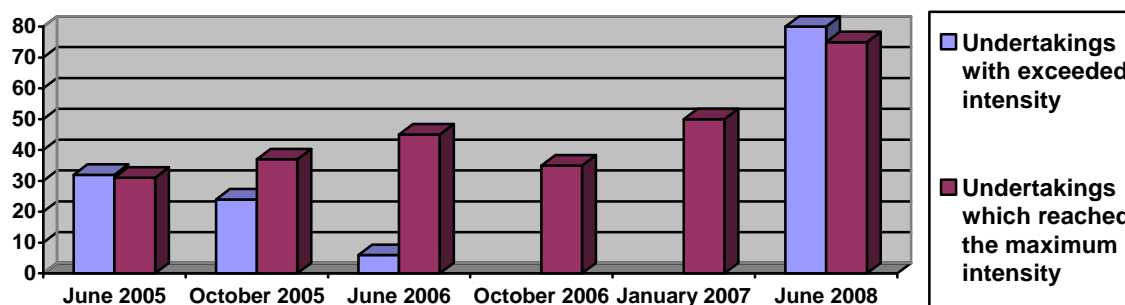


Chart no.2 – The evolution of the undertakings which have exceeded the maximum admissible intensity and of those which have reached the maximum admissible intensity.

Together with the reducing of the undertakings which benefitted of state aid, the amount of state aid which may further be granted also diminished. The complete situation of the aids can be fully observed in the Annex 1 at the present report.

We mention that according to the provisions of Law no.507/2004 for the approval of G.O. no.64/2004 regarding the regulation of several financial measures, **the aids for operation have been granted only until the end of February 2005.**

The lower values recorded in the month of June 2006 are due, as mentioned before, to the expiring of the stated deadline (2005) for the deprived area of Hunedoara.

As regards the investment value, this has a decreasing trend, due both to the decrease in the number of the deprived areas and of the undertakings and also to the fact that some undertakings have alienated the investments made. The comparative situation of the investments, of the aids granted and of those who are still to be granted is shown in chart no.3.

The same trend can be observed regarding the number of work places created in the deprived areas, as it results from Annex 1 to this report.

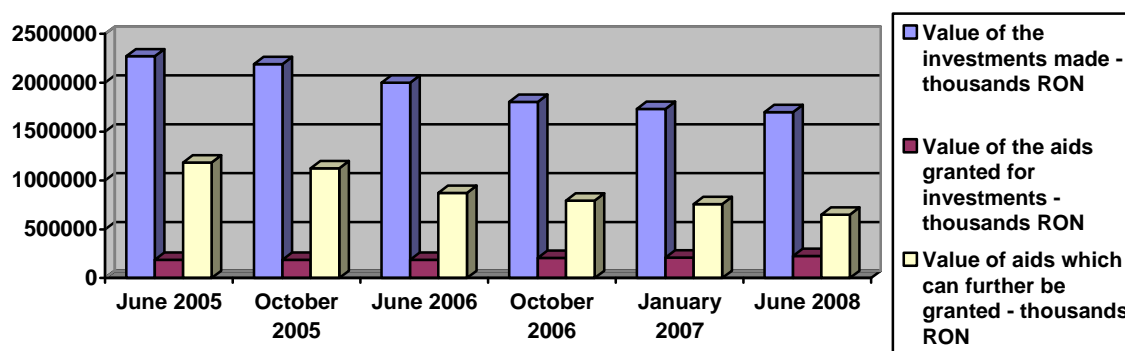


Chart no.3 – The comparative situation between the investments granted and those which will further be granted.

Taking into consideration the total amount of state aids granted for investments recorded at the beginning of 2008, in quantum of 227.564.980 lei and the state's contribution to the non-refundable funds (Phare), in quantum of 1.181.531 lei, reported to a value of the investments of 1.699.067.043, results a medium intensity of the state aid granted of 13,46%, which is very much lower than the maximum admissible level, which demonstrates the necessity of further granting financial support to the undertakings within the deprived areas.

As mentioned above, the period of time for which the Brad and Valea Jiului areas within the Hunedoara County and the Balan area within the Harghita County have been declared deprived areas, ends at the end of the year 2008. In the following, we show the situation recorded until the beginning of the year 2008, regarding the value of the investments made, of the state aids granted as well as the number of undertakings eligible for state aid within these areas.

The deprived areas	Number of undertakings Year 2004	Amount of state aid granted for investments	Amount of the investment made	Amount of the state aid which can further be granted	Number of undertakings until the end 2008
Brad Area (Hunedoara County)	89	5.262.962	49.476.720	21.159.416	37
Valea Jiului Area (Hunedoara County)	259	20.082.804	80.136.650	23.504.787	113
Balan Area (Harghita County)	16	307.086	5.604.676	3.300.227	6
TOTAL	364	25.652.852	135.218.046	47.964.430	156

Starting from a total number of 364 undertakings eligible for state aid in 2004 (in the 3 deprived areas), at the beginning of 2008 there were less than a half, respectively 156 undertakings that could still benefit from state aid within the maximum admissible level of the intensity until the end of the year.

It can be noticed that the value of the granted state aid is very low comparing with the value of the investments made, thus resulting in a state aid medium intensity of 19%. The high value of the investments indicates the efforts made by the state aid beneficiaries in order to realize them and the fact that, although there is not much time until the deprived area lifetime is over, they benefited in average of a small percentage of the state aid, which it can be explained by the small registered profit.

A statistical analysis made for the Hunedoara County³, reveals the fact that the support measures carried out for the deprived areas had a positive influence on the county's social and economic situation.

³ Hunedoara County had 3 deprived areas, respectively Hunedoara (which ended at the end of 2005), Brad and Valea Jiului

Therefore, the statistical data indicates (on the whole county) a decrease of the unemployment rate (although it still registers values higher than the entire country average); also the number of the local active units significantly increased comparing with the level registered in 2000.

Table no.3 - Statistical data on the unemployment rate and GDP registered in Hunedoara County and in the entire country

	2000	2001	2002	2003	2004	2005	2006	2007
The unemployment rate in the County	16.4	15.3	9.8	12.5	10.8	9.4	6.7	4.9
The unemployment rate in the country	10.5	8.8	8.4	7.4	6.3	5.9	5.2	n.a.
Number of the local active units in the county	6,878	7,064	7,275	7,920	8,814	9,480	9,973	n.a.
GDP* country	80,377.3	116,768.7	151,475.1	197,564.8	246,468.8	288,176.1	n.a.	n.a.
GDP* County	1,703.2	2,468.3	3,345.3	4,237.2	5,264.9	5,851.7	n.a.	n.a.
%	2.12	2.11	2.21	2.14	2.13	2.03		

* GDP in millions RON current prices

In spite of this, it can be noticed that the GDP registered over the entire county is still small and also had a decreasing trend over the analyzed period, which indicates that this county still has a low economic level.

Measures taken in cases of infringement of the granting conditions

The final results of the first monitoring actions carried out by the Competition Council were submitted to all the state aid grantors and other authorities involved, along with the request for the appropriate measures to be taken so that the unlawful state aid to be stopped and recovered.

Practice have shown that the state aid grantors faced many difficulties in enforcing both the Competition Council's decisions, instructions and recommendations and their tasks because of the lack of legislation that should empower them with the necessary instruments to stop and recover the unlawful or prohibited aid.

In order to improve and accelerate this process, G.E.O. no. 129/2005 was adopted *to modify and complete* G.O. no. 92/2003 *on the Fiscal procedure Code*. G.E.O. no. 129/2005 laid down unlawful and prohibited aid stopping and recovery procedure and the annual setting through a Government decision of the interest rate applicable to state aid to be recovered.

According to this ordinance' provisions, the state aid was stopped through a Competition Council decision and the recovery of an unlawful and prohibited aid was also made on the basis of a Competition Council decision representing a writ of execution. The effective recovery was to be made by the Ministry of Economy and Finance or by the Authority of State Assets Recovery.

The monitoring action that took place during March-June 2005 imposed state aid stopping measures to be taken by the grantor for 31 companies (Table 1). The Competition Council opened an ex-officio investigation for 32 companies which potentially benefited from unlawful state aid.

From the 32 companies investigated, 31 exceeded the maximum admissible level of the state aid intensity and one company did not benefit from state aid. The Competition Council issued the **Decision no. 184 of September, 30th, 2005** declaring these state aids unlawful and incompatible with a normal competitive environment and requested the grantor – the Ministry of Public Finance – to recover that state aid. The value of state aid to be recovered was RON 3,279,082 plus interests calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recover.

The monitoring action that took place during August-October 2005 imposed state aid stopping measures to be taken by the Ministry of Public Finance for the 37 companies identified as reaching the maximum admissible level of the state aid intensity. In this respect, the Competition Council issued the **Decision no. 227 of December, 20, 2005**.

Also, the investigation opened for 24 undertakings, identified as potentially beneficiaries of unlawful state aid, was closed by the **Competition Council Decision no. 52 of March 9th, 2006**. As a result it was imposed the recovery of the unlawful state aid for 19 undertakings; also for 5 undertakings which voluntarily reimbursed the unlawful aid were taken measures for stopping the aid.

The total value of the state aid to be recovered according to the decision is RON 2,546,692 plus the interests calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recovery.

As a result of the monitoring actions undertaken by the Competition Council in the deprived areas, **the stopping and recovery decisions continued in 2006**.

Thus, for 45 undertakings identified through the monitoring action that took place during March – June 2006, which reached the maximum admissible level of the state aid intensity, the Competition Council requested the state aid stopping by the **Decision no. 165 from July, 14th, 2006**.

As a result of the ex-officio investigation, by the **Decision no. 211 from October 11th, 2006** the Competition Council requested the recovery of the unlawful state aids for 4 undertakings (of the 6 companies that were investigated – for one of them the state aid was stopped and for one it was established further monitoring process)

The total amount of the state aids that should be recovered according to the decision is RON 76,224.63 plus the interest calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recovery.

During the monitoring action that took place between August – October 2006, there wasn't found any undertaking with exceeded state aid intensity. At the same time, for 35 undertakings that had reached the maximum intensity limit the Competition

Council requested state aid stopping through the **Decision no. 222 from November, 28th, 2006.**

The total value of the state aids set as unlawful through **the 3 decisions issued by the Competition Council for the deprived areas is approximately RON 6 million** plus the interest calculated from the day the state aid was at the beneficiary's disposal until the date of the actual recovery. According to the Ministry of Economy and Finance communications, until present there were recovered approximately RON 3.65 millions, amount which represent over 60% from the total value to be recovered.

Starting with January, the 1st, 2007, according to the provisions of G.E.O. no. 117/2006 with its subsequent amendments and completions, **the state aid grantors must check how the aids were used and must dispose the appropriate measures for the cases with problems.**

Thus, as a result of the monitoring action from January 2007, undertaken by the Ministry of Economy and Finance, there weren't registered any exceeding of the granted state aids. As it regards reaching the maximum intensity limit, the grantor recorded 50 undertakings in this situation. For these companies the state aid grantor communicated that stopping measures are to be taken after the companies which reached the maximum intensity submit their annual financial situation (April, 30th, 2007) and are subject to a financial control.

As it regards the enforcement of G.E.O. no. 117/2006, with its subsequent amendments and completions, the Ministry of Economy and Finance, as state aid grantor, issued the Order no. 1133/2008 *on the approval of the Methodological Norms for applying the provisions of art. 18 of G.E.O. no. 117/2006 on the national state aid procedures, approved with amendments and completions by Law no. 137/2007, by the Ministry of Economy and Finance.*

By this administrative act, the Ministry of Economy and Finance establishes the way of applying the measures that must be taken for the beneficiaries that don't observe the conditions provided when the state aid was granted/ authorized.

According to the provisions of G.E.O. no. 117/2006, with its subsequent amendments and completions, and to the Order mentioned above *“the Ministry of Economy and Finance, as state aid grantor, disposes measures regarding the way that the state*

aids were used by the beneficiaries, issues decisions imposing state aids stopping/recovering, these decisions representing a writ of execution”.

During the monitoring action undertook at the beginning of 2008 (after ending the financial exercise 2007) the Ministry of Economic Finance identified 80 undertakings that exceeded the maximum intensity level and 75 undertakings that reached the maximum intensity level. All these companies will be subject of a fiscal control followed by the application of the recovery/stopping measures according to the Order no. 1133/2008.

The other undertakings that do not appear as eligible are either micro enterprises which pay income tax, or undertakings that don't carry out activities in the deprived area anymore (they didn't made investments or they sold them out, they entered in judicial liquidation procedure, they are erased from the Commerce Register evidences, they don't have their headquarter in the deprived area anymore or they interrupted their activity).

CONCLUSIONS

The deprived areas policy is a separate component of the regional development policy, determined by the existence of some areas which are disadvantaged from a social, economic, structural and geographical point of view and which require adequate measures to contribute to their strengthening.

The investments made until present in the deprived areas as a result of this policy show an average beneficiaries' contribution of 86.54%, which proves the efficiency of the facilities granted in these areas.

After the monitoring actions of the state aids granted in the deprived areas, there were assessed the state aids received by each company with an investor certificate, and, on the basis of the maximum intensity level, it was drawn up the list of the undertakings that can still benefit from state aid and of the amounts that can still be granted.

The state aid that can still be granted to some undertakings up to the maximum intensity level is approximately RON 648.7 million (approximately EUR 175 millions calculated with an average exchange rate of 3.7 RON/EUR). The potentially

beneficiaries that, although fulfilled the legal conditions, didn't request state aid until present were not taken into account.

The undertakings eligible for state aid will be further monitored until they will reach the maximum intensity level (during the entire lifetime of the deprived areas) and starting with that date the grantor will cease the state aid.

Although, according to the legal provisions, the state aid representing exemption from the profit tax payment will be granted over the entire lifetime of the deprived area, the maximum intensity level will cause in time a decrease of the number of state aid beneficiaries.

Despite the facilities granted to the deprived areas, the statistical data regarding the social and economic situation of these areas show the need to carry on with the support for them in order to made investments and to create new jobs which might lead to living standard improvement.

COMPETITION COUNCILOR

JOZSEF NANDOR NEMENYI

COMPETITION COUNCILOR

MIHAI GIUGARIU

DIRECTOR

DANIEL DIACONESCU

ELABORATED BY:

**DUMITRESCU CONSTANTA
MARIUS POPA
MARIA NICULITA
CARMEN PETRE
ANGELICA POPA
CRISTIANA OPRESCU**

**Situation of the investments made and the state aid granted
to the undertakings operating in deprived areas**

Ron

		Values resulted from the monitoring actions :					
No.		June 2005	October 2005	June 2006	October 2006	January 2007	June 2008
1	Value of the investments made	2,270,810,000	2,192,010,000	2,000,549,000	1,804,000,000	1,731,700,000	1,699,067,043
2	Investment state aid	187,560,000	189,150,000	189,622,000	208,800,000	209,844,000	227,564,980
3	Non refundable funds (Phare)	1,430,000	5,030,000	4,586,000	4,400,000	2,981,000	1,181,531
4	Operating aid	125,360,000	127,690,000	-	-	-	-
5	New jobs	53,015	60,636	45,000	51,500	43,161	36,734
6	State aid to be received	1,183,040,000 (320 mill Euro)	1,124,000,000 (307 mill Euro)	871,400,000 (240 mill Euro)	795,000,000 (225 mill Euro)	758,812,000 (224 mill Euro)	648,703,800 (175 mill Euro)

