

State Aids and the Evolving Role of the State

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- Combining State interventionism with the protection of free competition
- The different approach of continental Law and EU Law on State aid –
- State aid regime and the definition of the role of the State are interrelated issues
- The “evolving” role of the State or the “evolving” State aid regime?

I. The role of the State in the Economy

A. The traditional aspects

- Strategic Role
- Guarantee function
 - Supervising the markets
 - Guaranteeing social welfare
- Rescue role

B. The evolving aspects

- To adapt its role to a supranational economic environment
 - The “educational impact” of the State Aid EC Law
 - To attach greater impact importance to free competition
 - Matching economic competitiveness with social goals
 - To ensure welfare as a regulator and not as a provider of services
 - To promote environmental protection and sustainable growth
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- Lisbon Strategy

II. State Aids revisited

A. The Altmark case law

- National subsidies not qualified as state aid
- Confidence in the State acting as a regulator
- Valorization of the social aspects of European Integration
- State aid EC regime: a “Procrustean Bed”?
- Not missing the forest:
 - Economic analysis of law
 - Fundamental duty of the States to respect free competition

B. The State Aid Reform

- An improved economic approach
- More confidence in national measures
 - Quantitative aspect (Block exemptions, de minimis)
 - Qualitative aspect: GBER and the Lisbon Strategy
 - Procedural aspect

C. State aid and Economic Crisis

- the “game of power” changes in favor of the States?
- State aid law as an instrument of coordination
- Unprecedented recourse to art 87 par 3 (b)
- The ex ante (easy) approval of the national plans and their ex post control
- Tackling with crisis is not a matter to be brought before the Courts

Conclusion

- *A dual evolution* process
- A sign of maturity?
- A sign of broader acceptance of the all time classic functions of the State?
- A general duty to respect competition is more important than specific State aid rules?