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Syllabus for class on 'International Law of Subsidies'

Introduction – the Policy of Subsidy Control

- Article 107 and the 'Definition' of Aid
- The Qualities of a State Aid Measure : Objective Situation and Objective Legal Notion, Any Aid / Form Immaterial, Wider Than a Subsidy, No Parallel Notion of Aid Other Than That of 107(1) TFEU, Notions of Individual Aid (incl. *Ad Hoc Aid*) / Aid Scheme, Moment of Granting (the *Fleuren Compost* Rule), Existing and New Aid
- The Commission's Notice on State Aid and Other Assorted Secondary Law and What the CJEU Thinks of It
- The View of the WTO (basic introduction)

Conditions for a State Aid Measure

- Advantage That Is Not Commercially or Otherwise Acceptable under 107(1) TFEU
- Imputability, or 'by a Member State'
- State Resources,
- Selectivity,
- Liability to Distort Competition
- Liability to Affect Trade Between Member States
 - The Commission's Push For Extra-Legal Alteration of 107(1) TFEU as to Purely Local Measures
- There Has to Be at Least One Undertaking Favoured by a Measure

Derogations from Article 107(1) TFEU

- 107(2) TFEU
- 107(3) TFEU
- 108(2) TFEU – the so-called '*Politically Approved Aid*'
- Compatibility Assessment
- '*Save as otherwise provided in the Treaties...*' – *leges speciales* on 107(1) TFEU
- Where Article 107(1) TFEU Does Not Apply Because CJEU Has Said So
- Issues of *De Minimis*
- The GBER, or Regulation no. 651/2014

General outline of EU State Aid control system

- Role of the Commission
- Member States and their obligations under Arts. 107-109 TFEU

- Beneficiaries of Aid, their Competitors and Other Individuals and Entities Affected by Aid
- 108(3), third sentence TFEU and Its Importance
- The Issue of Fundamental Rights in Regard to State Aid

The Law of the WTO

- The Agreement on Subsidies and Countervailing Measures (“SCM Agreement”) - overview
- Subsidy and Its Components
- Specificity
- Countervailing Measures

Form of the Final Assignment: a test, 30 questions with four answers (ABCD), out of which only one is correct; oral resit, only one resit allowed

Grading during the test

Less than 19 pts: fail (2,0)

19-22 : 3,0 (acceptable)

23-24 : 3,5 (acceptable+)

25-26 : 4,0 (good)

27-28 : 4,5 (good+)

29-30 : 5,0 (very good)

Recommended literature (one may use any literature that allows for familiarizing oneself with the issues covered in class)

Basic: Craig and de Burca’s *EU Law*, 6e, Oxford 2015

Additional: Bacon QC’s *EU State Aid Law*, 3e, Oxford 2017, Hoffmann and Micheau’s *State Aid Law of the EU*, Oxford 2016

Students are expected to appear during class, on pain of a lowered grade (one unexcused absence: half a grade down), unless there are medical reasons and/or a decision of the Dean allowing for an individualised mode of study.

Three unexcused absences warrant a complaint to the Dean for corrective measures (cf. https://prawo.uni.wroc.pl/sites/default/files/attachments/page/Zarz%C4%85dzenie_18_Dzi%C4%99ka_na_WPAE.pdf).

In order to negate an unexcused absence, absentees are required to either come to the office hours or to sit a short assignment during subsequent classes.

Łukasz Stępkowski