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"CONDITIONAL REGULATORY INDEPENDENCE: THE DETERMINANTS OF THE EU COMMISSION DECISIONS ON STATE AID (1999-2009)"

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INTRODUCTION

Research question

National governments usually delegate exclusive powers to bolster the credibility of policy commitments. Since credibility is related with the stability of policy preferences, national governments can make policies more credible by delegating competences to agencies that are independent from political pressures. This is argued in Majone (1996:40-42; 1997:145; 2001), who follows the seminal contribution of Kydland and Prescott (1977), and finds confirmation in several articles (e.g Elgie and McMenamin 2005; Gilardi 2002; 2007), which show that, in Western European countries, the need for credibility is at the core of the formal independence that governments grant both to regulatory agencies and central banks. The core of the argument is that elected politicians can hardly ensure credibility of policies commitments because they have an incentive to adjust policies to new circumstances than to follow fixed rules. Politicians may change policies to seek re-election. In addition, the preferences of policy-makers may vary owing to the changes of the government coalition. Therefore, policies from national governments are likely to be time-inconsistent, that is, "a policy that appears optimal at time t_0 no longer seems optimal at a later time t_n" (Majone 1996:41). Following Majone (1996; 2001), national governments may overcome the problem of time-inconsistency through the delegation to agencies that do not have electorally induced preferences.

On the basis of the above arguments, the credibility of policy commitments relies on the independence of agencies from political preferences. Hence, the changes in agency independence are expected to have repercussions on the credibility of policy commitments. This point is evident in the contributions that focus on central banks (e.g Lohmann 1998; Franzese 1999; Keefer and Stasavage 2002; 2003). In particular, scholars stress how institutional arrangements affect both the autonomy of central banks and, as a result, the credibility of monetary policy. Lohmann (1998) shows that monetary policy outcomes may depend on the presence of veto players in the government. Keefer and Stasavage (2002; 2003), who refer directly to the contributions of Tsebelis (1995; 2002), highlight that delegation to central banks enhances credibility in the presence of multiple checks and balances.

Since European countries have increasingly delegated regulatory competences to supranational institutions (see e.g. Egan 1998; 2001; Majone 1996; Moravcsik 1998), it is important to investigate the independence of the European institutions especially when the logic of delegation is credibility. In other words, if credibility is at the heart of delegating exclusive competences, to what extent are EU institutions actually independent from member states' preferences? How and under which circumstances can member states affect supranational decisions?

The present study focuses on the policy of state aid control. According to Majone (2001:104), member states delegated treaty-based independence to the Commission in regulating state aid policy, as well as all the other competition policies, with the purpose of enhancing credibility of policy commitments. But, the formal independence does not necessarily mean the real independence. As shown in the contributions on central banks, the formal independence means more how these institutions should be rather than if they really are independent. Besides, as Franchino (2002) shows, member states partially limit the discretionary power of the Commission even when the delegation is credibility-based. At this point, the research questions of this work are: to what extent does Commission regulate state aid policy independently from national preferences? In which cases and to what extent are member states able to influence the Commission's decisions?

The present analysis shows that Commission is not fully independent from national pressures. I argue that member states may affect the decisions on state aid in two ways. First, they may influence the decisions when they can credibly threaten the Commission not to comply with European rules. Second, member states may influence the decision-making when they nominate the commissioners that are more influential on state aid decisions. The results highlight that member states significantly affect the decisions on state aid as well as other factors, such as the Commission's policy preferences, the procedural constraints in the rules, the amount of workload and the effects of financial crisis

The politics of state aid control: a literature review

Before proceeding, we need to define what a state aid is. Although the definition of aid is a matter of debate (Plender 2003), basically state aid is a government measure supporting a company that thereby obtains an advantage over its competitors. The notion of state aid is broader than that of subsidy (Schwartz and Clements 1999; Rubini 2009). In addition to subsidy, it includes also direct grants, soft loans, guarantees and tax subsidies. General measures in favour of all enterprises, such as general taxation, do not confer an advantage to a selective company, so they do not constitute aid.

The control of state aid is a distinctive supranational policy since 1957, when Belgium, France, Germany, Italy, Luxembourg and Netherlands signed the Treaty of Rome. According to the Treaty, the European Commission is delegated powers in competition policy, which comprises the control of cartels, monopoly, mergers and state aid. State aid constitutes "the most original of EU's competition policies" (Cini and McGowan 1998:135-136), because, unlike the other competition policies, it regulates national governments rather than firms. In particular, the Commission is delegated powers to restrict the opportunities for member states to support selective undertakings in order to prevent that national intervention in the economy distorts the competition within the common market. According to the EU law, member states have to notify any aid to the Commission, which evaluates the compatibility of such measures with the common market. If the Commission considers the aid compatible, the member state can grant the aid. Otherwise, if the Commission does not approve the aid, the member state is not allowed to intervene in the domestic economy.

At least until the end of eighties the Commission could hardly control state aid policy (Cownie 1986; Wilks 2005) and national governments were free to act as they wished. In 1983 the Commission was empowered to recover unlawful aid

(Cini and McGowan 2008:175), but state aid control became more effective only in the first half of Nineties, in the wake of the institutionalization of the European Single Market (Smith 1998). Over the past decades, state aid control has improved so much that some scholars argue that non-compliance is too costly to be an option (Smith 1998:60-62; Blauberger 2009:721). In short, currently member states appear to be constrained by EU regulation, that is, they are unlikely to opt systematically not to comply with supranational rules.

Notwithstanding the increasing attention on state aid policy (e.g. Lavdas and Mendrinou 1999; Quigley and Collins 2002; Nicolaides, Kekelekis and Buyskes 2005; Cini and McGowan 2008; Szyszczak 2011) and the relevant consequences of supranational regulation on related policy areas, such as privatization (Bovis 2005) and public procurement (Chari and Cavatorta 2002), scholars have paid scant attention to the political factors that may underpin the Commission's decisions on state aid. In particular, as shown in some recent contributions on the determinants of state aid decisions (Brouwer and Ozbugday 2011; Buts, Jegers and Joris 2011), scholars seem to take the autonomy of Commission for granted. However, the literature provides contrasting evidences about the independence of Commission's decisions from national pressures.

On the one hand, the literature stresses that the Commission enjoys great autonomy from member states in state aid as well as in other competition policies, such as cartels (McGowan 2000) and mergers (McGowan and Cini 1999; Doleys 2009). In effect, the Commission has been delegated considerable discretionary authority and, therefore, acts as a supranational entrepreneur developing its own vision of state aid regulation (Blauberger 2009) and contributing to consolidate the enforcement of state aid policy (Cini 2001; Smith 2001). As a proof of its independence, the Commission does not merely assess the economic impact of the aid on the common market, but it seems to ground the final decisions on its own priorities. The economic analysis is not so central in the evaluation of national measures (Cini and McGowan 2008:36-37) and the decisions seem to reflect the Commission's positive attitude towards certain categories of aid. Blauberger (2009:726-729) points out that the Commission prefers horizontal aid (that are not sector specific) than sectoral aid because it considers the former less distortive to competition and closer to its own market-correcting objectives. Buts, Jegers and Joris (2011) highlight that the decisions in 2007 are in line with the State Aid Action plan, which the Commission implemented in order to orient national interventions towards a "less but better targeted aid". In addition, scholars offer evidence of the autonomy of Commission from member states, stressing the different criteria that Commission and national actors follow to evaluate and plan an aid respectively. In particular, this occurs in several contributions that examine the conflict between the European regulation and the national authorities on air transport (Lawton 1999), the co-operative federalism in Germany (Thielemann 2000), the German banking system (Grossman 2006), the political economy in Poland (Gwiazda 2007) and the national law concerning film industries (Bellucci 2010).

On the other hand, the outcome of supranational regulation seems to reflect the interests of national governments. Many contributions highlight that the state aid implemented by member states are related both to the policy orientations and the electoral concerns of incumbent governments. These contributions seem to offer corroborating evidence in favour of the member states' influence on state aid policy. In particular, these studies seem to suggest that state aid is still time-inconsistent.

According to the partisan theory of macro-economic policy (Hibbs 1977; 1992), Zahariadis (1997) finds a significant relation between the ideological position of government parties and the subsidies to industry in 1981-1986 period. In particular, Zahariadis finds that left-wing governments are more likely to subsidize industrial activity[1]. Then, in a more recent work the same author shows that state aid are related with the position of incumbent parties, but are granted especially by right-wing governments (Zahariadis 2010)[2].

Other contributions emphasize the relation between state aid and elections. In fact, in light of several analyses, state aid represents a redistributive tool that incumbent governments use in order to increase their chances of re-election. Aydin (2007)

[1] This result seem in line with other contributions of comparative political economy stressing that left-wing governments are more likely to intervene in the domestic economy (see e.g. Cameron 1978; Swank 1988; Roubini and Sachs 1989a; 1989b; Alvarez, Garrett and Lange 1991; Garrett 1998a; 1998b; Boix 2000; Garrett and Mitchell 2001; Clark 2002).

[2] Bawn and Rosenbluth (2006) reach a similar result. They find that right-wing governments present higher level of public expenditure. However, these authors show also that government position is less important than the size of government coalition (to examine the impact of coalition governments on expenditure, see also Bawn 1999, Pech 2004 and Persson, Roland and Tabellini 2007).

shows that government subsidized industries to respond to the demands from social groups for employment[3]. Featherstone and Papadimitriou (2007) emphasize the electoral interests at the root of the Greek intervention for the Olympic Airways. In addition, even if the focus is not specifically on state aid, Cadot, Röller and Stephan (2006) emphasize the relation between electoral concerns and infrastructure investments in the transport in France, while Dahlberg and Johansson (2002) find that national governments in Sweden grant programs to transfer resources in favour of regions where there are more swing voters.

The literature looks also at the institutions structuring the incentives for distributive policies. McGillivray (2004) shows that, depending on the electoral rules, governments protect industries to distribute benefits to their supporters or alternatively to swing voters[4]. Franchino and Mainenti (2011), who follow the arguments of Persson and Tabellini (2003; 2004) and the contribution of Carey and Shugart (1995), illustrate the impact of the district magnitude on the amount and the frequency of state aid between 1999 and 2009.

In some cases, scholars stress that national governments grant state aid as the election time approaches. As predicted by the models on political business cycle (Nordhaus 1975; Rogoff and Sibert 1988; for a review, see Franzese and Jusko 2006), Aydin (2007) finds that the amount of subsidies increases in proximity of elections, while Zahariadis (2005) points out the effects of electoral competition both on the intensity and the scope of subsidies to industry[5]. Furthermore, although this contribution is only partially related to state aid, John and Ward (2001) show that central government in United Kingdom grant greater resources to local authorities near national elections.

[3] Aydin (2007) finds a positive relation between the unemployment rates and the level of subsidies to industry. However, the impact of unemployment on industrial subsidies in contradictory: Blais, Desranleau and Vanier (1996) find a positive relation, whereas Zahariadis (1997) does not find any significant relationship.

[4] Following the contribution of McGillivray (2004), Golden and Picci (2008) show the political determinants of infrastructure expenditure in Italy.

[5] Generally, apart from recent contributions (Clark and Hallerberg 2000; Franzese 2002) and some case studies (Kohno and Nishizawa 1990; Blais and Nadeau 1992; Schultz 1995), political-business cycle models have often performed poorly in empirical tests (Alesina, Mirrless and Neuman 1989; Alesina, Roubini and Coen 1997; Drazen 2000). Focusing on state aid, Zahariadis (2010) and Franchino and Mainenti (2011) find no significant correlation between election time and state aid.

In the present analysis I investigate if the Commission, according to the first group of contributions, is autonomy from member states, or, as the results of many studies suggest is affected by them. Unlike other analysis on the determinants of state aid decisions, I do not take the independence of Commission for granted, but I examine the mechanisms that may influence the supranational decision-making.

Regulatory independence and mechanisms of control

The present study analyses the independence of the Commission on the basis of the mechanisms that member states can employ to affect supranational decisions. In other words, the independence can be understood as a failure of the control mechanisms at disposal of member states.

The analysis refers directly to the literature concerning the mechanisms of control that principals may use to constrain the behaviour of agents. Following the agency theory[6], politicians delegate some competencies to agents and may need to control them in order to avoid that agents pursue outputs that diverge from politicians' preferences. Therefore, politicians are expected to control the behaviour of the agents preventing the cases of adverse selection, that is, the appointment of unreliable agents, and constraining the agent's discretion in order to restrict the likelihood of moral hazard.

Generally, political actors may control bureaucratic discretion and output through different means of controls, such as appointing or firing agency heads, providing budgetary incentives and sanctions, reorganizing a department, having recourse to oversight[7]. In line with the seminal works of McCubbins, Noll and Weingast (1987; 1989), Epstein and O'Halloran (1994) distinguish between ex-ante and ongoing (or ex-post) controls[8].

The ex-ante controls concern the design of statutes. In short, politicians may include some statutory constraints in the formal procedure that the agency has to follow when it carries out its duties. Although the design of statutes do not operate necessarily just as instrument of political control (e.g. Balla 1998), as Bawn (1995)

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[6] The implications of the agency theory for the study of bureaucracy are analysed by Moe (1984).

[7] Huber and Shipan (2002:27-37) provide a review of these instruments both in parliamentary and presidential systems. Volden (2002:209) lists the main mechanisms of control in the U.S.

[8] Bawn (1997) outlines that ex-ante and ex-post controls are related: effective ex-ante controls make ex-post control less indispensable and vice versa.

points out, depending on the level of uncertainty about agency behaviour, politicians may structure administrative procedures to affect the degree of responsiveness. Alternatively, Moe (1989; 1990) argues that the design of statutes aims to make difficult for other political groups to influence the agency in future, rather than making the agency responsive of political preferences now.

The ongoing controls refer to institutions and procedures that check the agency on regular basis. For instance, they include mechanisms of police-patrol and fire-alarm (McCubbins ans Schwartz 1984; Lupia and McCubbins 1993; Hopenhayn and Lohmann 1996). Police-patrol implies a constant and direct oversight by politicians. On the contrary, fire-alarm regards a less direct and active intervention: it relies on the opportunities for constituents and interest groups to check the administrative output. Following Epstein and O'Halloran (1994:699), the term ongoing controls include also judicial oversight and appointment powers (see e.g Hammond and Knott 1996: 144-147; Snyder and Weingast 2000).

The literature stresses that the presence and the impact of both these mechanisms vary considerably according to the different circumstances. In particular, several contributions, which focus on the control mechanisms exerted by the Congress in United States, emphasize the role of the institutions framing the political environment. For instance, some studies show that during divided governments Congress delegate less discretion to the executive, but it is more likely to delegate powers to independent agencies (Epstein and O'Halloran 1999) and use statutory constraints more frequently (Huber, Shipan and Pfhaler 2001). In addition, Shipan (2004) highlights that the impact oversight by the Congress depends on the interactions among the policy preferences of different political actors at different times.

On the whole, many contributions stress that political actors affect the behaviour of the regulatory agencies through the mechanisms of control. Most of the studies concerns the United States and stress the mechanisms employed by the Congress[9]. In agreement with the "congressional dominance approach" (e.g. Weingast and Moran 1983; Weingast 1984), scholars show the political influence on the

[9] For a review of the limits of Congressional oversight, see Epstein and O'Halloran (1999:23-29). To examine under which circumstances the oversight introduces inefficiencies in agency regulation, see Bueno de Mesquita and Stephenson (2007).

discretion and the behaviour of regulatory agencies, such as the Environment Protection Agency (McCubbins, Noll and Weingast 1989; Wood and Waterman 1993; Balla and Wright 2001), the Equal Employment Opportunity Commission and the Federal and Trade Commission (Wood and Waterman 1991), the Food and Drug Administration (Olson 1995; 1996; 1999; Shipan 2004), the Medicaid program (Huber, Shipan and Pfhaler 2001), the Occupational Health and Safety Administration (Scholz, Twombly and Headrick 1991), the U.S. Trade Commission (Hansen 1990). In addition, several contributions emphasize the political control of bureaucracies in parliamentary systems: Thies (2001) highlights the impact of the distribution of junior ministers as a way to control the ministries held by coalition partners in Italy, Germany, Netherlands and Japan, Huber and Shipan (2002) shows the statutory constraints in the labor legislation of nineteen countries, and Jensen (2004) looks at the control mechanisms on labor inspectorates in fifteen democracies.

Mechanisms of control and the autonomy of European institutions

Scholars have started to focus on the control mechanisms in European Union especially since the contribution of Pollack (1997), who underlines that supranational autonomy is a function of the control mechanisms established by member states. Pollack (1997:113- 121) points out especially five mechanisms that member states may credibly employ to control the Commission. First, they can oversight the Commission through the comitology system. Second, they can rely on the monitoring activities of other European institutions, such as the European Parliament and the European Court of Justice. Third, member states can threaten the Commission with credible sanctions, such as non-complying with a Commission decision. Fourth, member states may threaten to amend the Treaty or the Council regulations that defines the Commission's competences. In addition to comitology and the power to amend the mandate, Doleys (2000:542-543) consider other two control mechanisms that member states can use to affect the Commission. First, they can question the legality of Commission's act, demonstrating to the Court that the Commission has acted beyond its mandate. Second, member states may affect the decision-making through the appointment of the individuals that

serve on the Commission. In particular, Doleys argues that member states may use the power to nominate the commissioners in order to control their behaviour.
Overall, many contributions have examined the impact of committee system in the policy-making (e.g Steunenberg, Koboldt and Schmidtchen 1996; Dogan 1997; Franchino 2000; 2004; Ballmann, Epstein and O'Halloran 2002; Rhinard 2002; Pollack 2003; Häge 2007). On the contrary, there are no relevant works about the political pressures on the exclusive regulatory competences that the Commission derives directly from the Treaty. Nevertheless, the literature stress that member states may affect the Commission behaviour through commissioners. Scholars argue that commissioners both maintain a strong link with the respective domestic system (Egeberg 1996; Christiansen 1997) and have often a strong government's party affiliation (Döring 2007; Wonka 2007). Furthermore, although commissioners should not act according to member states' orientations (Cini 1996:111; Donnelly and Ritchie 1994:35) and in spite of the evidences in favour of the overall autonomy of cabinets (Egeberg and Heskestad 2010) and temporary officials (Trondal 2008) scholars stress the impact of national preferences in the Commission decision-making (Hooghe 1999; 2001; 2005; Hug 2003; Thomson 2008; Egeberg 2006; Trondal 2006; Wonka 2008). In addition, some contributions stress the impact of member states on the European Court of Justice, that is, another supranational institution that, as provided for by the Treaty, should be independent from national pressures. Garrett, Kelemen and Schulz (1998) and Kelemen (2001) highlight how the institutional context may influence the ECJ decisions, while Carrubba, Gabel and Hankla (2008) show that member states are able to affect ECJ by means of threats of non-compliance and override.

The argument of the thesis

The present analysis argues that member states may affect the Commission's decisions on state aid. They can influence the Commission through two mechanisms. First, member states affect the decisions if they can credibly threaten the Commission not to comply with supranational regulation and its decisions. Since the Commission can control and regulate state aid only if member states correctly notify and implement the aid, if the threat of non-compliance is credible, the Commission is forced to approve the aid in order to keep the measure under its own supervision. The impact of these threats varies according the circumstances: member states credibly threaten the Commission when the monitoring by third interested parties, such as other member states or firms, is weak and affect especially the decisions when the Commission strongly sides against national intervention in the domestic economy. Second, as the Commission policy preferences play a relevant role in decision-making, member states can influence the decision-making when they nominate the most influential commissioners on state aid policy, such as the commissioner on competition and regional policy. These manage most of the applications and are able to influence the coalition formation within the College of commissioners in the evaluation of the most controversial cases. Therefore, member states that nominate the commissioners on competition and regional policy may benefit from an agent that defends their interests within the Commission.

In addition, my analysis will highlight that supranational decisions are affected by the statutory constraints that member states included in the Council regulation and the Commission has to follow to evaluate each aid. Nevertheless, according to the formal rules, the results show that these constraints reduce the Commission's discretionary power, but do not lead the Commission towards the approval.

In short this study shows that, although member states delegated the Commission great discretionary power, they may have some opportunities to influence supranational decisions. In particular, the independence of Commission depends on the interactions among the level of monitoring by third interested parties, the policy preferences of the Commission and the policy orientations of national governments.

The debate between theories of EU integration

Even though the purpose of the present study is only to investigate the extent of Commission's independence, the analysis is central to the theories of European integration. The present work follows the institutional approach to the study of European integration (e.g. Garrett and Tsebelis 1996; Tsebelis and Garrett 2001;

Pollack 2003; Franchino 2007), but it produces some evidences that may contribute to the debate between neo-functionalism and intergovernmentalism[10].

Neo-functionalism, or rather supranationalism, emphasizes the importance of international organizations in policy-making (Haas 1958; 1964; Schmitter 1996; 2004; Sandholtz and Stone-Sweet 1998; Stone-Sweet, Fligestein and Sandholtz 2001; Rosamund 2005). Basically, neo-functional scholarship considers European institutions, such as the Commission and the European Court of Justice, independent actors that are able to shape the policy outcomes in the European Union. On the contrary, intergovernmentalism put emphasis on the impact of member states' preferences on the development of supranational institutions (Hoffmann 1966; 1982; Taylor 1983; Moravcsik 1993; 1995; 1998; Milward 1992). As member states play a central role in the European Union, supranational institutions are understood as a means to lower the costs of intergovernmental decisions.

Recently, some contributions emphasize the usefulness of neo-functionalism to understand the development of the European regulation on competition policy (McGowan 2007; Cini and McGowan 2008:199-213). The scholars emphasize the role of the Commission as policy entrepreneur and the process of spill-over that foster and consolidate European integration.

The present study, which stresses the conditional independence of the Commission, contributes to illustrate especially the circumstances under which state aid control is affected by national governments. The results show the significant impact of key member states and highlight that the Commission can still consolidate its autonomy from national pressures.

Structure of the thesis

The analysis includes five chapters. Chapter 1 examines the features of the European regulation on state aid. It includes three sections and analyse the development of the regulation over the decades, the formal procedure that member states and the Commission have to follow, and the organization within the

[10] For a complete review of the European integration theories, see Wiener and Diez (2004), Schimmelfennig and Rittberger (2006) and Pollack (2010).

Commission. The first section highlights the consolidation of state aid control and the changes of supranational policy priorities. The second section examines in depth all the provisions regulating state aid policy and put emphasis on the statutory constraints in the standard procedure. The third section looks at the conflict within the Commission and the structure of the DG Competition.

Chapter 2 introduces a formal model on state aid policy that focuses on the strategic interactions between member states applying for an aid and the Commission. Chapter 2 is divided in two parts: the first section presents the basic assumption, the game and the equilibria; the second section presents the testable hypotheses on the impact of threats of non-compliance and the appointment of commissioners. The former derives directly from the model's predictions, while the latter is related to the importance of Commission policy preferences.

Chapter 3 describes the data on state aid to industry and services that I use to test the hypotheses. Chapter 3 shows how I measure both the dependent and independent variables and illustrates the cross-country and cross-temporal heterogeneity in state aid policy from 1999 to 2009.

Chapter 4 tests the hypotheses deriving from the formal model in the Chapter 2. In this chapter I test the impact of member states on the aid in favour of industry and services that the Commission has evaluated from 1999 to 2009, providing also different analysis for regional and horizontal aid. In addition I show how the impact of member states has changed over the time and which member states have more influenced the Commission.

Chapter 5 investigates the effects of national pressures on the decisions concerning the government measures in favour of a very sensitive and contested sector, such as car manufacturing. In particular, this chapter examines the extent to which member states' influence on supranational decisions may have repercussions on the national spending for car industry.

Finally, the conclusion presents the main findings of the analysis and proposes the possible strategies for further researches.

CHAPTER 1

State aid control in the European Union: development, rules and organization

The present chapter analyses the features of the European regulation on state aid policy. It emphasizes the nature of the current procedures of notification and evaluation. The first section focuses on the development of the supranational rules and the simultaneous evolution of supranational priorities. In particular, this section highlights both the consolidation of state aid control over the decades and the present objectives of the Commission. The second section examines in depth the rules that regulate state aid policy and define the procedure that member states and the Commission have to follow. In this section I look also at the statutory constraints that member states may have included in the standard procedure to restrict the Commission’s discretionary power. Finally, the third section underlines the organization within the Commission, stressing both the structure of the DG Competition, the most influential directorate on state aid, and the conflicts among DGs.

1.1 The development of the EU control on state aid

Nowadays the European regulation on state aid is characterized by the extensive powers of the Commission, but this is just the result of a troubled historic process. Overall, the development of state aid policy is related to the enforcement of the EU competition policy. In particular, since state aid control strengthened only in the mid of the eighties, this section first focuses more on the development of competition regulation, and then on state aid policy.

1.1.1 The development of state aid control

From the very beginning, competition has constituted a very important issue at supranational level: it was exactly the first supranational policy in the European Union (McGowan and Wilks 1995). Member states and Commission established and consolidated the foundations of competition regulation through three steps.

The first step was the approval of the Treaty establishing the European Coal and Steel Community in 1951. At that time competition policy was a very recent field and only a few member states had already adopted a domestic regulation: Belgium and Luxembourg had no legislation, Italy regulated monopolies through the provisions of the Civil Code, France relied on a weak regulation of restrictive business practises, Germany would enact competition rules only in 1957, while Netherlands would draft an act in 1956 (Cini and McGowan 2008:18). Given the considerable differences among the respective regulations and experiences, member states, also under the influence of transatlantic networks (Leucht 2009), agreed just on general provisions regarding particularly anti-trust.

The second step was the signing of the EEC Treaty in 1957. The negotiations preceding the agreement were affected by the conflicting positions of Germany and France. Germany was for rules preserving fair competition in the common market, whereas the French position was not so cohesive: it was for a market economy in principle, but it appreciated state intervention as well (Seidel 2009:130-131). Because of this conflict, member states included in the Treaty only some basic and broad provisions. These provisions are still so general that the literature provides opposite interpretations: some scholars consider that the EEC Treaty presents similarities with the German competition law (Cini and McGowan 2008:13-16), while someone else consider that the same provisions refer to the French law of 1953 (Siedel 2009:131-132).

The third step was the agreement on the final version of the Regulation 17 in 1961. Regulation 17 was at the heart of DG Competition and therefore also of the enforcement of competition regulation (Siedel 2009:139-141). In particular, the Commission asked member states to follow some basic elements, such as the prohibition of restrictive practises and the obligatory notification. In spite of the preliminary protests of the French government and the industrialists in Belgium, France and Germany, Regulation 17 was approved in December 1961 (Siedel 2009:139). Member states reached an agreement also because the first commissioner on competition, Hans von der Groeben, held a leading role during the negotiations. The leadership of the commissioner was likely to affect also the content of Regulation 17, which, at least partially, reflected the German model of notification, evaluation and exemption (Seidel 2009).

Once member states reached an agreement on the basics of the supranational regulation on competition, the Commission proceeded to develop a consistent set of policy priorities. In the early sixties, competition policy meant especially restrictive practise policy, therefore state aid and monopoly were marginalized (Cini and McGowan 2008:21-22). A substantial change occurred at the end of the sixties with the establishment of the Common External Tariff and the removal of intra-EC tariffs: in this period the DG Competition extended the attention on all the non-tariffs barriers to trade, government subsidies to national industries included (Cini and McGowan 2008:24). In spite of the increasing attention by the DG Competition, competition and state aid regulation were still weak. The weakness was represented by the enforcement and, in particular, the obligatory notification was the most important issue that the DG Competition had to face. The solution to the notification of state aid was the exemption for certain types of government interventions that were considered compatible with the common market. The exemption aimed to strengthen the supranational authority incentivizing companies and member states to follow the European rules on competition (Goyder 1988). In addition, the exemption reduced the workload of Commission. Council approved the exemption policy in 1965, only after the Commission had gained experience in the fields of exclusive distribution and purchasing (Cini and McGowan 2008:20-21). Despite this reform, the enforcement procedures would soon reveal still inadequate.

The recession deriving from the oil crisis of 1973 emphasized the limits of state aid control to cope with a drastic change in the economic environment. Given the economic recession, although the Commission relaxed its position towards state aid (Merkin and Williams 1984:327), member states usually did not comply with supranational rules to take some immediate countermeasures to unemployment and failing industries (Cownie 1986). Since the Commission had no relevant tool to regulate national interventions in sensitive areas such as the management of industries and sectors in decline, state aid control was totally ineffective (Cini and McGowan 2008:26).

In addition, the economic downturn affected the capacity of supranational institutions to find a solution. In particular, the recession influenced the negotiations concerning the establishment of a common industrial policy. In 1973, according to a project proposed for the first time at the end of the sixties, the Commission proposed the Council to adopt a programme on a future European industrial policy. Given the economic circumstances, as member states focused more on national than common problems, negotiations were substantially inconclusive (Cini and McGowan 2008:26). In short, the economic crisis emphasized "the general anti-supranational ethos of the time and the desire of key member states to retain absolute control over their national industrial policy" (Cini and McGowan 2008:27).

Competition and state aid policy were significantly consolidated only in the mid of the eighties. More generally, the failures of state aid control in the seventies lead to a substantial change over the course of the following decades. This change was due to four factors. First, since competition officials had accumulated more experience, the DG Competition moved from a reactive towards a proactive, more managerially aware and innovatory mode of administration (Wilks and McGowan 1996:247).

Second, the European Court of Justice supported the Commission's authority on state aid control. In particular, the sentences of the European Court of Justice between the end of seventies and the first half of eighties allowed the Commission to recover the illegal aid[11] (Cownie 1986:250; Cini and McGowan 2008:30-31).

[11] A landmark was represented by the judgment of 17 September 1980 concerning Philipp Morris Holland .

The Commission first recovered an unlawful aid in 1983 and since that moment the recovery has become an essential tool for state aid control (Cini and McGowan 2008:175).

Third, according to the growing commitment to neo-liberal economic approach in western countries, competition was placed at the top of Commission agenda (Cini and McGowan 2008:31). The change of policy approach on competition policy started in 1981 with the appointment of Frans Andriessen as competition commissioner. Then, the neo-liberal approach continued through Peter Sutherland and Sir Leon Brittan, appointed in 1985 and 1989 respectively (Cini and McGowan 2008:31-32).

Fourth, the project of the Single European Market fostered the strengthening of the state aid control. The Commission increased the attention on state aid regulation to avoid cases of protectionism conferring an advantage for domestic firms at the expense of European competitors (Cini and McGowan 2008:32). For this purpose, the DG Competition proceeded to scrutinize all the aid that had already been approved between 1981 and 1986 (Cini and McGowan 2008:34). This examination allowed the commissioners Sutherland and Brittan to identify both the weak points and the future basic priorities, such as the transparency of national interventions (Cini and McGowan 2008:177-178).

The changes occurred in the eighties had a significant impact during the nineties. Once the Commission's authority and the single market project consolidated, the growing level of transparency made state aid control more robust[12]. National governments and private competitors increasingly notified the Commission cases of distortive aid, therefore boosting the likelihood of detection and punishment (Smith 1998:62-63). However, the involvement of third interested parties represented also a critical change in the policy-making. As government and private actors monitored the respective competitors, they usually asked the European Court of Justice to annul a previous Commission decision: although in many cases the Court ruled for the Commission, sometimes it overruled a Commission's decision (Smith 2001:221-229). In short, private actors were able both to strengthen state aid

[12] In the Nineties, the Commission provided a first relevant contribution on transparency of the financial relations between member states and undertakings (Commission 1993). Then, in 2006, the Commission intervened again to improve the overall level of transparency (Commission 2006c).

control and constrain the Commission's discretionary power. It followed that the Commission intervened to avoid this last consequence.

Given the growing demand of business associations on a new regulatory regime, the Commission invited the Council to change the conditions of both state aid control and state aid policy (Smith 2001). In 1998 the Commission and the Council adopted the Regulation 994/1998 exempting member states to notify certain measures to the Commission. In 1999 the Council approved the Regulation 659/1999 concerning the procedure member states and the Commission have to follow to notify and evaluate and aid respectively. Although the Commission needed for the approval of member states represented in the Council, it safeguarded its own autonomy from national pressures. Undoubtedly the new regulations reflected the conflict between the national governments and Commission, but, since member states followed different industrial traditions, they were not able to share some common positions against the Commission. In fact, the resulting agreements enhanced the supranational powers to enforce state aid decisions and Commission's preferences (Smith 2001:232). Regulation 994/1998 both reduced the Commission's workload and lead member states towards Commission' policy objectives (Blauberger 2009:732-734). Regulation 659/1999, according to the demand of national governments, made the procedure more clear. As a result, since member states agree on stricter rules, the Commission consolidated further its authority in state aid policy.

In the last decade, the Commission has improved the state aid regulation especially through soft laws, such as framework, guidelines and communication, responding to the changes occurring in the common market. The most significant reform occurred in 2005: the commissioner Neelie Kroes introduced the State Aid Action Plan to create a better fit between state aid policy and the strategies provided for by the Treaty of Lisbon (Cini and McGowan 2008:180). The State Aid Action Plan pointed out a roadmap for the reform of state aid policy in 2005-2009 in order to achieve two main objectives: consolidating the economic analysis of the aid; guiding national intervention towards competitiveness, innovation and employment, instead of the support to failing industries. In other words the State Aid Action Plan aimed to orient member states towards “a less but better targeted aid” (Cini and McGowan 2008:180:181).

An additional change occurred in 2008, when the Commission established a temporary framework in response to the financial crisis. In particular, the Commission simplified further the procedure of notification for aid concerning the financial and banking sectors (Commission 2009b).

So far I have focused mainly on the consolidation of state aid control over the years. However, the improvements of state aid control are strictly connected to the development of the supranational policy objectives. As state aid control has consolidated, the Commission has changed its primary objectives. The next part examines the recent changes of the Commission’s attitude towards state aid policy.

1.1.2 The evolution of Commission’s policy objectives

As the Commission has strengthened its authority, it has changed also its policy objectives. The Commission has clearly changed its attitude towards the three main categories of aid: sectoral aid, regional aid and horizontal aid. Each category represents a macro primary objective: the development of a specific economic sector, the development of a specific geographic area, the limitations of negative market externalities.

The term sectoral aid refers to the national measures that are targeted at the problems of specific economic sectors. The measures in favour of specific sectors rely on frameworks or guidelines indicating the type and the scope of national intervention that the Commission is likely to approve (Cini and McGowan 2008:184). The economic sectors involved in these frameworks have been, for instance, motor vehicle industry, air transport, synthetic fibres, shipbuilding, coal and steel, electricity, postal service, banking, audio-visual production and broadcasting (Cini and McGowan 2008:184-189).

Regional aid refers to the development of specific geographic areas. According to the guidelines on regional aid, the Commission is likely to approve the measures in favour of the areas that are disadvantaged in relation to the national average, and, more generally, any measure promoting the economic, social and territorial cohesion of member states and the European Union (Commission 2010a).

Horizontal aid may be considered a residual category. It regards the national intervention towards sectors that do not rely on specific supranational guidelines and frameworks (Cini and McGowan 2008:189). For instance, the term horizontal aid refers to measures in favour of disabled workers, environment protection, rescue and restructuring firms in difficulty, research and development, risk capital, small and medium enterprises, training.

Since the failure of state aid policy in the seventies the Commission has been promoting especially regional and horizontal aid and opposing sectoral aid. As the Commission highlighted the need for member states to adapt to the changes in the economic environment, it has sided against any measure that aims to preserve the status quo (Cownie 1986:253). In particular, in the eighties the Commission restricted the national intervention towards sectoral aid, that is any measure aiming at remedying the structural difficulties of a specific economic sector. On the contrary, the Commission has appeared more tolerant towards regional and horizontal aid.

Regional development has continued to be a primary objective of the Commission. Since the Treaty provisions establish that regional aid is likely not to be distortive, the Commission seems to consider the development of poor regions a prominent supranational objective. This is likely to be still true for two reasons: first, the enlargement process occurred in the 2004 and 2007 has widened the economic and social differences within the European Union; second, according to the Lisbon strategy, the Commission aims at reaching a greater social cohesion.

As regards the horizontal aid, the Commission has increasingly been for this type of measure over the last years. As Buts, Jegers and Joris (2011) point out, horizontal aid has become more important since the approval of State Aid Action Plan in 2005. According to the Lisbon Treaty, the Commission has shifted its approach on state aid, directing national interventions especially towards research, innovation and the optimisation of human capital (Commission 2005).

The positive attitude of the Commission for regional and horizontal aid has also affected the formal rules on state aid policy. In particular, the “Block Exemption” and the “De minimis” regulations of 2006 and 2008 simplified the procedures of notification and approval for both these categories of aid. The next chapter examines in depth all the features of the rules that member states and the Commission have to follow.

1.2 State aid rules

The basics of state aid control are included in the Treaty establishing the European Community. Then, according to the Treaty, the Council has approved specific rules to improve the procedures of notification and evaluation concerning member states and the Commission respectively. This section focuses the attention on the main features of the rules that actually regulate state aid policy.

1.2.1 Treaty Provisions

The state aid regulation takes shape from Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union (TFEU)[13]. Article 107 states which aid are compatible with the common market, while Article 108 and 109 specify the institutions deciding on the compatibility of each aid with the common market and the institutions in charge of developing relevant regulations.

According to the Article 107, any aid granted by a member state or through State resources that distort or threatens to distort competition is incompatible with the internal market. Article 107 then lists the types of aid that are, or may be considered to be, compatible with the EU law. It is compatible with the common market any measure a) having a social character, granted to individual consumers (provided that such aid is granted without discrimination related to the origin of the products concerned); b) aiming at making good the damage caused by natural disasters or exceptional occurrences; c) granted to the economy of certain areas of Germany in order to compensate for the economic disadvantages caused by the previous division of the country. In addition, state aid may be considered to be compatible with the internal market if: a) promotes the economic development of areas where the standard of living is abnormally low or there is serious underemployment; b) promotes the execution of an important project of common European interest or

[13] This is the new name given to the Treaty establishing the European Community since the Treaty of Lisbon entered into force on the first of December 2009.

remedies a serious disturbance in the economy of a member state; c) facilitates the development of certain economic activities or of certain economic areas; d) promotes culture and heritage conservation; e) it belongs to a category of aid specified by decision of the Council on a proposal from the Commission.

In accordance to the Article 108 any plan to grant new aid must be notified to the Commission, which, therefore, starts an investigation to evaluate the compatibility of the proposed aid with the common market. When the Commission finds that the aid granted is not compatible with the internal market, it decides that the member state concerned shall abolish or alter such aid. If the member state concerned does not comply with this decision, the Commission or any other interested member state may refer the matter to the Court of Justice of the European Union. Article 108 also establishes that, in exceptional cases and in derogation with Article 107 and 109, a state can apply directly to the Council, which must approve the measure unanimously[14]. If initiated, the Commission's investigation into this proposed measure is suspended. If the Council does not decide within three months, the Commission provides its decision on the aid.

According to the Article 109, the European Council, on a proposal from the Commission and after consulting the European Parliament, approves any appropriate regulation for the application of Article 107 and 108. The implementation of TFEU Articles is further detailed in the Council Regulation 659/1999 of 22 March 1999, establishing the procedure that the Commission has to follow to take a decision. In addition, the Council Regulation 994/98 of 7 May 1998 enables the Commission to adopt the so called "Block exemption" and "De minimis" regulations. These regulations state which categories of aid are exempted from Commission's investigation. The former is used by the Commission to specify the categories of state aid that are compatible with Article 107, exempting them for the requirement of notification and approval of Commission. With the latter, the

[14] As a proof of the fact that Council decides only in exceptional circumstances, from 2006 to 2009 the Official Journal includes only seven decisions on state aid taken directly by the Council. The decisions concerned: several grants by Polish, Latvian and Lithuanian authorities for the purchase of agricultural land (see Council 2010; Council 2009a; Council 2009b); an aid by Cyprus and Romania governments to mitigate the consequences of drought in agricultural sector (Council 2008; Council 2007b); an aid granted by Finland for seeds and cereal seed (Council 2007a); and a measure by Cyprus to farmers in order to repay part of the agricultural debts created before the accession to the European Union (Council 2006).

Commission sets the thresholds under which the aid measure does not fall under the obligation of notification.

1.2.2 The Standard procedure of state aid policy

Council Regulation 659/1999 of 22 March 1999 establishes that the standard procedure of state aid regulation starts when a member state notifies a given aid to the Commission. Once the Commission receives the complete notification[15], it proceeds to a "preliminary investigation" of the measure. If the Commission does not need additional information, it decides within two months whether the measure constitutes an aid and, especially, if it is compatible with the common market[16]. In particular, when the Commission raises no doubt about the compatibility of the aid at the end of the preliminary investigation, it takes "a decision not to raise objections".

Otherwise, if the Commission considers that the information provided by the member state is insufficient to take a decision, it opens a procedure of "formal investigation". Every time the Commission opens the formal investigation, the member state concerned and any other interested parties can submit comments within a prescribed period (normally about a month). However, once the formal investigation is opened, the Commission has to take a negative, positive or conditionally positive decision[17] within eighteen months. When the period of eighteen months is expired, the Commission has to decide within two months on the basis of the information available. If at the end of this period the Commission is still not able to assess the impact of the aid on the common market, the Commission has to reject the measure.

The member state concerned can withdraw the notification of an aid before the Commission has taken a decision. If the Commission has already opened the formal investigation procedure, it closes the procedure that the member state intends to

[15] The notification is considered complete when the Commission does not request any additional information within two months from its receipt. According to the Article 5 of TFEU, member states are obliged to cooperate with the Commission providing all the information required (Council 1999).

[16] If the Commission has not taken a decision within two months, the Member State concerned can implement the aid after giving the Commission notice, unless the Commission takes a decision within a period of 15 working days following the receipt of the notice (Council 1999:4).

[17] In case of conditional positive decision, the Commission establishes some conditions so that the aid may be considered compatible with the common market.

withdraw. Besides, the Commission can revoke any decision that has been already taken following the Council Regulation 659/1999.

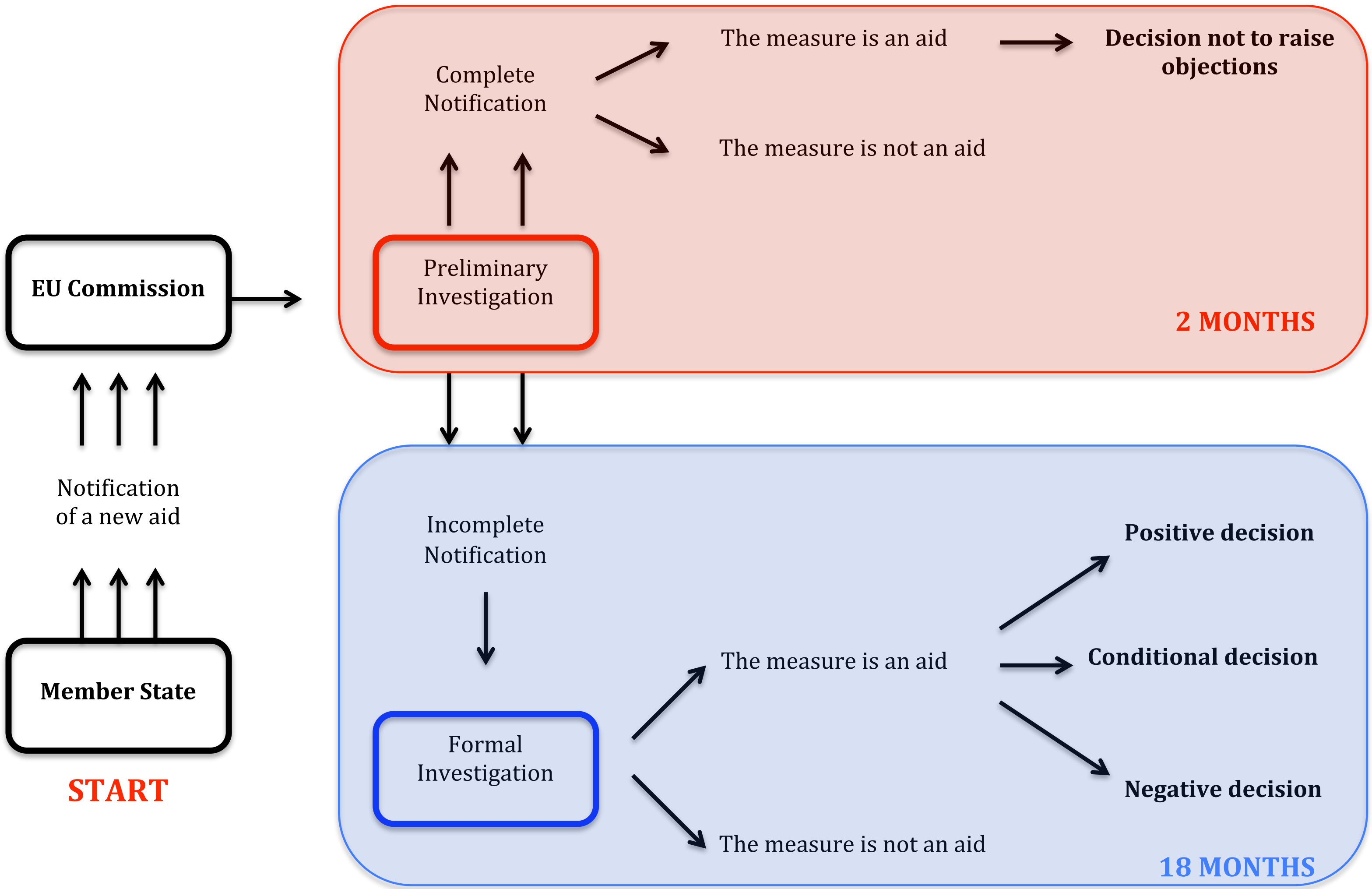
The procedure summarized above concerns the notification and the evaluation of "new aid", that is any notified aid that member states have not implemented yet and the Commission evaluates for the first time. The procedure concerning the "new" aid is outlined in Figure 1.1. However, the Commission takes into consideration also other types of aid: "existing aid", "unlawful aid" and cases of "misuse of aid".

The term "existing aid" refers to the following situations: a) any measure existed before the entry in force of the Treaty; b) any measure has been already authorized by the Commission or the Council; c) any measure that member states implemented as the Commission has not taken any decision within the preliminary investigation; d) any unlawful aid that member states implemented at least ten years before (without that the Commission or the member states have taken action with regard to such aid); e) any measure became an aid subsequently to a change in the common market[18]. If the Commission raises some doubts about the compatibility of an existing aid with the common market, it can send a recommendation to the member state involved. The Commission may suggest to: a) amend the aid, b) introduce some procedural requirements or c) abolish the existing measure. If the member state concerned does not follow the recommendation, the Commission opens a formal investigation procedure.

"Unlawful aid" and "Misuse of aid" regard measures put into effect in contravention of the Treaty provisions. In particular, an aid is considered unlawful if it is put into effect without notifying the Commission, whereas the cases of misuse of aid concern any aid that is incorrectly implemented. Unlike the regulation for new aid, the procedure starts when the Commission evaluates the information in its possession (usually coming from a third interested party). Then the Commission requests information from the Member State concerned.

[18] For instance, a measure may be considered an aid after the liberalization of an economic sector.

Figure 1.1 – Standard Procedure for the notification of a “new” aid



If it does not provide any information or provide incomplete information, the Commission can decide to send an “information injunction” specifying the information required and the period within which it is to be supplied. Usually, the Commission may need of investigating for many months in order to take a final decision on a case of unlawful aid. For instance, in 2000 the Commission founded that the aid of Spanish government in favour of the synthetic fibres producer SNIACE was not compatible with the common market, two years after the investigation had been going on[19].

Overall, in order to improve the application of the Council Regulation 659/1999, the Commission has introduced more detailed rules to simplify the notification process (Commission 2004b; Commission 2009d) and best practises codes to promote the cooperation with member states (Commission 2009c). In addition, the Commission has taken specific measures to assess unlawful state aid (Commission 2002a; Commission 2007).

1.2.3 “Block Exemption” and “De Minimis” regulations

Council Regulation 994/98 of 7 May 1998 allows the Commission to exempt from the notification some categories of aid that, according to the Treaty, are considered compatible with the common market. As provided for by this Council Regulation, the Commission can adopt the “Block Exemption” and the “De Minimis” regulations: the former specifies which categories of aid are not subject to the notification requirements; the latter fixes the amount under which the aid does not fall under the obligation of notification. Both regulations set detailed rules to ensure transparency and to enable the Commission to monitor the aid exempted from notification[20].

The Commission Regulation 800/2008 of 6 August 2008 establishes the current provisions of the “Block Exemption” regulation. It states that, under certain conditions, aid to small and medium enterprises (SME), aid in favour of research

[19] In that specific instance, as in 2004 the Court of First Instance annulled the Commission decision, the rejection of the aid was confirmed only in 2007, when the European Court of Justice overrode the previous judgement (Commission 2009a).

[20] Both regulations apply only to transparent aid, that is, aid for which it is possible to calculate precisely the gross grant equivalent ex-ante. In actual terms, an aid is considered transparent if it is comprised in grants, interest rate subsidies, loans and fiscal measures (Council 1998).

and development, aid in favour of environmental protection, employment, training and regional aid[21] are compatible with common market. In detail, the regulation applies to the following measures: a) regional aid; b) SME investment and employment aid; c) aid for the creation of enterprises by female entrepreneurs; d) aid for environmental protection; e) aid for consultancy in favour of SME and SME participation in fairs; f) aid in the form of risk capital; g) aid for research, development and innovation; h) training aid; i) aid for disadvantaged or disabled workers.

On the contrary, the regulation does not apply to aid to export-related activities[22], aid related to the use of domestic over imported goods, regional aid favouring activities in the steel sector, regional aid favouring activities in the shipbuilding sector and regional aid favouring activities in the synthetic fibres sector. In addition, the Block Exemption regulation does not take into consideration any regional aid scheme that is targeted at specific sectors of economic activity within manufacturing or services[23], while it applies in the coal sector only in case of training aid, aid for research, development and innovation, and environmental aid. In order not to alter the trading conditions, the Commission excludes from the exemption the undertakings in difficulty and the enterprises that benefited from illegal aid.

In view of other rules on primary production, Commission imposes restrictions to the exemption in some sectors. As concerns the fishery and aquaculture sector, the Block Exemption regulation applies only in case of training aid, aid in form of risk of capital, aid for research, development and innovation, and aid for disadvantaged and disabled workers. In addition to the above-mentioned cases, the regulation applies to the agricultural production even for environmental aid. Aid favouring activities in the processing and marketing of agricultural products are not subject to the notification only if the amount of the aid is fixed on the basis of the price (or

[21] Any regional aid complies with the map approved by the Commission for each member state (Commission 2008b)

[22] In this case, national intervention is directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs deriving from export activities.

[23] Aid schemes in favour of tourism activities are not considered targeted at a specific economic sector.

alternatively on the quantity of the product purchased from primary producers) or if the aid is partially or entirely passed on to primary producers.

Alternatively to the "Block Exemption" regulation, member states and the Commission may follow the "De Minims regulation". This is established by the Commission Regulation 1998/2006 of 15 December 2006, which replaces the previous Commission Regulation 69/2001 of 12 January 2001. The Commission sets out a threshold under which aid are not subject to notification. Currently, the total amount of a "de minimis" aid has not to exceed 200.000 Euros over any period of three fiscal years, with the exception of the measures in the road transport sector that has not to be over 100.000 Euros.

As the "Block Exemption" regulation, the "De minimis" regulation does not apply to export-related activities, aid related to the use of domestic over imported goods, and undertakings in difficulty. In addition, the "De minimis" regulation does not apply to aid for the coal sector and aid granted to undertakings performing road freight transport for hire and reward in order to purchase road freight transport vehicles. Besides, in view of other rules on primary production, the "De minimis" regulation does not apply to undertakings that operate in fishery, aquaculture, production, processing and marketing of agricultural products[24].

As a result of the financial crisis that emerged internationally in 2008, the Commission has modified considerably state aid rules, especially the "De Minimis" regulations. Next section examines in depth the changes occurred because of the financial crisis.

1.2.4 Rules in response to the Financial Crisis (2008-2010)

In the light of the financial crisis related to the U.S. mortgage market, on 26 November 2008 the Commission adopted a "European Economic Recovery Plan". (Commission 2008c). This Plan aims to reinforce the common market through two types of intervention. Firstly, it incentives short-term measures to boost demand,

[24] As in the "Block Exemption" regulation, Commission applies any "de minimis" aid in favour of activities in processing and marketing of agricultural products only if the amount of the aid is fixed on the basis of the price (or alternatively on the quantity of the product purchased from primary producers) or if the aid is partially or entirely passed on to primary producers (Commission 2006e).

save jobs and help restore confidence. Secondly, it provides for investments to yield higher growth and sustainable prosperity in the long-term.

The Recovery Plan lays the basis of a Temporary Framework for state aid measures (Commission 2009b). Given the hard impact of the financial crisis especially on the banking sector, the Commission, on a proposal of the Council, decided to add temporary rules on state aid policy in order to improve the coordination among member states, therefore preserving the common market. Since member states could be tempted to support their companies, the Commission introduced new common principles to avoid serious damage to the internal competition. In particular, the Commission approved the Temporary Framework on state aid in order to reach two objectives: first, unblocking bank lending to companies in order to guarantee continuity in their access to finance; second, according to the Lisbon Strategy, encouraging companies to invest in a sustainable growth economy. Although member states could achieve such objectives through general instruments at their disposal[25], the Commission considered that the impact of the economic crisis requires exceptional responses at supranational level. In practice, it has allowed member states to grant certain categories of aid for a limited period (from the 17 December 2008 to the 31 December 2010) on condition that they show, according to the Article 107 of TFEU, that the aid to implement are necessary, appropriate and proportionate to remedy a serious disturbance in the economy.

Under the Temporary Framework, the Commission introduces some relevant changes to the previous rules on state aid. First, as far as the "De minimis" regulation is concerned, the threshold passes from 200.000 to 500.000 Euros. In addition, according to the amendments of the Temporary Framework currently the "De minimis" regulation applies even to undertakings active in the primary production of agricultural products, provided that the total amount of the measure does not exceed 15.000 Euros. Second, in comparison with the previous provisions, the Commission allows to use loan guarantees in order to give simpler access to

[25] For instance, member states could change the payment deadline for social security charges, extend taxation or grant financial support directly to consumers. If such measures are open to all undertakings without discrimination, they do not constitute state aid.

finance in specific cases. Third, the Commission consents to member states granting aid through an interest-rate reduction.

1.2.5 The statutory constraints in standard procedure

To sum up, the Commission regulates state aid following the Treaty provisions and the Council regulations. As the latter require the approval of the Council, it follows that member states have the opportunity to introduce some statutory constraints in standard procedure that the Commission has to follow in order to evaluate the aid.

The possible statutory constraints used to delimit the execution of common policies are listed in Franchino (2007: 91-96). He applies the analysis of Epstein and O'Halloran (1999:101) to the European Union and finds eight types of means to constrain the Commission's discretionary power: time limits, spending limits, reporting requirements, consultation requirements, public hearings, rule-making requirements, appeals procedures, exemptions, legislative action required, executive action required.

The standard procedure on state aid includes only time limits. The Commission has to take a preliminary decision within two months from the receipt of the aid notification and eighteen months from the opening of the formal investigation. When the time for the preliminary investigation is over, the member state concerned, after having given Commission notice, can proceed to implement the aid. On the contrary, at the end of the formal investigation the Commission has to reject the aid if it has still no information enough to evaluate the compatibility with the common market.

As state aid regulation does not concern European funds but national public spending, the presence of spending limits on the Commission's budget is not applicable. In addition, since the Commission derives its exclusive competences on competition directly from the Treaty, both Council and Parliament are excluded from the ordinary management of state aid policy. Therefore, the formal procedure on the evaluation of state aid does not include reports to other supranational institutions (reporting requirements), consultations before taking a specific decision (consultation requirements) and the legislative approval prior the Commission decision becomes effective (legislative action required). The Commission needs for the consultation and the approval of other supranational institutions to apply a new regulation, but it takes the decisions on state aid independently of the preferences of Council and Parliament[26]. Besides, the Commission is independent of the approval by national authorities (executive action required): although the implementation of state aid relies on member states, the Commission's decisions do not need the approval of member states' representatives.

Although member states approve detailed rules about the standard procedure on state aid, they often include any details on the Commission's proposal. As a result, rule-making requirements seem to consolidate rather than constrain the Commission's authority. Also exempting regulations do not seem to represent a constraint: in fact, the exemptions are proposed by the Commission to simplify the procedure and therefore to reduce the workload and orient member states towards behaviour that are compliant with supranational rules. Besides, the Commission has to publish any decision on the official journal, but is not obliged to hold public hearings before taking a relevant decision. Finally, appeal procedures may override a previous decision, but currently they do not seem to influence the Commission during the preliminary and the formal investigation.

In conclusion, the supranational rules include just a relevant constraint, which contribute to establish the utmost duration of the decision-making. Member states define the time limits but they do not introduce any statutory constraints in order to increase their chances of approval. In other words, they influence the Commission's discretion, but cannot benefit from the constraints in order to shift the decision-making towards a positive decision. On the whole, the Commission seems to benefit of considerable discretionary power. Given the leading role played by the Commission, the next section focuses the attention on how the internal structure of this supranational institution may affect the decision-making.

[26] The Commission rarely consult an advisory committee on state aid before adopting implementing provisions and publishing any draft regulation (Hofmann 2006:187). The meetings of the Commission with the advisory committee, which are called by the Commission, aim to facilitate the agreement and the co-operation on certain aspects of state aid rules. However, the Commission do not consult the advisory committee to take a decision on a specific case under evaluation.

1.3 Commission organization

The decision-making relies on the commissioners and their Directorates General. Four DGs have relevant responsibilities on state aid policy: DG Agriculture, DG Competition, DG Energy and Transport, and DG Fisheries. Most of the aid is managed directly by the DG Competition. In the most controversial cases, the relevant commissioners evaluate the compatibility of the aid with the common market and the College of the commissioners take the final decision. In this latter case, the impact of the relevant commissioner depends on its ability to create coalitions within the College of commissioners (Cini and McGowan 2008: 45).

Since the commissioners are nominated by member states, the decisions on state aid may bring about disputes within the College of the commissioners along national differences. In particular, given the different industrial traditions and orientations, member states usually conflict along the liberal-interventionist dimension (Cini and McGowan 2008: 47).

In addition, commissioners conflict because their DGs pursuit different policies. Usually the disputes regard the DG Competition and the DG Regional Policy. Both have interest in managing state aid policy according to their respective policy objectives on cohesion and competition. The conflict concerns the implementation of regional aid (Frazer 1995; Wishlade 1993; 1998). This issue became particularly relevant after the reform of Structural Funds in 1988. Over the years, the DG Competition and the DG Regional Policy have solved some practical problems through a revision of the map on regional development. In this way, DG Competition has assessed the compatibility of state aid regulation with the programs concerning the Structural Funds (Cini and McGowan 2008:183). Then, despite these improvements, the enlargement process has increased the difficulties to coordinate competition and cohesive objectives both in old and new member states. Although the DG Competition has simplified the notification and the evaluation of regional aid, the conflict with the DG Regional Policy is still mostly unresolved (Gualini 2003; Wishlade 2008).

Each commissioner is assisted by personal staff and cabinets: the former brief the Commissioner and link the Commission with national authorities, the latter assist the relevant commissioners to deal with the ordinary administration of the DG (Cini and McGowan 2008:47). Focusing the attention on the DG Competition, which regulates most of aid, at the head of the DG there are: the Director General and three Deputies on Operations, Mergers and Antitrust, and State Aid. The Director General is the top senior officer and links the Commission's priorities with the DG structure.

The DG Competition consists of eight directorates: Directorate A on Policy and Strategy concerns the overall problems on competition policy; Directorate B focuses on energy and environment; Directorate C is responsible for information and communications; Directorate D regards financial services; Directorate E refers to basic industries, manufacturing and agriculture; Directorate F deals with transport, post and other services; Directorate G focuses only on cartels; Directorate H is about state aid, research and development policy, innovation, enforcement and procedural reform; Directorate R constitutes the Registry and is responsible for document management, strategic planning, information technology.

A substantial change in the structure occurred in 2008, because of the financial crisis. From the end of 2008 to the end of 2010, Directorate D has included also a task force to find remedies to the consequences deriving from the impact of the crisis in the European Union. Apart from this change, The DG Competition has presented the same structure since the reform of 2003. In 2003 the directorate that previously focuses only on state aid was abolished. Therefore, state aid has been integrated in the other directorates in order to consolidate state aid policy along the sectoral and functional dimensions of the supranational regulation on competition (Cini and McGowan 2008:163).

Although there is no specific directorate on state aid, more than a quarter of the officers are employed for state aid control. In 2006 the staff of the DG Competition included 750 officers: 188 were employed only to assess the aid notified and implemented by member states. Over the last decades, owing to the enlargement process and the need to make the enforcement more effective, the staff has doubled: from about 400 officers in the first half of the nineties to around 750 in 2006 (Cini and McGowan 2008:49). The staff is constituted especially by lawyers: they represent about the half of the officers within the DG. Although the DG deals with the economic impact of national intervention, state aid regulation relies especially on the legal ethos and the judicial interpretations at the expense of the economic analysis (Cini and McGowan 2008:54)

According to the features of supranational rules and the organization within the Commission, I produce a formal model stressing to which extent member states may affect the Commission during the decision-making. The next chapter presents a straightforward game of state aid regulation and six hypotheses on the strategies that member states can adopt to influence the decisions on state aid.

CHAPTER 2

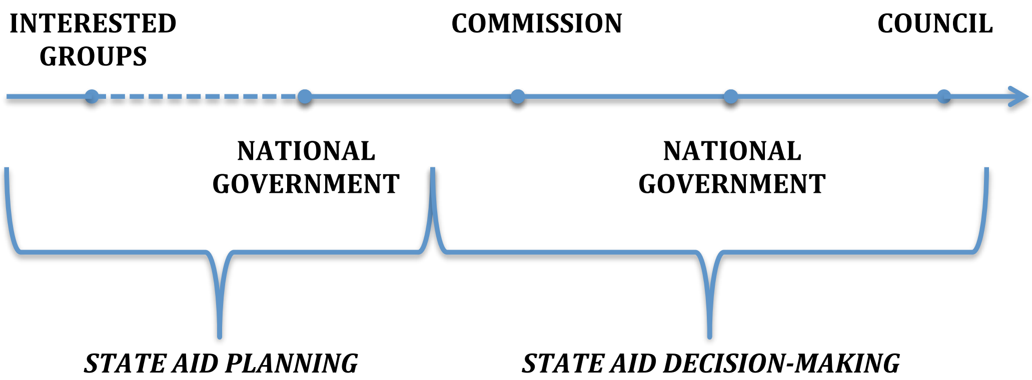
A formal model of state aid control in the European Union

This chapter presents a straightforward model of state aid control in the European Union. According to the formal rules analysed in the previous chapter, the model highlights how member states strategically interact with the Commission and stresses under which circumstances member states affect the supranational decisions on state aid. In particular, the impact of member states on the Commission's behaviour depends on two factors: the policy preferences both of member states and the Commission and the level of control by third interested parties. On the basis of model's predictions, the final section produces six testable hypotheses about how member states affect the decision-making through threats of non-compliance and the commissioners on competition and regional policy.

2.1 A game of state aid policy: players, assumptions and outcomes

The policy of state aid control is composed of two stages. The first stage, concerning state aid planning, involves national actors only: the domestic interested groups and the national government. The former lobby national governments for intervening in the domestic economy. The latter plans the aid and then it has to notify it to the Commission. The second stage regards the evaluation of the aid and involves supranational actors too. The Commission approves or rejects the aid on the basis of its compatibility with the common market. If the Commission has not taken a decision yet, national governments may apply to the Council, which can replace the Commission in exceptional circumstances. Figure 2.1 summarizes the actors involved in state aid planning and decision-making. Since state aid regulation concerns national governments rather than firms, individual firms or interested groups are assumed not to interact directly with the Commission during decision-making. Although business associations and other groups play a relevant role at supranational level, they are assumed to lobby the Commission and the Council only to change sectoral frameworks. On the contrary, when the Commission evaluate a single case, interested groups are assumed to act just at national level. In other words, they may affect the Commission only through national governments.

Figure 2.1 – Actors involved in state aid planning and decision-making



Even though Figure 2.1 mentions four actors, this chapter presents a game of state aid regulation including only two players: a Member State and the Commission. The model looks at member states as the interaction among national governments, interested groups and other domestic institutions. In other words, member states reflect the policy output of state aid planning: they mean the policy preferences of national governments given certain domestic institutions and interested groups pressures. In addition, the game excludes the Council because the present investigation focuses only on the aid evaluated through the standard procedure.

Member State and the Commission are both motivated by policy considerations. For instance, Member State is motivated by the distributive or the economic impact of the aid, whereas the Commission aims to orient national governments towards specific supranational priorities. As in several models about congressional influence on regulatory agencies (e.g. Ferejohn and Shipan 1990; Huber and Shipan 2002; Shipan 2004), the policy preferences of Member State and the Commission are aligned along a single policy dimension. In the present analysis they are assumed to conflict along the liberal-interventionist dimension. Given a change in the domestic economy, Member State is *interventionist* if it is in favour of intervening for private companies. On the contrary, Member State is *liberal* if it prefers not to interfere with the market[27]. At the same time the Commission is *interventionist* when it considers that the state aid under investigation contributes to consolidate competition in the common market. Otherwise, the Commission is *liberal*, that is, it strongly sides against the national intervention in the economy because of its distortive effects. The Commission is assumed to be always more *liberal* than Member State.

The game assumes that Member State and Commission have perfect knowledge of state aid policy. This means that both players are assumed to know state aid rules, the respective strategies, payoffs and moves. In particular, this implies that Member State and the Commission have the same knowledge of the extent to which third interested parties are likely to monitor the implementation of the aid.

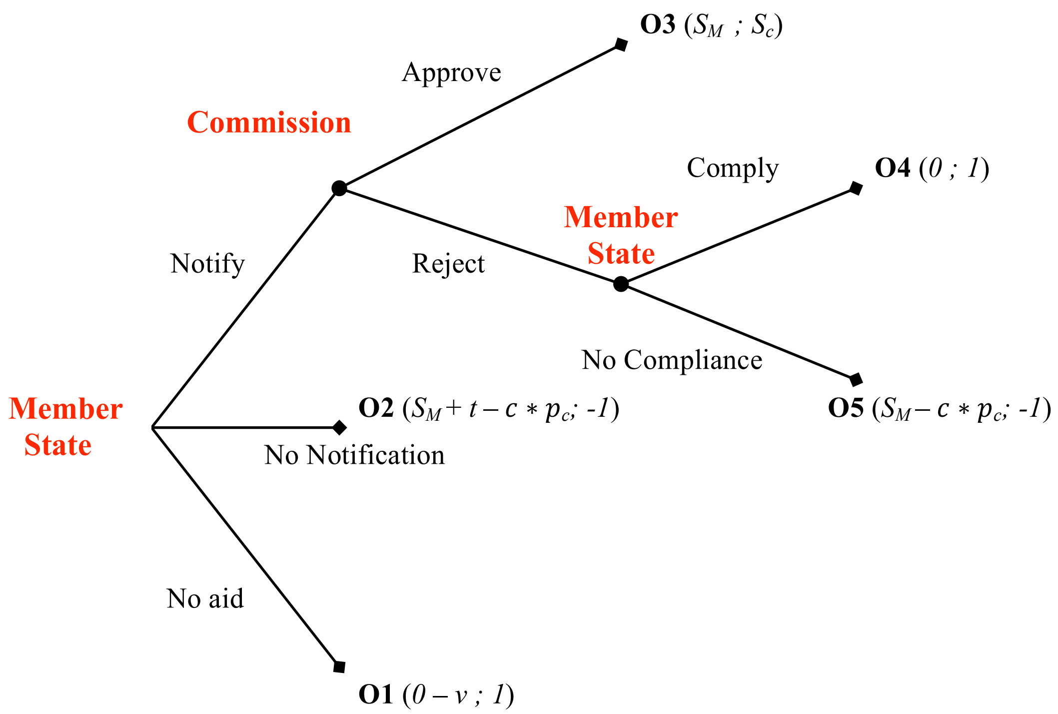
Member State moves first: it chooses whether to notify the aid to the Commission, to grant the aid without notifying the Commission or not to grant the aid at all. If the Member State is indifferent between notifying and not granting an aid, it does not grant the aid.

When Member State chooses to notify, the Commission starts the investigation. At the end of the investigation, the Commission can approve or reject the aid. If the Commission rejects the aid, Member State chooses between two options: it has to decide whether comply or alternatively not to comply with the Commission's

[27] The term *liberal* does not refer to a specific party, but just to a policy orientation that objects to government interferences with the market.

decision. The game has five possible outcomes. Figure 2.2 shows the sequence of the moves and the payoffs.

Figure 2.2 – The game on state aid control in extensive form



S_M = value of the aid for the Member State

S_C = value of the aid for the Commission

c = costs of non-compliance

p_c = probability to pay the costs of non-compliance

t = saving of time

v = electoral cost

The model fits well especially with the procedure that the Commission follows to evaluate the "new aid", that is, the aid that Member State notifies and implements for the first time. However, sometimes the Commission evaluates aid that Member State has already put in effect without following the supranational rules. In this case the procedure starts when third interested parties notify an unlawful aid. Once the Commission examines the information provided by third parties, it proceeds to request information to the Member State concerned. On the basis of the information available the Commission decides on the compatibility of the aid with the common market. In particular, if the aid is not considered compatible, the Commission may ask the Member State to recover the aid. Looking at the game in Figure 2.2 the procedure that the Commission follows to evaluate the unlawful aid can be interpreted as a situation in which Member State plays the game twice. First, Member State opts for granting the aid without notifying the Commission. Second, in case a third interested party should detect the aid, Member State notifies the aid.

Member State's payoffs

The payoffs of Member State vary according to the value of the aid. This value is equal to 0 when Member State does not implement the aid. This occurs in two cases: when it prefers not to intervene in the domestic economy (O1) or when it complies with a Commission's rejection (O4). When Member State implements the aid, the value of the aid (S_M) depends on the policy preferences of the Member State. If Member State is *liberal*, the value of the aid is lower than 0 ($S_M < 0$); if Member State is *interventionist*, the value of the aid is greater than 0 ($S_M > 0$).

When Member State does not notify the aid or not comply with the Commission's decision, it may pay a cost (c). The cost is constituted, for instance, by a loss of credibility or the reversal of the aid. The cost (c) is assumed to be always greater or equal than the value of the aid, while the probability to pay the costs (p_c) depends on the monitoring executed by third interested parties. If third parties, such as other member states and firms, pay attention to the execution of the aid, Member State is likely to pay the costs of non-compliance. In this case the expected costs are assumed to exceed the value of the aid ($|c * p_c| > |S_M|$) and, as a result, Member State is expected to notify and comply with supranational decision. On the contrary, if third interested parties are likely not to monitor the implementation of the aid, the expected costs are lower than the value of state aid ($|c * p_c| < |S_M|$). Therefore, Member State has the incentive not to comply with the Commission's decisions. Member State is expected to grant the aid without notifying the Commission only when third interested parties do not monitor state aid at all, or rather, the expected costs are exactly equal to zero ($|c * p_c| = 0$)[28].

If Member State grants the aid without notifying the Commission, it avoids the supranational investigation and can immediately implement the aid. In other words, when Member State does not notify the aid, it can intervene straightaway in response to the changes occurring in the domestic economy without wasting time in waiting for the Commission's decision. Hence, the game assumes that Member State saves time (t) when it grants the aid without notifying the Commission. The value of this saving of time is always positive.

In addition, since state aid planning is rooted in domestic politics Member State is assumed to pay an electoral cost (v) if national government does not plan to intervene, but voters expected a government measure. The electoral cost (v) depends on Member State's policy preferences: if Member State is *liberal*, voters are likely not to expect any aid, therefore the value of v is assumed to be equal to zero ($v = 0$); if Member State is *interventionist*, as the voters are likely to expect that Member State plans the aid, the value of v is greater than 0 ($v > 0$). Member State may pay the electoral cost only if it does not plan any aid. On the contrary, Member State does not pay any electoral cost (v) when it complies with a negative decision. In this case it may lay the blame on the European rules and the Commission.

Commission's payoffs

The payoffs of the Commission depend on the extent to which it safeguards the common market from national and particular interests. The Commission can reach this goal on two conditions: first of all, it has to control each state aid implemented by Member State; then, it has to prevent that such state aid distort competition in the common market.

First, the Commission can effectively control state aid policy only if Member State correctly notifies the aid and complies with negative decisions. Otherwise, the

[28] I remind that the Commission evaluates the compatibility of an unlawful aid with the common market only when third interested parties detect the measure. According to the game, that occurs only if the level of control executed by third parties has increased over the time (and, simultaneously, the expected costs of non-compliance have moved form 0 to a positive value).

Commission is not capable to assess the impact of national intervention, unless third interested parties notify the unlawful aid. Aside from the control executed by third interested parties, in case Member State should not follow supranational rules, the Commission does not systematically control state aid before their implementation. In other words, if Member State does not comply with supranational rules, the Commission does not exercise its authority as provided for by the Treaty. For this reason the Commission is assumed to pay a reputation cost equal to -1 in two cases: when Member State does not comply with the notification procedure (O2) or a negative decision (O5).

Table 2.1 – Payoffs for Member State and the Commission in each outcome

Outcome	**Description**	**Member State**	**Commission**
O1	Member State does not grant aid	$0 - v$	1
O2	Member State grants the aid without notifying	$S_M + t - (c * p_c)$	-1
O3	Member State notifies, Commission accepts	S_M	S_C
O4	Member State notifies, Commission rejects, Member State complies	0	1
O5	Member State notifies, Commission rejects, Member State does not complies	$S_M - (c * p_c)$	-1

Second, the Commission has to rejects any aid that distort competition. Basically, competition is preserved when Member State does not plan any aid (O1), or complies with a negative decision (O4). In both these cases, the Commission receives a payoff that is equal to 1. Otherwise, if Member State notifies the aid and the Commission approves such aid, the payoff, which is equal to the value of the aid (S_C), varies according to the Commission's policy orientations. If the Commission is *liberal*, it is likely to raise several doubts about the compatibility of state aid with the common market. In this case, since the Commission is likely to consider the aid distortive, the payoff is lower than 1 ($-1 < S_C < 1$). In other words, a *liberal* Commission prefers Member State not to intervene at all than to notify an aid. If the Commission is *interventionist*, it is likely to consider the impact of the aid on competition more positively. In this case, as the Commission considers that the aid consolidates more than distorts competition, the payoff is greater than 1 ($S_C > 1$). Table 2.1 summarizes the payoffs of Member State and the Commission in each outcome.

<u>*Equilibria*</u>

Solving the game by backward induction, we find the sub perfect Nash equilibria of the game. The equilibria rely on three elements: the value of the aid for the Member State (S_M); the value of the aid for the Commission (S_C); the expected costs of non-compliance for the Member State ($c * p_c$). Table 2.2 outlines the sub perfect Nash equilibria in the game.

When Member State is *liberal*[29], it always decides not to intervene in the domestic economy. A *liberal* Member State prefers not to grant the aid at all, regardless of Commission's orientations and the expected costs of non-compliance. Therefore, if the Member State is *liberal* the equilibrium is outcome O1.

When Member State is *interventionist*, the equilibrium depends both on the expected costs of non-compliance and Commission's policy preferences. If the expected costs of non-compliance are high, that are, greater than the value of the aid, Member State decides to comply. At this point, the equilibrium depends on the Commission's policy orientations. If the Commission is *interventionist*, the Commission approves and Member State notifies. If the Commission is *liberal*, it rejects the aid. Then, Member State has to choose among three alternatives: notifying the aid to the Commission; granting the aid without notifying; not granting the aid at all. If Member State grants the aid without notifying, it is likely to pay the costs. Once Member State discards this option, two alternatives are left. Since Member State is *interventionist*, if it does not intervene in the domestic economy, it has to cope with the complaints of the voters expecting a government

[29] Since the Commission is assumed to be always more liberal than Member State, when Member State is liberal, the value of the aid ranges from -1 to 0 ($-1 < S_M < 0$).

measure. Moving from the assumption that national governments do not want to disappoint voters' expectations, Member State chooses to notify the aid to the Commission.

To sum up, if Member State is *interventionist* and the expected costs of non-compliance are high, there are two possible outcomes. When both Member State and the Commission are *interventionist* the equilibrium is constituted by outcome O3: Member States applies the Commission that approves the aid. On the contrary, if the Commission is *liberal*, the equilibrium is the outcome O4: Member State notifies the aid, the Commission rejects the aid and the Member State complies with such rejection.

Table 2.2 – The sub perfect Nash equilibria in the game

Member State	**Expected costs of non-compliance**	**Commission**	
		Liberal ($-1 < S_C < 1$)	***Interventionist*** ($S_C > 1$)
Liberal ($-1 < S_M < 0$)	**Low, high or no expected costs**	**O1** (No aid, Comply; Reject)	**O1** (No aid, Comply; Approve)
Interventionist ($S_M > 0$)	**No expected costs** ($\lvert c * p_c \rvert = 0$)	**O2** (No Notification, No Compliance; Approve)	**O2** (No Notification, No Compliance; Approve)
Interventionist ($S_M > 0$)	**Low** ($\lvert c * p_c \rvert < \lvert S_M \rvert$)	**O3** (Notify, No Compliance; Approve)	**O3** (Notify, No Compliance; Approve)
Interventionist ($S_M > 0$)	**High** ($\lvert c * p_c \rvert > \lvert S_M \rvert$)	**O4** (Notify, Comply; Reject)	**O3** (Notify, No Compliance; Approve)

If the expected costs of noncompliance are lower than the value of the aid, Member State chooses not to comply with the Commission's decision. As the threat of non-compliance is credible, Member State puts the Commission in a dilemma. In particular, the Commission has to decide whether to approve the aid even if such aid may distort the competition or alternatively to rejects the aid running the risk that Member State does not comply with the negative decision and implements the measure anyway. If the Commission approves the aid, on the one hand it allows Member State to implement a distortive aid, but on the other hand it takes the aid under its supervision and, therefore, it can adjust or abolish the existing aid later. If the Commission rejects the aid, it preserves the competition in the immediate future, but it is likely not to control the aid later if Member State decides to implements that measure without following the Commission's decision. Since state aid control is a necessary condition to regulate state aid policy over the years, the Commission is assumed to pay attention first to control state aid and, then, to prevent that national measures distort the common market. Therefore, the Commission, independently of its own policy orientations, approves the aid. Since the Commission approves the aid, Member State chooses to notify.

In short, when Member State is *interventionist* and the expected costs of non-compliance are lower than the value of the aid, the game equilibrium is always represented by the outcome O3: once Member State notifies the aid, the Commission allows to implement the measure.

If the expected costs are exactly equal to zero, Member State is likely to intervene without notifying the aid to the Commission. As in the previous case, Member State chooses not to comply with the supranational decision and the Commission approves in order to control the aid. As Member State is *interventionist*, it has to decide between two options: notifying the aid and granting the aid without notifying the Commission. Since Member State expects to pay no costs, it chooses not to notify the aid. In this way it can remedy a serious disturbance in the domestic economy at once. Therefore, aside from the Commission' preferences, when Member State is *interventionist* and no third interested parties is expected to monitor, the equilibrium is represented by the outcome O2.

2.2 Hypotheses

According to the predictions of the game, we can produce testable hypotheses about the impact of member state on the Commission's decisions. In particular, the game contributes to focus the attention on two types of means that member states may use to affect decision-making. First of all, the game stresses under which circumstances member states are likely to influence the Commission's behaviour through threats of non-compliance. Second, as the game highlights the role of Commission's policy preferences, member states may affect the decision-making through the commissioners that are more influential on state aid policy.

Threats of Non-Compliance

Following the game, once Member State decides to intervene and notify, if the expected costs of non-compliance are lower than the value of the aid, the Commission is forced to approve the aid. In this way the Commission may control the aid and review the measure later. Otherwise it would run the risk that Member State implements the aid illegally causing a serious damage both to common market and state aid regulation. In short, once member state notifies the aid, the Commission may be affected by the threats of non-compliance. Since the credibility of these threats depend on the monitoring by third interested parties, the first hypothesis links the likelihood that other member states or firms oversee the aid under evaluation and the likelihood that the Commission approves the aid. The less third parties are likely to be aware of the aid, the more member states will threaten the Commission not to comply with its decision, implementing the measure illegally. Hence, the Commission is expected to approve the aid in order to keep the aid under its authority. On the contrary, if third parties are likely to monitor the implementation, member states are not expected to use threats of non-compliance and, therefore, the Commission is not forced to approve the aid.

Hypothesis 1: the less third interested parties are expected to monitor the aid under investigation, the more the Commission is likely to approve the aid

According to the game equilibria, the impact of the threats of non-compliance should depend not only on the oversight by third interested parties but also on the Commission's policy preferences. In particular, member states are expected to affect the Commission especially when it is *liberal*, that is, against the implementation of the state aid under investigation. As an *interventionist*

Commission approves the aid in any case, even if the costs of noncompliance are greater then the value of the aid, the threats of non-compliance should influence especially a Commission that sides against government intervention. According to the game equilibria, when third interested parties are expected not to monitor the aid, the *liberal* Commission is likely to approve the aid. On the contrary, if third parties are expected to oversee the aid, the *liberal* Commission is expected to reject the national intervention. In short, the second hypothesis limits the impact of threats of non-compliance to the *liberal* Commission.

Hypothesis 2: the less third interested parties are expected to monitor the aid under investigation, the more a liberal Commission is likely to approve the aid

<u>The appointment of commissioners</u>

The game and hypothesis 2 emphasize the role played by Commission's policy preferences in the decision-making. So far, the Commission is considered to manage its own preferences independently of member states' orientations. In real facts, since commissioners are nominated by national governments[30], they may be considered member states' agents. In other words, member states may use the commissioners as their representatives to influence the level of tolerance towards national intervention within the Commission.

Although commissioners should not decide according to member states' positions, scholars provide several evidences corroborating the principal-agent relationship between member states and commissioners. Hug (2003) shows that commissioners' preferences may be related to those of the actors who nominate them. Thomson (2008) finds high agreement between the positions of the Commission and the member state of the commissioner primarily responsible for drafting a legislative proposal. Wonka (2007) stresses that commissioners follow their national parties' positions. In addition, Christiansen (1997:82-85) argues that commissioners can be

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[30] Each member state puts forward a list of candidates to the President of the Commission. Once the president chooses the commissioners from the lists, the proposed College of commissioners has to be approved by the Council of Ministers through qualified majority. Then, the proposed College is submitted to the Parliament for its approval. Once Parliament approves the list of commissioners, the new Commission is officially appointed by the Council, which votes again by qualified majority.

considered member states' representatives within the Commission, while Egeberg (2006) underlines that they are attentive of their country of origin and their political party.

In accordance with the Commission's organization, member states may affect the Commission's decisions on state aid through the most influential commissioners on this policy area. Focusing on national interventions for industry and services, the commissioner on competition and the commissioner on regional policy are the most relevant within the College of the Commissioners. The former is at the head of the DG Competition, which has the greatest experience on evaluating the compatibility of national measures with the common market. The latter leads the DG Regional Policy, which involves the most relevant experts on the impact of state aid for regional development. Given their expertise on state aid, both commissioners are likely to have a significant impact both on the cases that fall under their competence and on the coalition formation within the College of Commissioners, when the Commission has to take a decision on a controversial case. As a result, member states may use the commissioners on competition and regional policy to influence the Commission's preferences and increase their chances of approval.

Member states may affect the decisions on state aid trough commissioners that defend national interests within the Commission. In particular, if member states propose a commissioner that strongly sides with his or her own country, we expect that the member state nominating the commissioner will take advantage of the nationality of the commissioner during the decision-making. If the member state picks out a commissioner that is strongly affiliated with the government coalition, it follows that member states will benefit from the commissioner only until the commissioner and the incumbent government concerned in the aid are affiliated. As soon as a different coalition replaces the government that nominated the commissioner, the commissioner is not expected to favour his or her member state when it is concerned in the aid under investigation.

Hypotheses 3 and 4 concern the commissioner on competition. In hypothesis 3, national governments are assumed to nominate a commissioner on competition that defends national interests within the Commission. In hypothesis 4, national governments are assumed to nominate a commissioner on competition who has a strong affiliation with the government coalition.

Hypothesis 3: The Commission is more likely to approve an aid proposed by the member state that nominated the commissioner on competition

Hypothesis 4: The Commission is more likely to approve an aid proposed by the government coalition that nominated the commissioner on competition

Hypotheses 5 and 6 regard the commissioner on regional policy. According to the competences of the DG Regional Policy, this commissioner is expected to affect only the decisions on regional aid. As above, member states are assumed to nominate a commissioner on regional policy that defends either national or government interests within the Commission. In hypotheses 5 and 6 member states take advantage of the nationality and the government affiliation of the commissioner respectively.

Hypotheses 5: The Commission is more likely to approve the regional aid proposed by the member states that nominated the commissioner on regional policy

Hypotheses 6: The Commission is more likely to approve the regional aid proposed by the government coalition that nominated the commissioner on regional policy

The next chapter presents the data that I use to test these hypotheses. Chapter 3 outlines the main features of the dataset that I produce and explains how I operationalize both the dependent and independent variables. In connection with this last point, chapter 3 describes the operationalization both of the key independent variables, concerning threats of non-compliance, the policy preferences of the Commission and the appointment of commissioners, and other control variables that may contribute to explain the decisions on state aid.

CHAPTER 3

Data and variables

This chapter introduces the data and the variables I employ to test the determinants of the decisions that the Commission takes on state aid policy. The first section examines in detail the nature and features of the dataset on state aid policy I rely on to measure both the dependent and most of the independent variables. As the present analysis focuses on the aid in favour of industry and services, the dataset concerns all the state aid applications managed by the DG Competition between 1999 and 2009.

The second section highlights the procedure I follow to operationalize the dependent variable, which refers to the type of decisions that the Commission takes. The third section looks at the measurement of the factors expected to explain whether the Commission approves or rejects an aid. First of all, it describes the operationalization of the variables that, according to the hypotheses presented at the end of chapter 2, will be employed to test the impact of member states on supranational decision-making. These variables concern the threat of non-compliance (hypotheses 1 and 2), the Commission's policy preferences (hypothesis 2) and the commissioners on competition and regional policy (hypotheses 3 to 6). Second, it describes the measurement of other factors that may affect the Commission's decisions on state aid, such as the degree of selectivity of the aid under investigation, the statutory constraints in the procedure the Commission has to follow, the amount of workload, the effects of the financial crisis and the process of enlargement. Since the output of state aid policy has considerably differed among member states and over the years, the present chapter stresses both the cross-country and cross-temporal dynamics concerning each variable. In this way, in addition to examine the main features of state aid policy from 1999 to 2009, I provide all the information we need to understand the results of the inferential analysis presented in chapter 4.

3.1 State aid for industry and services in EU (1999-2009)

The present analysis considers 3249[31] decisions on state aid that the Commission has taken from the 22nd of March 1999, when Council Regulation 659/1999 came into force, until 31st of December 2009[32]. The dataset does not include 184 cases where the Commission has decided that the notified measure did not constitute aid, 93 cases of notified aid with a pending decision and 56 investigations concerning existing aid. Data refer only to the measures that member states have notified under the procedure provided for by the Council Regulation 659/1999, excluding state aid implemented in accordance with the block exemption and the "de minimis" regulations.

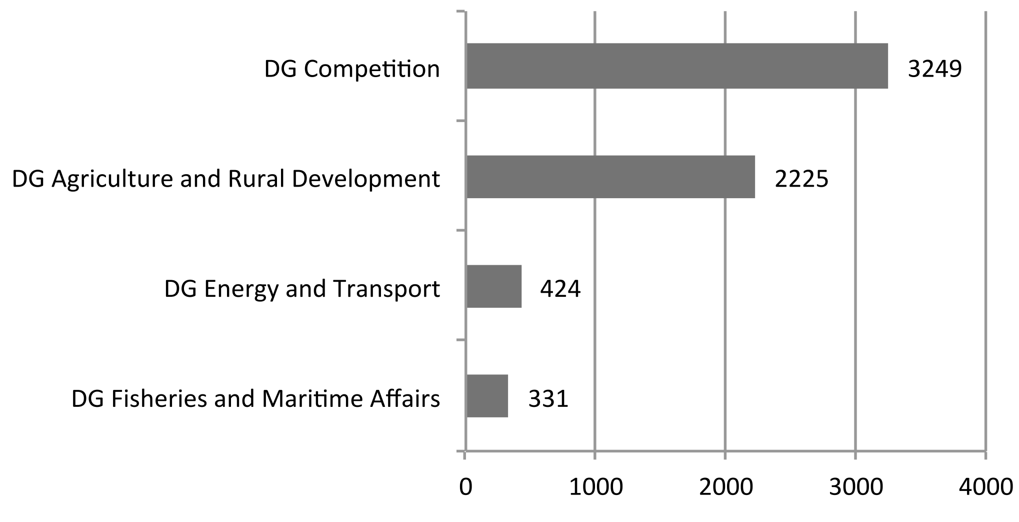
The dataset contains information on the dates of notification and decision, the member state concerned, the nature of Commission's decision, the level of selectivity of the aid, the economic sector involved, the primary objectives of the aid, the policy instruments that member state will use to implement the aid, and the degree of compliance with the procedure of notification. Unfortunately, applications usually do not include precise information about the amount of aid expenditure. Although the data concerning the aid expenditure are available in aggregated form[33], examining the aid case by case I have noticed that many applications do not show any precise information about the amount[34]. In addition, I can hardly estimate the aid expenditure when member states implement the aid by

[31] I consider only the first application of a given state measure. Any subsequent procedure that is associated with the same measure is considered just a prosecution of the first application.
[32] Data are available at http://ec.europa.eu/competition/elojade/isef/index.cfm. I collected the data on state aid from the end of September 2009 to the end of January 2010.
[33] The aggregated data (per year and per member state) on the amount of expenditure are available in the EU Scoreboard (http://ec.europa.eu/competition/state_aid/studies_reports/expenditure.html).
[34] In some cases the information is not available yet in the website. In other cases the information is not specified in the notification (see e.g state aid C64/2002 and C75/2002).

means of some policy instruments, such as guarantees or debt write-off. However, the amount of aid is likely to be a relevant determinant of supranational decisions only if the specific economic sector is equal.

The dataset includes all the state aid applications processed by the DG Competition. Since the present analysis focuses on the measures in favour of industry and services, the dataset excludes the aid managed by the other DGs, such as the DG Agriculture and Rural Development, the DG Fisheries and Maritime Affairs and the DG Energy and Transport, which evaluate state aid in their respective policy areas. Although data refer just to the cases under the responsibility of the DG Competition, the present analysis concerns most of state aid that the Commission has evaluated from 1999 to 2009. On the whole, the DG Competition has been the most involved into state aid policy. As Figure 3.1 shows, it has managed about the half of all the aid that member states have sent to the Commission from the March 1999 to the end of 2009.

Figure 3.1 – State aid applications per DG Responsible

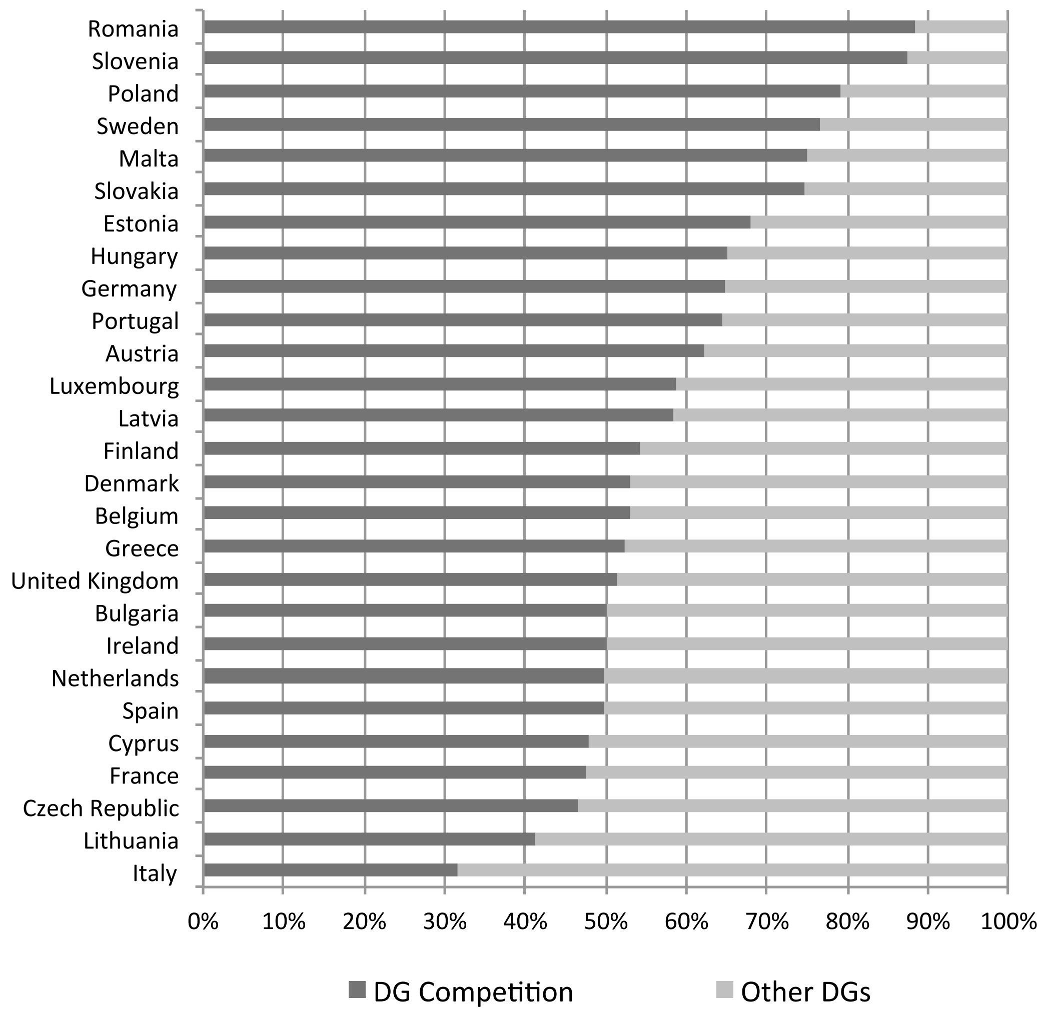


Source: Personal computations on data available on the website of the European Commission

In particular, the present analysis concerns the majority of state aid proposed by each member state. As shown in Figure 3.2, the DG Competition has managed most of state aid planned by each member states, except five countries. Cyprus, Czech

Republic, France, Italy and Lithuania have applied less than the half of all the measures to industry and services. Italy and Lithuania are the only ones that have applied more aid for agriculture and fisheries than industry and services. In particular, the DG Competition has processed about thirty and forty per cent of all the aid planned by the Italian and Lithuanian governments respectively.

Figure 3.2 – Share of aid processed by the DG Competition, by country

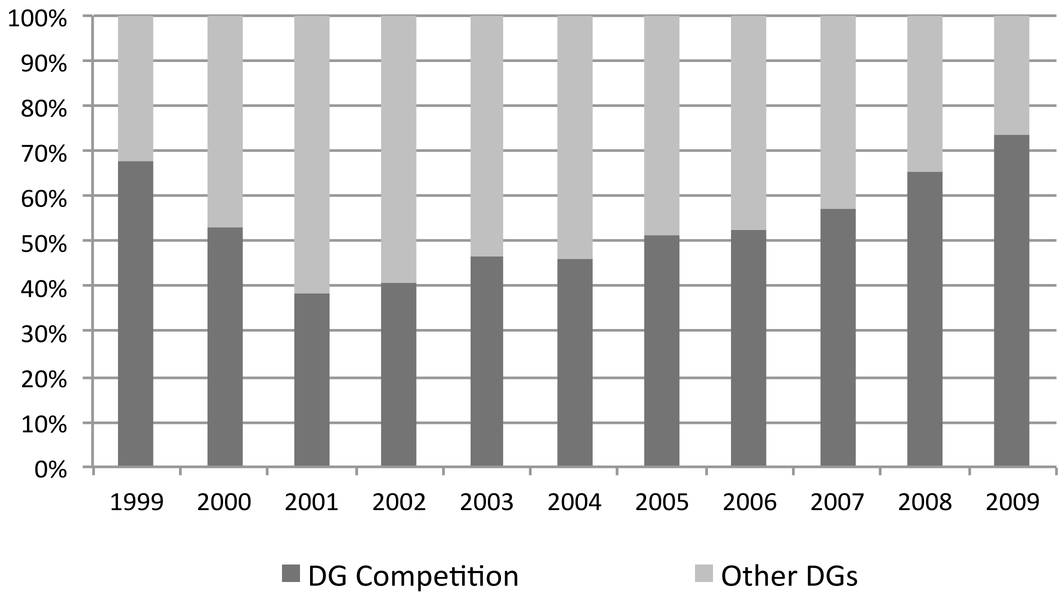


Source: Personal computations on data available on the website of the European Commission

In addition, the dataset concerns the DG that after 2004 has been increasingly more involved in state aid policy. As shown in Figure 3.3, undoubtedly the DG Competition has recently processed most of state aid. Since 2005 the DG

Competition has evaluated a growing share of aid and in 2009 it processed more than seventy per cent of all the notifications.

Figure 3.3 – Share of aid processed by the DG Competition, by year

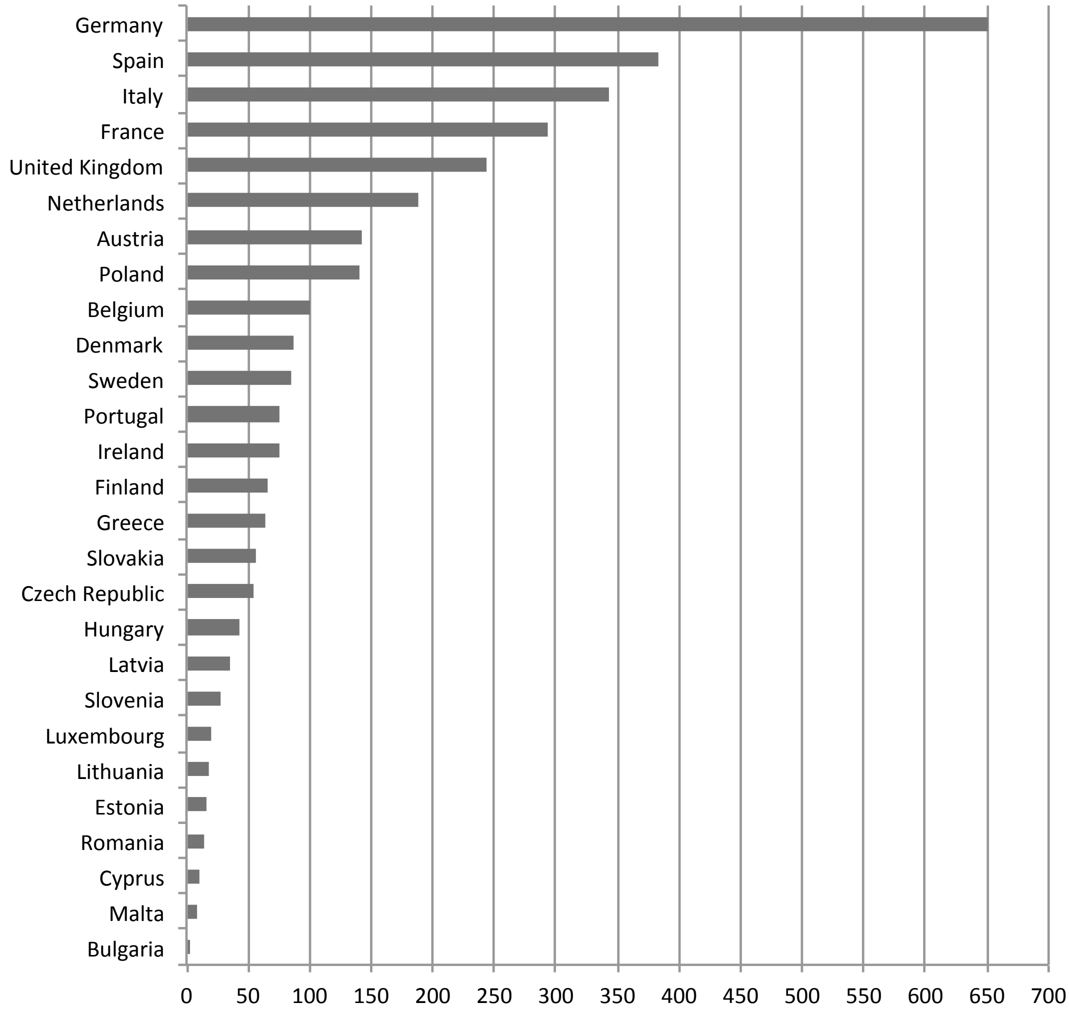


Source: Personal computations on data available on the website of the European Commission

Figure 3.1, 3.2 and 3.3 illustrate the ratio between the data concerning the aid on industry and services, which I use in the present analysis, and all the aid evaluated by the Commission. Focusing just on the measures processed by the DG Competition, they concern especially some member states. As highlighted in Figure 3.4, about a fifth of the aid originates in Germany and about two thirds of the observations originate just in six member states (Germany, Spain, Italy, France, United Kingdom, Netherlands). This is due to the fact that some countries have intervened more frequently in the domestic economy. If we divide the number of the measures that a member state has applied to the Commission by the number of years that the member state has joined the European Union since 1999, we find that Germany has notified on average about sixty aid per year, whereas Bulgaria has intervened on average just one time in a year.

On the whole, the data refer especially to the government measures planned in the largest economies. As shown in Figure 3.4, more than the half of the state aid originates in the five largest economies in Europe. In addition, the dataset seem to reflect the different traditions and models of political economy: the average number of aid in a market oriented system, such as United Kingdom, is less than the number of interventions in a managed-economy, such as Germany or Italy[35]. The processes of enlargement in 2004 and 2007 have not contributed to increase the number of applications. This is evident in Figure 3.5 that shows the trend of state aid application in favour of industry and services.

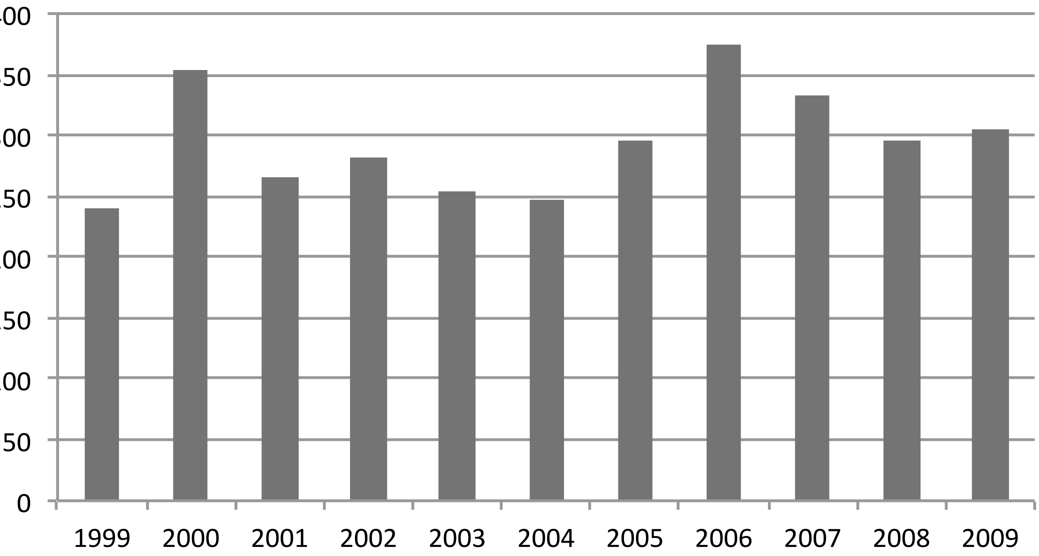
Figure 3.4 – Number of aid for industry and services, by country



Source: Personal computations on data available on the website of the European Commission

[35] This means that data may reflect different industrial traditions (see e.g. Buigues and Sekkat 2009; 2010), models of capitalism (Hall and Soskice 2001; Hancké, Rhodes and Thatcher 2007), government choices (Gourevitch 1986; Hall 1986) and regulatory regimes (Crouch and Streeck 1997; Schmidt 2002; Thatcher 2002).

Figure 3.5 – Number of aid for industry and services, by year



Source: Personal computations on data available on the website of the European Commission

Inter-country heterogeneity is more important than cross-temporal differences. Apart from two peaks in 2000 and 2006, the number of state aid in the European Union has been fairly constant. Aside from 1999, for which I included nine months only, there appears to be only a one-step increase after 2004. Although in 2004 the number of member states passed from fifteen to twenty-five, on average the number of applications was up by about fifty applications per year. In real facts, this moderate growth may depend both on the frequency of government intervention in the new member states and on the decrease of the number of applications occurred in some of the largest economies especially after 2007. However, data for 2008 and 2009 could be downwardly biased for two reasons: first, there are formal investigations are still pending; second, the cases of unlawful aid are normally discovered some years later.

This introductory section highlights that the dataset reflects both cross-country and cross-temporal dynamics. As these differences among countries and periods may play a relevant role to explain whether the Commission approves or rejects an aid, the next sections both introduce the operationalization of the variables and describe how such variables are distributed among member states and over the years. Let’s start with the analysis of the dependent variable. Then we proceed to examine the independent variables.

3.2 Dependent variable: the type of Commission's decision

The dependent variable concerns the nature of Commission's decisions. Since the Commission either approves or rejects an aid, the dependent variable is dichotomous: it takes value 1 when the Commission approves an aid, while it takes value 0 when the aid is rejected. An aid is considered to be approved if the Commission takes one of the following decisions: a) it has no objections about the compatibility of the aid after the preliminary investigation; b) it approves the aid after the formal investigation; c) it conditionally approves the aid after the formal investigation. On the contrary, an aid is considered rejected in the following three cases: a) the Commission provides a negative decision after the formal investigation; b) the Commission revokes a previous positive decision; c) a member state withdraws the application while the Commission is carrying out the investigation[36].

Table 3.1 shows that the Commission approves the vast majority of state aid. In almost ninety per cent of the cases, the Commission raises no objections about the compatibility of the aid with the common market. Therefore, it allows member states to implement most of aid by the end of the preliminary investigation. Besides, the Commission approves a further 4.5 per cent of state aid after a formal investigation that removes remaining doubts. Where the formal investigation ends with a conditional decision, the Commission approves, but the aid is subject to conditions that make the measure compatible with the common market.

The Commission rejects 7.6 per cent of state aid applications. Only 5.8 per cent of the applications are eventually not implemented because of a negative decision. In addition, about two per cent of all the measures are not implemented because either member states withdraw or the Commission revokes a previous positive decision.

[36] Negative decisions include the cases of withdrawals because member state may withdraw to anticipate a likely negative decision.

The majority of negative decisions, almost 95 per cent, are related to applications from member states that have joined the European Union before 2004.

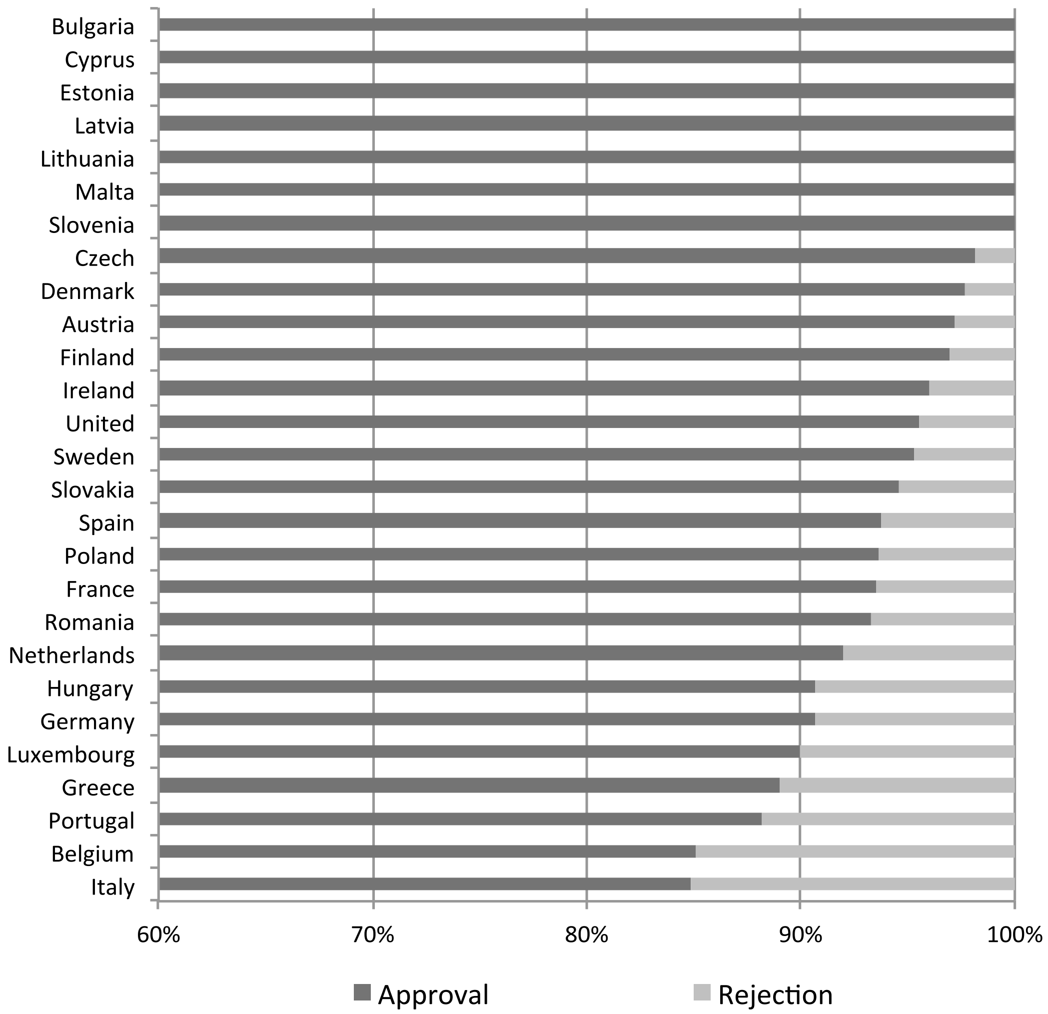
Table 3.1 –Supranational decisions on state aid

Commission's final decision		**Number of aid**	**%**
Approval	No Objections	2854	87.84
	Positive Decision	116	0.95
	Conditional Decision	31	3.57
Rejection	Negative Decision	190	5.85
	Withdrawal	54	1.66
	Revocation	4	0.13
Total		3249	100.00

Source: Personal computations on data available on the website of the European Commission

The Commission has approved most of the aid concerning each member state. As Figure 3.6 shows, it has approved at least eighty per cent of the applications concerning each country. Rejections have been more frequent in older member states. The share of negative decisions is about ten per cent in Belgium, Italy, Luxembourg and Portugal. Besides, the ratio of rejections is above the average also in Germany, Greece, Hungary, Netherlands and Romania. In particular, older member states are more likely to withdraw a measure: Belgium, Germany, Greece, Italy, Poland and United Kingdom withdraw at least two per cent of their aid applications. On the contrary, for seven new members (Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Malta, Slovenia) the rejection rate is equal to zero. Among theses countries, in six cases out of seven, the Commission has always decided "not to raise objections", approving all the aid without opening a formal investigation procedure. The case of Slovenia is particularly interesting: it has not received any negative decision although the Commission has usually opened formal investigation against.

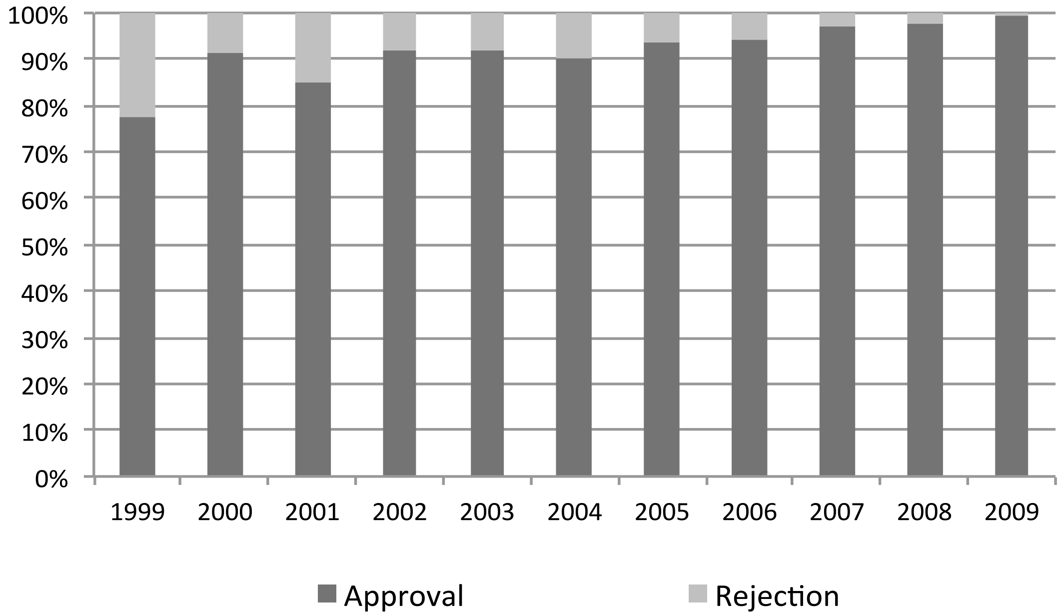
Figure 3.6 – Share of Commission's approvals, by country



Source: Personal computations on data available on the website of the European Commission

Despite the slight increase of the total number of aid after 2004, the number of rejections has significantly decreased over the years. As shown in Figure 3.7, in 1999 the Commission rejected more than 15 per cent of state aid. The figure decreased in less than 1 per cent in 2008. This trend could be interpreted as evidence of the fact that member states have learnt the common rules on state aid, but, since there are formal investigations that are still pending, data are likely to be downwardly biased in the more recent years.

Figure 3.7 – Share of Commission’s approvals, by year



Source: Personal computations on data available on the website of the European Commission

3.3 Independent variables: the determinants of supranational decisions

This section concerns the independent variables, that is, the determinants of the Commission’s decisions. First, the section focuses on the three factors, threats of non-compliance, Commission’s policy preferences, and appointment of commissioners, which are expected to affect the supranational decisions according to the model and the hypotheses presented in chapter 2. Then, the section moves to examine some control variables, which refer to other factors that may affect decision-making.

3.3.1 Threats of Non-Compliance

According to the formal game in chapter 2, member states affect the Commission by means of threats of non-compliance when the expected costs of non-compliance are lower than the benefits of the aid. As the expected costs rely on the oversight executed by third interested parties, member states are likely to use threats of non-compliance when other member states or firms do not monitor the aid under investigation. Alternatively, member states comply with the supranational decision when third interested parties pay attention to the aid. Third interested parties are assumed to monitor the aid under investigation in three cases.

First, third parties monitor the aid when they compete with the firms concerned in the application. In other words, once a member state notifies an aid in favour of a specific economic sector, the other firms involved in that same sector oversee the decision-making in order to check both the compatibility of the aid with the common market and the advantages for a direct competitor. Moving from the assumption that at least another firm compete in the same sector concerned in the aid under investigation, third parties are expected to monitor any aid targeted to a specific economic sector.

Second, third interested parties are likely to monitor the aid when they are able to check easily the impact of the aid on the common market. Member states and firms are interested in examining to which extent the aid affects the competition. Nevertheless, they are likely to pay attention to the impact of the aid according to the opportunities to oversee the decision-making and the aid implementation. In particular, the monitoring by third interested parties relies on the degree of transparency during the implementation. According to the formal procedure, the level of transparency depends especially on the policy instrument that member states use to implement the aid[37]. The more the instrument, which is chosen by national government according to the institutional arrangement of the domestic economy, is transparent, the more the Commission and other interested parties are able to evaluate the impact of the aid, calculating easily and precisely the gross grant equivalent before the implementation.

Third, interested parties are likely to pay attention to the aid if they have reason not to trust the member state concerned in the application. In particular, member states and firms are likely to oversee the execution of the measure when the member state concerned has already implemented the aid in contravention either of the supranational rules or the Commission's decision, producing distortive effects on the common market. In other words, third parties strictly follow the notification and the subsequent implementation of all the unlawful aid.

[37] I use the term policy instrument, as in the state aid applications, instead of policy tools as, for instance in Salamon (2002).

In short, we expect that third interested parties are more likely to monitor state aid especially when they compete in the same economic sector involved in the notification, when the policy instrument is transparent, and when the aid has been already implemented unlawfully. In these three cases member states are expected to comply with the supranational rules. On the contrary, if third parties are not interested in the economic sector involved, if the procedure does not allow to check easily the impact of the aid and if the aid has been correctly notified for the first time, third parties are less likely to monitor the aid applications. The above-mentioned instances about the monitoring by third interested parties correspond to three different variables.

The first variable, labelled *Sectoral aid*, concerns the economic sector involved in the aid. The variable is dichotomous: it takes value 0 when the application does not make reference to a specific economic sector, that is, the application does not mean the economic sector at all; on the contrary, it takes value 1 either when the aid is in favour of a specific economic sector or its primary objective is sectoral development[38].

The second variable, *Transparent aid*, measures the level of transparency of the policy instrument that member states notify in the application. Following the Council regulation on the "Block Exemption" and "De Minimis" regulation, an aid is considered transparent if it is comprised in grants, interest rate subsidies, loans and fiscal measures (Council 1998). The variable is dichotomous: it takes value 1 when the implementation relies on at least one of the following instruments: direct grants, soft loans, interest subsidies, fiscal measure, tax allowance, tax base reduction, tax rate reduction and tax deferment; on the contrary, it takes value 0 either when the aid involves other instruments (such as guarantees and debt write-off) or the member state does not specify the policy instrument in the notification.

The third variable is *Unlawful aid*. It measures if the aid was previously implemented without following the supranational rules. In particular, the variable means that the aid is either unlawful or correctly notified. In the former case, the

[38] According to this operationalization, the economic sector does not refer just to the primary objective of the aid. In some cases the aid may be targeted at a specific sector even though the primary objective concern regional development or horizontal purposes. Therefore, in chapter 5 I will use this variable also to test the determinants of state aid decisions on regional and horizontal aid.

procedure starts with the notification by third interested parties. In the latter, member state notifies the aid according to the standard procedure. The variable is dichotomous: it takes value 0 when the member state notifies an aid for the first time and in accordance to the supranational rules, while it take value 1 when the aid is notified to the Commission by third parties.

According to hypothesis 1, each variable is expected to be negatively correlated with the likelihood that the Commission approves the aid. The increase of each variable corresponds to the increase of monitoring by third interested parties. Therefore, if these variables increase, member states are less likely to use threats of non-compliance and the Commission is not forced to approve the aid in order to control the aid.

The three variables, *Sectoral aid*, *Transparent aid* and *Unlawful aid* are differently distributed and are only partially correlated[39]. Member states direct the aid to a specific economic sector in 42.4 per cent of applications and implement the aid through a transparent instrument in 64.4 per cent of cases. Only the 12.7 per cent of observations concern unlawful aid.

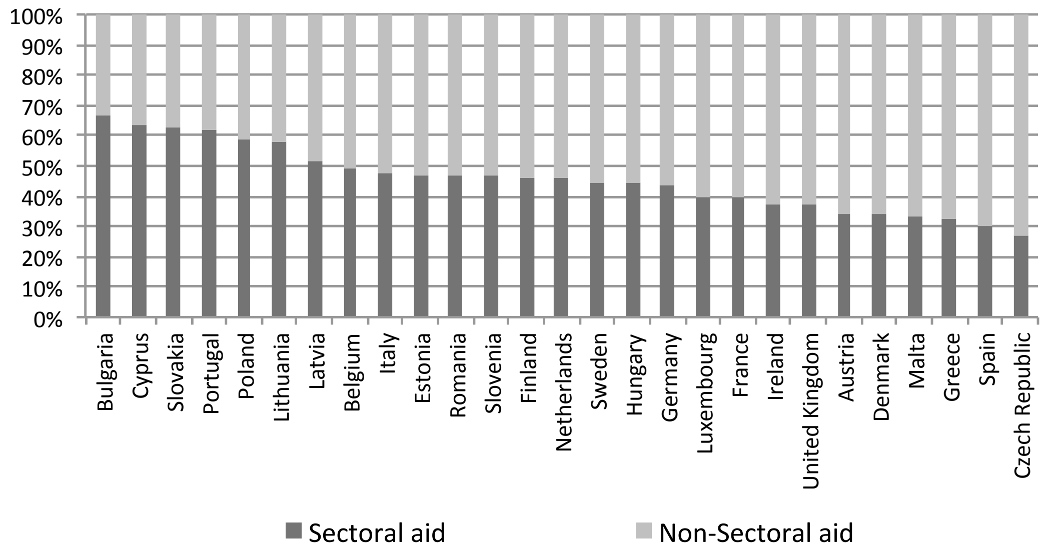
As shown in Figure 3.8, 3.9 and 3.10 each variable presents significant cross-country differences. Following the results in Figure 3.8, the measures in favour of a specific sector are frequent especially in Bulgaria, Cyprus, Lithuania, Poland, Portugal and Slovakia: in these member states more than the half of all the aid regards a particular economic sector. On the contrary, in Austria, Czech Republic, Denmark, Greece, Ireland, Luxembourg, Malta, Spain and United Kingdom less than the forty per cent of applications concerns a specific sector.

As shown in Figure 3.9, each member state implements most of cases by means of transparent instruments, excepting Finland and Ireland, which use transparent instruments in less than the half of aid. Besides, also Hungary, Italy, Sweden and United Kingdom present a share of transparent aid significantly below the average.

On the other hand, Czech Republic, Malta and Slovakia implement at least eight measures out of ten by means of transparent policy instruments.

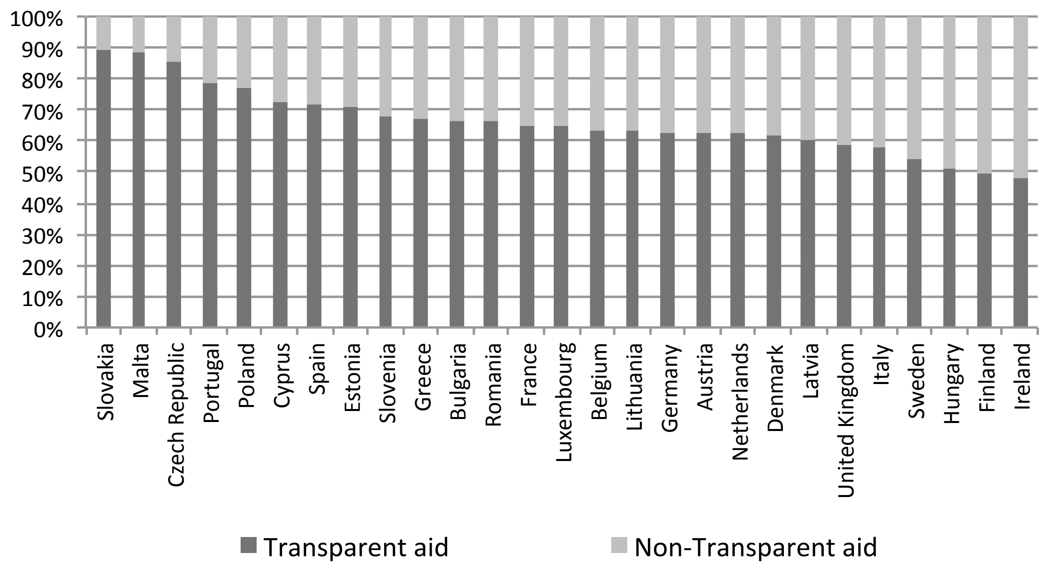
[39] The Pearson's coefficient in a two-tailed correlation between *Sectoral aid* and *Transparent aid* is equal to -0.095. The coefficient is 0.15 when we correlate *Sectoral aid* and *Unlawful aid*. Finally, the coefficient is -0.036 if we correlate the variables *Transparent aid* and *Unlawful aid*.

Figure 3.8 – Share of sectoral aid, by country



Source: Personal computations on data available on the website of the European Commission

Figure 3.9 – Share of transparent aid, by country

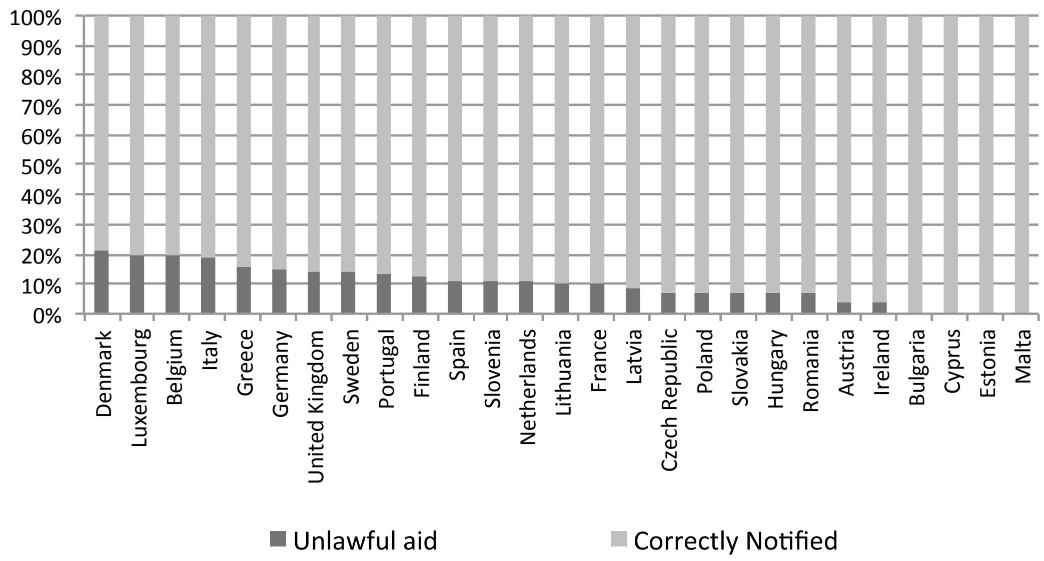


Source: Personal computations on data available on the website of the European Commission

The cases of unlawful aid are more frequent in older member states. As Figure 3.10 shows, Belgium, Denmark, Italy and Luxembourg do not follow the notification requirements in about one aid out of five, while in Germany, Greece, Portugal, Sweden and United Kingdom third interested parties notify about one aid out of seven. Among the old member states, only Austria and Ireland show high rates of compliance with the notification rules.

New members are clearly more compliant: Bulgaria, Cyprus, Estonia and Malta have correctly notified all the aid: Czech Republic, Hungary, Latvia, Poland, Romania, Slovakia have correctly notified more than ninety per cent of measures.

Figure 3.10 – Share of unlawful aid, by country

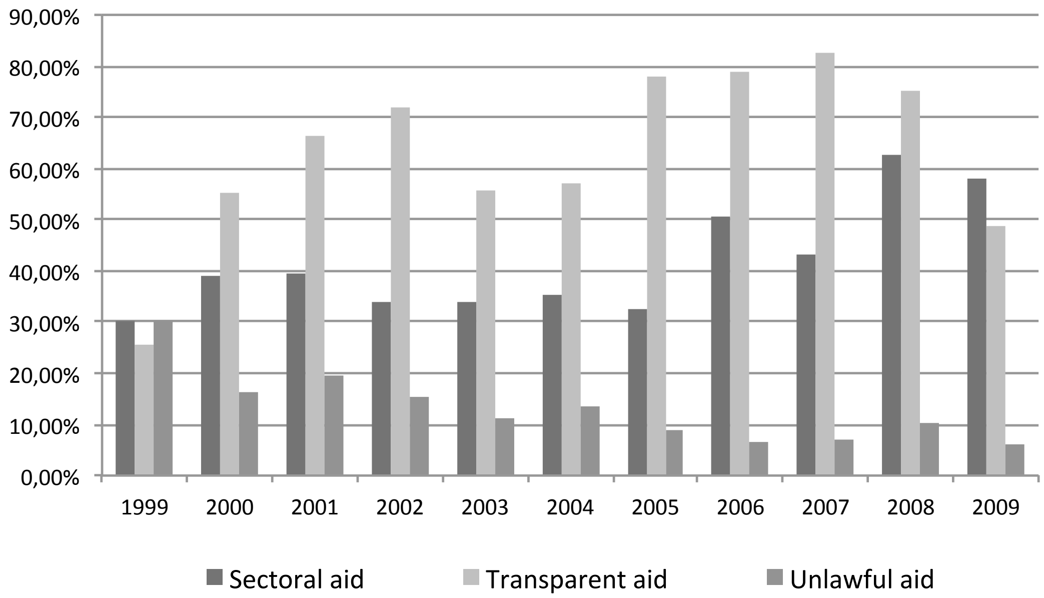


Source: Personal computations on data available on the website of the European Commission

In addition, as shown in Figure 3.11, the three variables are differently distributed over the years. Member states have targeted the aid to a specific sector especially from 2006 and 2009. In the previous period the share of sectoral aid was below forty per cent. Then this share has significantly increased: in 2006 sectoral aid were more than the half of aid while in the recent years they have represented about the sixty per cent of applications.

The level of transparency follows a different trend. Member states have always implemented more than the half of aid by means of transparent instruments, excepting in 1999 and 2009. Apart these two years, the share of transparent measures has been below sixty per cent of applications only in 2000, 2003 and 2004.

Figure 3.11 – Share of sectoral, transparent and unlawful aid, by year



Source: Personal computations on data available on the website of the European Commission

Finally, the cases of notification failure have significantly decreased over the years. Since unlawful measures are normally discovered some years later, the number of notification failures in 2008 and 2009 could be downwardly biased. However, the decrease of unlawful aid appears robust because it constitutes a long-term trend. In 1999 third interested parties notified about thirty per cent of all the measures while between 2000 and 2004 they notified less than twenty per cent of the cases in the dataset. Then, since 2005, the share of unlawful aid has always been below ten per cent and in 2009 it is about five per cent.

3.3.2 Commission's policy preferences

As shown in the game in chapter 2, the impact of the threats of non-compliance depends also on the Commission's policy orientations. In particular, member states are expected to affect supranational decisions by means of these threats especially when the Commission is *liberal*, that is, it sides against the national intervention in the domestic economy. On the contrary, when the Commission is *interventionist*, it considers that the aid consolidates the competition, and approves the aid anyway.

Commonly scholars use two ways to infer the preferences of Commission. First, they interview experts and key actors to examine the preferences of European institutions. For instance, Thomson, Boerefijn and Stokman (2004) collect information on the preferences of the Commission, member states and the European Parliament across 174 issues between 1996 and 2000. Besides, Thomson (2009) produces a dataset consisting of 263 interviews and providing comparable information on the decision-making before and after the enlargement process occurred in 2004. Second, scholars infer the Commission's preferences on the basis of the commissioners' party affiliation. In this case the preferences of commissioners are assumed to be related to the positions of national governments that nominate the commissioners. Crombez (1996; 1997) estimates the Commission's preferences from the alignment of national governments along the left-right axis. Franchino (2007) measures the positions of commissioners on integration, policy and left-right dimensions on the basis on their partisan affiliation: he examines the biographies of commissioners and the information on the distribution of portfolio responsibilities to derive their political position. When the party affiliation is mentioned explicitly, the position of commissioners is that of their party at the time of the appointment. Alternatively, when party affiliation cannot be inferred, for instance when commissioners are academics or career diplomats, the preferences of commissioners are considered those of their national governments at the time of the appointment.

Both methods do not seem to be suitable to measure the Commission's preferences on state aid policy. In particular, they do not allow us to examine the Commission's position on each single case, that is, if the Commission is lenient of against the government measure under investigation. Therefore, in the present analysis I use a different method to estimate the Commission's policy orientations.

In the present work, I infer the policy preferences from the Commission's primary objectives on state aid policy. As shown in chapter 1.1, the Commission has changed its priorities over the years, but in the last decade it has tried to orient member states to grant regional aid and, especially from 2005, horizontal measures.

I assume that the Commission is more tolerant towards the implementation of these two categories of aid, while it sides against sectoral aid and, before 2005, horizontal aid. In short, the estimation of Commission's policy preferences is derived from the primary objective of the aid. The Commission is *interventionist* when the aid pursues a supranational priority. On the contrary, the Commission is *liberal* when the aid under investigation either does not pursue a supranational objective or specify the primary objective in the notification.

Since the primary objective of the aid is planned by member states, the Commission is *interventionist* when national and supranational objectives converge, while it is *liberal* when policy priorities diverge. However, member states and the Commission choose their objectives independently. National governments notify the primary objective of the aid according their domestic institutions and industrial traditions. They may be incentivized by European rules to pursue especially certain categories of aid, such as those are exempted from notification, but they intervene according to the features of the domestic institutions. The Commission sets its priorities according to the Treaty provisions to consolidate state aid control and competition in the common market. In particular, the Commission aims to direct member states towards the measures it considers less distortive. Therefore, in any case the formation of Commission's preferences do not rely on the features of member states' plan, but they are established before the procedure of evaluation.

The variable *Commission* measures the Commission's policy preferences: it is a dichotomous variable taking value 0 when the Commission is *interventionist* whereas it takes value 1 when the Commission is *liberal*. The Commission is *interventionist* when the aid under investigation pursues a supranational priority, that is, in two cases: when it is a regional aid or when it is a horizontal aid that has been notified after 2005 (see chapter 1.1). The Commission is *liberal* in the remaining three cases; when the measure is a sectoral aid, when it is a horizontal aid notified between 1999 and 2004, or when the application does not indicate the primary objective of national intervention.

As shown in Table 3.2, according to this operationalization, the Commission has been *interventionist*, that is, supranational and national objective match, in 54,1 per cent of cases, while has resulted *liberal*, that is supranational and national priorities disagree, in the remaining 45,9 per cent[40].

Table 3.2 – Distribution of Commission's policy orientations

Commission's policy orientation	**Aid primary objective**	**Number of aid**	**%**
Interventionist	Regional development	657	20.2
	Horizontal aid (2005-2009)	1100	33.9
Liberal	Sectoral development	139	4.3
	Horizontal aid (1999-2004)	1006	31.0
	No primary objective	347	10.6
Total		3249	100.00

Source: Personal computations on data available on the website of the European Commission

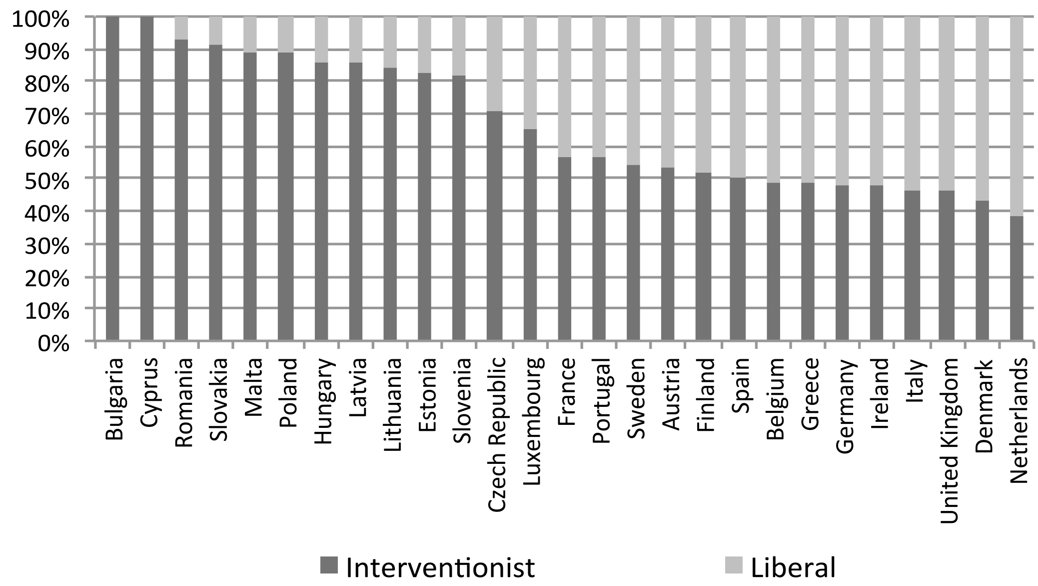
On the whole, the Commission's objectives match especially with primary objectives of new member states. These countries have invested more in the development of poor regions and on the whole they have applied about the ninety-five per cent of measures for regional or horizontal aid. On the contrary, Commission usually pursue different priorities from old member states. As Figure 3.12 shows, supranational and national primary objective diverge in more than half of procedures concerning Spain, Belgium, Greece, Germany, Ireland, Italy, United Kingdom, Denmark and Netherlands.

As the Commission has been more tolerant with horizontal aid since 2005, supranational and national objectives diverge especially from 1999 to 2004. On average, in this period member states do not match supranational priorities in eighty per cent of cases. This share suddenly fell in 2005, while after 2005 the primary

[40] About a fifth of the aid promotes regional development, while more than sixty per cent regards horizontal objectives. In more than half of cases, horizontal objectives involve research development and environment protection.

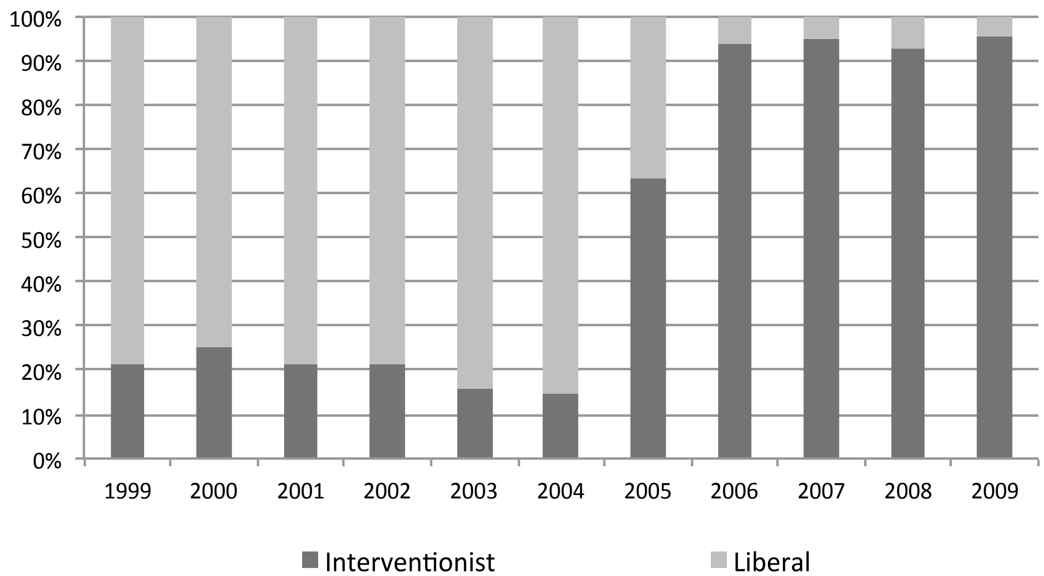
objectives of Commission and member states agree in about ninety per cent of cases.

Figure 3.12 – Distribution of Commission's policy orientations, by country



Source: Personal computations on data available on the website of the European Commission

Figure 3.13 – Distribution of Commission's policy orientations, by year



Source: Personal computations on data available on the website of the European Commission

3.3.3 The appointment of commissioners

Finally, member states may affect the Commission through the commissioners on competition and regional policy, who are the most influential commissioners during the decision-making. Since they manage most of the measures or are able to affect the coalition formation within the Commission, they have a decisive role to approve an aid. National governments influence the decisions on state aid selecting commissioners that defend their interests within the Commission. If the commissioners represent national interests, they are expected to approve or influence the decision-making towards the approval of the aid concerning their member states of origin. In addition, if commissioners act on the basis of their government affiliation, they are likely to approve the measures planned by the government coalition that nominated them. Two variables focus on the commissioner on competition, while two other variables concern the commissioner on regional policy.

The variable *Competition* aims to test the influence of commissioners when they defend national interests. The variable is dichotomous: it takes value 1 when the member state that applies the aid is also the member state that nominated the commissioner on competition; otherwise it takes value 0. The variable presents the value 1 in three cases: a) when the aid concerns Belgium and the commissioner on competition is Karel Van Miert (in office from 06/01/1993 to 15/09/1999); b) when the aid concerns Italy and the commissioner on competition is Mario Monti (in office from 16/09/1999 to 21/11/2004); c) when the aid concerns Netherlands and the commissioner on competition is Neelie Kroes (in office 22/11/2004 to 09/02/2010).

The variable *Competition (government affiliation)* allows us to test the impact of commissioners if they have a strong affiliation with the government coalition. As the previous variable, also this variable is dichotomous: it takes value 1 when the government coalition that applies the aid is also the government that nominated the commissioner. The value of the variable is 1 in three cases: a) when the commissioner on competition is Karel Van Miert and the aid is notified by the Belgian coalition government led by the Dehaene (from 23/06/1995 to 12/07/1999); b) when the commissioner is Mario Monti and the aid is notified by the center-left

Italian coalition government led by Massimo D'Alema (and then by Giuliano Amato, from 20/10/1998 to 10/06/2001); c) when the commissioner is Neelie Kroes and the aid is notified by Dutch government led by Jan Peter Balkenende (from 22/07/2002 to 14/10/2010).

According to hypotheses 3 and 4, we expect that member states that nominated the commissioner on competition are likely to receive a positive decision. Hence, variables *Competition* and *Competition (government affiliation)* should be positively correlated with the likelihood that the Commission approves the aid under investigation.

From an empirical point of view, the Commission has evaluated an aid notified by a member state that nominated the commissioner on competition in 8.1 per cent of cases. More than half of these applications concern Italy, while about a third of aid involve Netherlands. Focusing the attention on the government affiliation, the Commission has evaluated an aid notified by a government coalition that nominated the commissioner on competition in 4.2 per cent of aid. In this case, most of aid concerns Netherlands, while the remaining aid, excepting one application, regard Italy. As stressed by the case of Netherlands, the variables *Competition* and *Competition (government affiliation)* may coincide[41]. In particular, this is due to the fact that these two variables present the same values between 2005 and 2009. The values of the two variables vary especially from 2001 to 2004. Examining the distribution of *Competition*, from 2001 to 2004 the Commission has evaluated cases where the member state concerned in the investigation also nominated the commissioner on competition in 135 cases. On the contrary, focusing on the distribution *Competition (government affiliation)* in the same period, the Commission has evaluated only eleven measures where the national governments concerned in the aid nominated the commissioner on competition.

The variable *Regional policy* refers to the commissioners on regional policy when they are assumed to defend national interests within the Commission. The variable is dichotomous: it takes value 1 when the member state concerned in the aid is also the member state that nominated the commissioner on regional policy. The variable

[41] Variables *Competition* and *Competition (government affiliation)* are correlated at 70 per cent in a two-tailed Pearson correlation.

takes the value 1 in four cases: a) when the aid concerns Germany and the commissioner on Regional policy is Wulf-Mathies (in office from 06/01/1995 to 15/09/1999); b) when the aid concerns France and the commissioner on regional policy is either Barnier (in office from 16/09/1999) or Barrot (in office from 26/04/2004 to 30/04/2004); c) when the aid concerns Hungary and the commissioner on regional policy is Balàzs (in office from 01/05/2004 to 21/11/2004); d) when the aid concerns Poland and the commissioner on regional policy is either Hübner (in office from 22/11/2004 to 03/07/2009) or Samecki (in office from 04/07/2009 to 09/02/2010).

The variable *Regional policy (government affiliation)* concerns the commissioner on regional policy when it is expected to follow his or her affiliation with the parties in the government coalition. The variable is dichotomous and takes value 1 in three cases[42]: a) the commissioner is either Barnier or Barrot and the aid is notified by the French government led by Jospin (from 04/06/1997 to 07/05/2002); b) the commissioner is Balàzs and the aid is notified by the Hungarian government led by Medgyessy and then by Gyurcsány (from 31/12/2003 to 08/06/2006); c) the commissioner is either Hübner or Samecki and the aid is notified by the Polish government led by Belka (from 02/05/2004 to 09/11/2005).

As it is plausible that the commissioner on regional policy is influential only on the evaluation of the measures concerning regional development, the variables *Regional policy* and *Regional policy (government affiliation)* contribute to test hypotheses 5 and 6 by the interaction with the variable *Regional development*. This last variable is dichotomous and takes value 1 when the primary objective of the aid is precisely regional development. Since the commissioners on regional policy are expected to increase the chances of approval for their member states or governments, the interaction between *Regional policy*, or alternatively *Regional policy (government affiliation)*, and *Regional development* should be positively correlated with the dependent variable.

Looking at the distribution of these variables, about 4.3 per cent of the dataset regard cases where the aid concerns the member state that nominated the

[42] Since the dataset include state aid from 22/03/1999, there is no measure applied by the German government that appointed the commissioner Wulf-Mathies.

commissioner on regional policy. Most of these cases concern Poland, while the remaining cases regard practically only France. Although Hungary nominated Balàzs as commissioner on regional policy, it applies no aid on regional development while this commissioner is in office. Focusing the attention on the cases where we assume a government affiliation, only in two per cent of cases the Commission has evaluated an aid notified by the national government that selected the commissioner on regional policy. Most of these cases regard France, while the remaining applications concern Poland. As the variables on the commissioner on competition, the two variables concerning the commissioner on regional policy are strongly correlated. In particular, the data coincides both in 2000 and 2001.

3.3.4 Control variables

In addition to the strategies executed by member states, other factors may affect decision-making on state aid applications. First of all, the Commission is likely to be influenced by the procedural constraints provided for by the formal rules. Second, as the Commission is interested in the impact of the aid on the common market, it is likely to examine also the degree of selectivity of the aid. Third, the Commission may suffer from the level of workload. Finally, the decision-making may be affected by the changes occurred after the enlargement process. Besides, the Commission may be influenced by the serious impact of the financial crisis started in 2008. Let's examine each factor listed above.

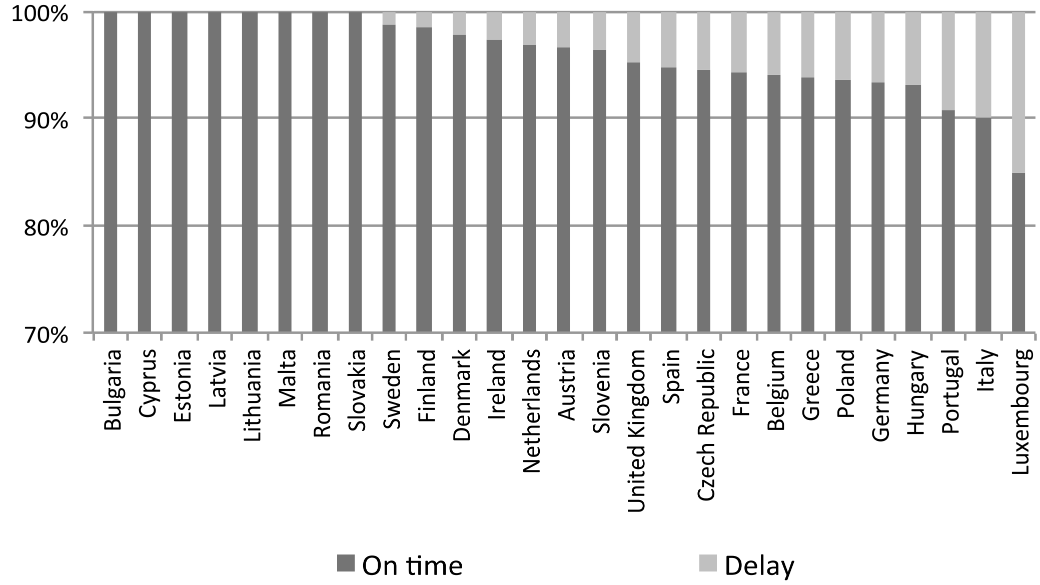
First, the Commission has to follow the procedure established in the Council regulation 659/1999. Such regulation includes some statutory constraints that the Commission must take into account during the decision-making. In particular, these constraints may affect both the decision-making and the nature of the final decision. As shown in chapter 1, the formal procedure includes time limits. Once the Commission opens a formal investigation, it has to take a decision within eighteen months. If at the end of this period the Commission is still not able to evaluate the compatibility with the common market and take a final decision within two months, it has to reject the measure. The impact of this procedural constraint is tested with the variable *Time Limits*. This is a dichotomous variable that takes value 0 when the Commission takes a decision on time and value 1 when the Commission takes a decision beyond the end of the period prescribed for the formal investigation. Specifically, the variable takes value one when the Commission takes the final decision after twenty-two months from the date of notification. This period of time represents the time prescribed for the preliminary investigation (two months), the formal investigation (eighteen months) and the additional period within which the Commission has to take a decision once the time of formal investigation is expired (two months)[43].

The Commission has taken most of the decisions on time and only 5.5 per cent of the procedures have gone beyond the time prescribed for the formal investigation. As Figure 3.14 highlights, the cases of delay do not concern equally all the states. Luxembourg, Italy and Portugal are the countries more affected by the delays in decision-making: about one decision out of ten is taken beyond the time limits. Then, other nine countries (Belgium, Czech Republic, France, Germany, Greece, Hungary, Poland, Spain, United Kingdom) have suffered a delay in at least one aid out of twenty. On the contrary, the Commission has taken on time all the decisions concerning many recent member states, such as Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Malta, Romania, Slovakia.

Apart from a peak in 2004, the share of decisions that the Commission has taken beyond the time limits has gradually decreased over the years. As shown in Figure 3.15, the Commission often decided beyond the time limits in 1999, when about one decision out of seven was took after the end of formal investigation, and in 2004, when the delay concerned about one decision out of ten. According to the figure, the Commission has never gone beyond the time limits neither in 2008 nor in 2009. This result is likely to be biased because several formal investigations are still pending and, therefore, are not taken into account in the dataset.

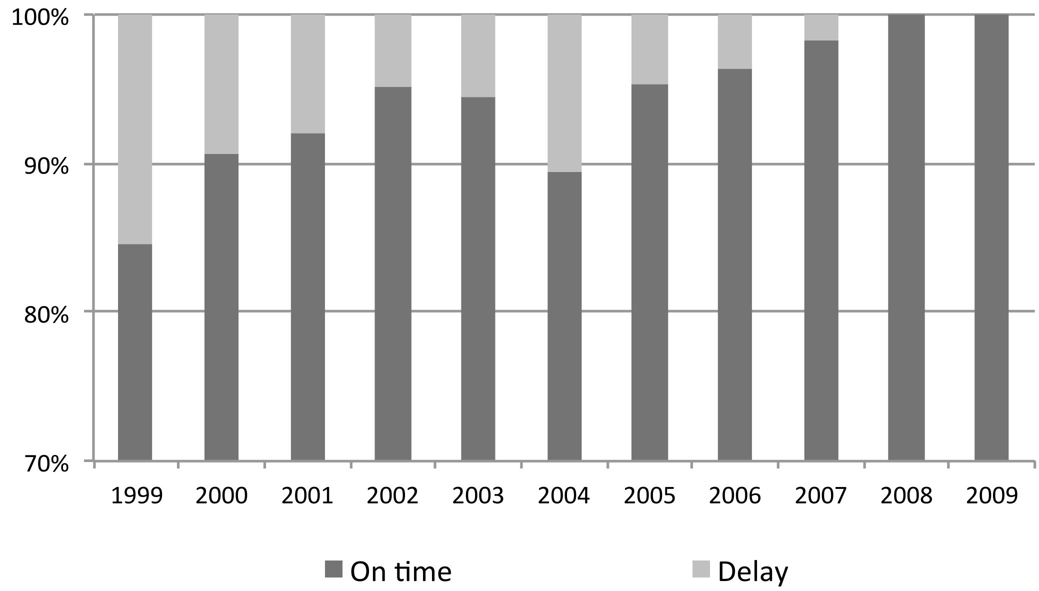
[43] The operationalization is slightly different if the Commission evaluates an unlawful aid. In this case the aid is not regularly notified by the member state concerned, but the Commission registers the aid subsequently to the notification by third interested parties. As the documents on unlawful aid do not mean the date of notification, but just the year of registration, the variable Time Limits takes value 1 only where we are sure that the Commission takes a decision beyond the time limits. It follows that in case of unlawful aid Time Limits takes value 1 when the Commission takes the final decision after three years from the year of registration.

Figure 3.14 – Share of decision delays, by country



Source: Personal computations on data available on the website of the European Commission

Figure 3.15 – Share of decision delays, by year



Source: Personal computations on data available on the website of the European Commission

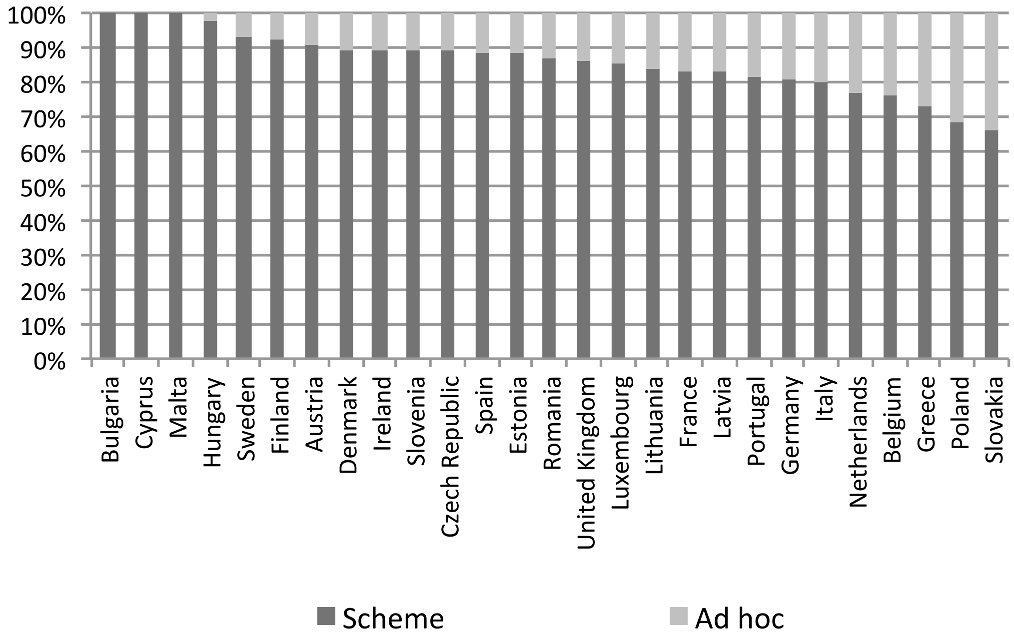
Second, the Commission is likely to pay attention to the degree of selectivity of each aid. In other words, the Commission examines if the aid is firm specific or sector-wide In particular, the Commission classifies aid applications into three categories, according to their degree of selectivity. Schemes are more abstract and general in character. They are targeted to a sector, a group of companies or a geographical area. If a specific aid awards to an individual company, under an approved scheme, it must also be notified to the Commission: this measure is classified as individual application of scheme. Finally, a measure that is not granted on the basis of an approved scheme is an ad hoc aid.

The variable *Ad hoc* points out if the aid is firm-specific or sector-wide: it is a dichotomous variable that takes the value of 0 when the aid is either a scheme or an individual application, while it takes the value of 1 when the aid is an ad hoc measure. Member states apply more sector-wide than firm-specific aid: although all the aid are targeted to selective groups, only seventeen per cent of the applications confers and advantage to specific firms. In other words, each member state plans especially schemes and individual applications related to approved schemes. However there is a significant variation among countries.

Several member states do not target aid towards a specific firm without following an approved scheme. As shown in Figure 3.16, aside from Bulgaria, Cyprus and Malta, the share of ad hoc cases in Austria, Finland, Hungary and Sweden is significantly below the average. On the contrary, in Germany and Italy about one aid out of five is ad hoc, while in Belgium, Greece, Netherlands, Poland and Slovakia more than one aid out of four is firm specific.

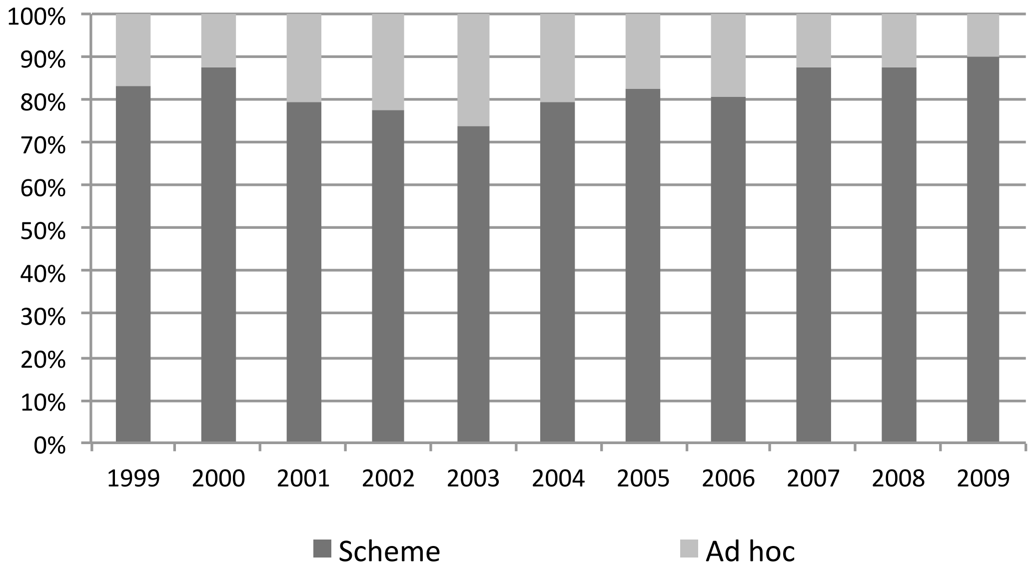
On the whole, the distribution of ad hoc cases has been fairly constant. As shown in Figure 3.17, the ad hoc measures have always constituted at least ten per cent of applications, reaching a peak of about twenty-six per cent in 2003. On the contrary, the share of schemes has been always between sixty-five and eighty per cent of all the measures.

Figure 3.16 – Share of ad hoc measures, by country



Source: Personal computations on data available on the website of the European Commission

Figure 3.17 – Share of ad hoc measures, by year

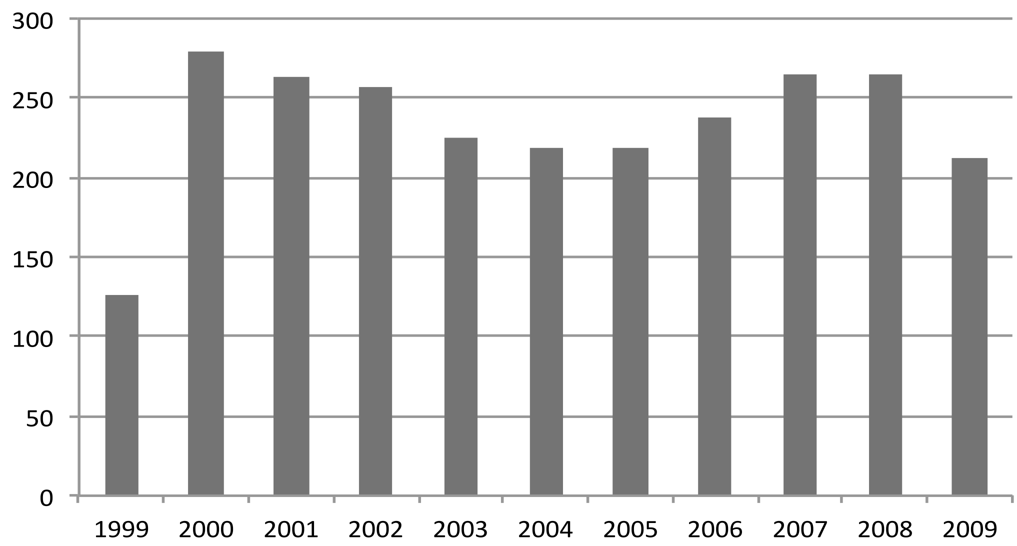


Source: Personal computations on data available on the website of the European Commission

Third, since the Commission has to decide within time limits, the degree of workload may influence the supranational regulation. As highlighted in chapter 1, the less the Commission suffers from excessive workload, the more it is able to evaluate the compatibility of each case with common market. The variable *Workload* is a continuous variable, measuring the number of applications the Commission has still to evaluate when a member state notifies a new aid. This measure takes into account only the applications that the Commission has evaluated according the Council regulation 659/1999, therefore excluding the procedures following the previous rules. The variable includes both procedures concerning the measures that the Commission has not considered state aid and procedures that are still pending.

On the average, when a member state notifies an aid, the Commission has not taken a decision yet on about 240 measures. This value does not present significant differences among member states: on the average, the workload varies from 255 measures when Bulgaria notifies a new aid to less than 230 when the new application concerns Netherlands, Romania, Austria, Lithuania and Luxembourg.

Figure 3.18 – Average annual level of Commission's workload



Source: Personal computations on data available on the website of the European Commission

On the whole, as Figure 3.18 shows, the level of workload has significantly varied over the years. The value in 1999 and 2009 may be downwardly biased: the former involve nine months only and, in addition, does not include the pending procedure following previous rules; the latter may exclude several cases of unlawful aid that third interested parties have not detected yet. Overall, the average amount of workload has decreased until 2005 and then has steeply increased until 2008.

Finally, the Commission may decide according to the serious changes concerning the European Union and the common market. First of all, as a result of the enlargement process in 2004 and 2007, the Commission may take into account the differences among old and new member states. Second, the Commission may consider the serious changes in the economic cycle.

I control for both of these issues. The variable *New Members* controls if the Commission has a different attitude towards new member states, that are, states have joined the European Union since 2004 and 2007. This is a dichotomous variable that takes value 1 when the aid is notified by Bulgaria, Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia. The variable *Crisis* controls for the impact on the decision-making of the recent financial crisis: it is a dichotomous variable taking value 1 when the aid is notified either in 2008 or 2009.

3.4 Variables: a summary

The present analysis emphasizes the determinants of supranational decisions on state aid policy. The dependent variable points out the nature of the decisions that the Commission takes on each state aid. The independent variables concern the factors that may affect the Commission's decisions and, in particular, the likelihood that the Commission approves an aid. First of all, according to the predictions of the model presented in chapter 2, the independent variables concern the influence of member states on supranational decision-making by means of threats of non-compliance and the commissioners on competition and regional policy. The impact of the threats of non-compliances will be tested through three different variables.

Table 3.3 – Variables and expected relation with Commission's approval

Variables	**Measurement**	**Hp**	**Sign**
Dependent variable			
Positive Decision	1 = the aid is approved		
Independent variables			
Threats of non-compliance			
Sectoral aid	1 = aid for a specific sector	Hp.1	-
Transparent aid	1 = the instrument is transparent	Hp.1	-
Unlawful aid	1 = aid notified by third parties	Hp.1	-
Sectoral aid*Commission	Interaction	Hp.2	-
Transparent*Commission	Interaction	Hp.2	-
Unlawful*Commission	Interaction	Hp.2	-
Appointment of commissioners			
Competition	1= the aid concerns the member state that nominated the commissioner on competition	Hp.3	+
Competition (government affiliation)	1= the aid concerns the government that nominated the commissioner on competition	Hp.4	+
Regional policy	1= the aid concerns the member state that nominated the commissioner on regional policy		+/-
Regional policy (government affiliation)	1= the aid concerns the government that nominated the commissioner on regional policy		+/-
Regional policy * Regional development	Interaction	Hp.5	+
Regional policy (government affiliation) * Regional development	Interaction	Hp.6	+
Commission	1 = the Commission is *liberal*		-
Regional development	1 = aid for regional development		+/-
Control variables			
Time limits	1 = decision beyond the time limits		-
Ad hoc	1 = the aid is an ad hoc measure		+/-
Workload	Number of procedure are open		+/-
New members	1 = member states after 2004		+/-
Crisis	1 = aid notified in 2008 or 2009		+/-

As the threats depend on the oversight by thirds interested parties, these variables refer to the likelihood that member states and firms monitor the implementation of the aid under investigation. The effect of the appointment of commissioners on the decision-making is tested by two couples of variables. These variables test the impact of the commissioners on competition and regional aid both in case they defend national within the Commission. In particular, I include also a variable to test the influence of commissioners if they have partisan affiliation.

Table 3.4 - Descriptive statistics of dependent and independent variables

Variables	**N**	**Mean**	**St.Dev.**	**Min**	**Max**
Dependent variable					
Positive Decision	3249	0.924	0.266	0	1
Independent variables					
Threats of non-compliance					
Sectoral aid	3249	0.424	0.4942	0	1
Transparent aid	3249	0.644	0.479	0	1
Unlawful aid	3249	0.127	0.332	0	1
Appointment of commissioners					
Competition	3249	0.081	0.273	0	1
Competition (government affiliation)	3249	0.042	0.200	0	1
Regional policy	3249	0.100	0.300	0	1
Regional policy (government affiliation)	3249	0.045	0.208	0	1
Commission	3249	0.459	0.498	0	1
Regional development	3249	0.202	0.402	0	1
Control variables					
Time limits	3249	0.055	0.228	0	1
Ad hoc	3249	0.170	0.375	0	1
Workload	3249	236.60	45.58	3	302
New members	3249	0.133	0.340	0	1
Crisis	3249	0.185	0.389	0	1

In addition, I take into account also other factors that may affect supranational decisions. I consider the time limits included in the formal procedure, the selectivity of the aid and the Commission's workload. Besides, I control if the Commission follows different criteria either during the financial crisis that has begun in 2008 or for member states have joined European Union recently.
Table 3.3 summarizes the features of all the variables and their expected relations with the likelihood that the Commission approves the aid under investigation. Table 3.4 shows the descriptive statistics of each variable.
The next chapter tests the impact of the above-mentioned independent variables on the supranational decisions on state aid. The results in chapter 4 show the extent to which member states have affected the Commission from 1999 to 2009. In addition to emphasize the overall impact of member states, I highlight both the evolution of such impact over the time and which member states have mainly affected supranational decision-making.

CHAPTER 4

The determinants of Commission's decisions on state aid: an empirical analysis

This chapter shows the factors that affect the Commission's decisions on state aid policy. In particular, it tests the hypotheses, which I presented at the end of chapter 2, about the impact of member states on supranational decision-making. According to the operationalization introduced in chapter 3, I highlight the extent to which member states have influenced the Commission.

The first section examines the determinants of all the decisions concerning state aid for industry and services that the Commission has taken from 1999 to 2009. I show the overall impact of member states on state aid policy both through threats of non-compliance and the most influential commissioners. Besides, I stress which member states have most affected the supranational decision-making and how their influence has changed over the years.

The second and the third sections focus on regional and horizontal aid respectively. Both these types of aid refer to the current primary objectives of supranational regulation, but, as they present specific features, I investigate them separately. The second section concerns the determinants of the state aid to industry and services that member states intend to implement in favour to the development of a specific area. The third section focuses on the determinants of the general measures that do not follow specific supranational rules.

Finally, a fourth section summarizes the main results of the whole chapter and presents the main evidences for the influence of member states on the supranational decisions on state aid policy.

A note on methodology

Before proceeding, I illustrate some points about the methodology used for the estimations in the next pages. As the dependent variable, that concerns the likelihood that the Commission approves a state aid, is dichotomous, I test the impact of the determinants on state aid decisions by means of a logit model with standard errors robust to heteroskedasticity. Besides, as shown in chapter 3, since the Commission rejects less than ten per cent of the aid, I use also a relogit, or rather, a logit regression for rare events (King and Zeng 2001). In this way, I can check the robustness of the results that I find with the logit model. Besides, given the large differences among countries and years, I perform a logit model with robust standard errors including fixed effects both for member states and years of notification. Inserting fixed effects I can control for the institutional peculiarities of each member state and the main changes in the global economy[44].

In addition to show the output of multiple regressions, I present also the predicted effects of each independent variable on the probability that the Commission approves an aid. I calculate the predicted values of the explanatory factors and their interactions by means of the command *margins*, which is included in the statistical package Stata 11.0[45].

4.1 The determinants of state aid for industry and services

Table 4.1 presents the results of logit and relogit models when the commissioners on competition and regional policy are nominated to represent national interests within the Commission. Table 4.2 shows the same models, but in case the

[44] When I include the fixed effects for member states, I lose the observations concerning the countries have never experienced a Commission rejection from 1999 to 2009 (for instance, Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Malta and Slovenia).

[45] Similar results may be obtained using the statistical package Clarify (King, Tomz and Wittenberg 2000; Tomz, Wittenberg and King 2003).

commissioners on competition and regional policy act according to their affiliation with the government coalition. Therefore, all the models in Table 4.1 test hypotheses 3 and 5, while each model included in Table 4.2 tests hypotheses 4 and 6. Besides, models 1, 3, 5 in Table 4.1 and models 7, 9 and 11 in Table 4.2 test hypothesis 1. Models 2, 4 and 6 in Table 4.1 as well as models 8, 10 and 12 in Table 4.2 test hypothesis 2. As shown in Tables 4.1 and 4.2, the decisions on state aid depend on many factors. However, as shown in Table 4.3, just a few of these factors affect substantively the chances that the Commission approves an aid. Let's examine the impact of each variable.

The results show that member states affect the Commission by means both of the threats of non-compliance and the most influential commissioners. According to hypotheses 5 and 6, the decisions on state aid are affected by the nationality and the government affiliation of the commissioner on regional policy. The output in Table 4.1 emphasizes that when the Commission evaluates a regional aid concerning the member state that nominated the commissioner on regional policy, such measure is more likely to be approved. This result is statistically significant at .005 level even if we include the fixed effects in the model. In particular, when the member state concerned in the regional aid under investigation may benefit from the nationality of the commissioner on regional policy, the probability that the Commission approves the aid increases on average by six percentage points. Table 4.2 shows that also the government affiliation matters according to the expectations: when the investigation concerns the applications made by the national government that nominated the commissioner on regional policy, the Commission is more likely to approve the measure. Contrary to the previous correlation, this result is not statistically significant. Substantively, if the member states involved in the regional aid under investigation may benefit from the government affiliation of the commissioner on regional policy, the chances of approval increases by one to five percentage points. In short, the results seem to corroborate that member states are able to influence the Commission through the commissioner on regional policy.

Contrary to hypotheses 3 and 4, member states do not benefit from the appointment of the commissioner on competition.

Table 4.1 - Determinants of decisions on state aid (Part I)

	(1) Logit	(2) Logit	(3) Relogit	(4) Relogit	(5) Logit	(6) Logit
Sectoral aid	-0.905***	-0.940***	-0.894***	-0.918***	-0.812***	-0.908***
	(0.204)	(0.298)	(0.203)	(0.296)	(0.209)	(0.311)
Transparent aid	-0.286	-0.093	-0.279	-0.079	-0.365*	-0.170
	(0.192)	(0.313)	(0.191)	(0.311)	(0.211)	(0.355)
Unlawful aid	-2.562***	-2.483***	-2.527***	-2.436***	-2.675***	-2.502***
	(0.193)	(0.314)	(0.193)	(0.313)	(0.200)	(0.327)
Sectoral aid*Commission	-	0.048	-	0.037	-	0.136
		(0.374)		(0.372)		(0.388)
Transparent*Commission	-	-0.289	-	-0.295	-	-0.277
		(0.394)		(0.392)		(0.420)
Unlawful*Commission	-	-0.113	-	-0.126	-	-0.264
		(0.384)		(0.382)		(0.408)
Competition	-0.905***	-0.909***	-0.903***	-0.904***	-0.473	-0.482
	(0.243)	(0.246)	(0.242)	(0.245)	(0.352)	(0.353)
Regional policy	-0.432	-0.428	-0.437	-0.432	-0.234	-0.235
	(0.338)	(0.340)	(0.336)	(0.338)	(0.465)	(0.470)
Regional policy *	2.630**	2.602**	2.411**	2.370**	2.840**	2.801**
Regional development	(1.063)	(1.037)	(1.058)	(1.032)	(1.114)	(1.081)
Commission	-0.566*	-0.351	-0.553*	-0.315	-0.516	-0.274
	(0.313)	(0.474)	(0.312)	(0.472)	(0.411)	(0.540)
Regional development	-1.237***	-1.243***	-1.218***	-1.218***	-1.121***	-1.115***
	(0.317)	(0.316)	(0.316)	(0.314)	(0.381)	(0.377)
Time limits	-2.093***	-2.090***	-2.061***	-2.052***	-2.154***	-2.159***
	(0.279)	(0.277)	(0.277)	(0.276)	(0.278)	(0.278)
Ad hoc	-0.307	-0.312	-0.305	-0.301	-0.283	-0.290
	(0.231)	(0.233)	(0.230)	(0.232)	(0.239)	(0.241)
Workload	0.004**	0.004**	0.004**	0.004**	0.002	0.002
	(0.002)	(0.002)	(0.002)	(0.002)	(0.003)	(0.003)
New members	0.158	0.151	0.133	0.126	-	-
	(0.377)	(0.375)	(0.376)	(0.373)		
Crisis	1.265***	1.286***	1.197***	1.214***	-	-
	(0.429)	(0.438)	(0.428)	(0.435)		
Constant	4.139***	4.008***	4.086***	3.926***	2.569**	2.445**
	(0.498)	(0.546)	(0.496)	(0.543)	(1.063)	(1.067)
Fixed effects	No	No	No	No	Yes	Yes
Number of observations	3249	3249	3249	3249	3127	3127
Wald chi2	458.32	471.63			446.77	458.65
Pseudo R2	0.4276	0.4279			0.4474	0.4479
Loglikelihood	-501.606	-501.307			-478.827	-478.392

Dependent Variable: Commission approves the aid. Robust Standard errors in parentheses.
*** $p < 0.001$; ** $p < 0.05$; * $p < 0.1$

Table 4.2 – Determinants of decisions on state aid (Part II)

	(7) Logit	(8) Logit	(9) Relogit	(10) Relogit	(11) Logit	(12) Logit
Sectoral aid	-0.903***	-0.909***	-0.892***	-0.887***	-0.818***	-0.886***
	(0.201)	(0.303)	(0.200)	(0.301)	(0.207)	(0.311)
Transparent aid	-0.259	-0.058	-0.253	-0.047	-0.353*	-0.121
	(0.190)	(0.304)	(0.189)	(0.302)	(0.208)	(0.336)
Unlawful aid	-2.552***	-2.513***	-2.521***	-2.469***	-2.665***	-2.482***
	(0.193)	(0.317)	(0.192)	(0.315)	(0.200)	(0.329)
Sectoral aid*Commission	-	-0.0004	-	-0.009	-	0.088
		(0.375)		(0.373)		(0.386)
Transparent*Commission	-	-0.058	-	-0.311	-	-0.332
		(0.3041)		(0.386)		(0.407)
Unlawful*Commission	-	-0.049	-	-0.059	-	-0.280
		(0.382)		(0.381)		(0.413)
Competition	-0.673	-0.662	-0.691*	-0.678*	-0.187	-0.183
(government affiliation)	(0.413)	(0.413)	(0.411)	(0.412)	(0.466)	(0.467)
Regional policy	-0.566	-0.564	-0.588	-0.585	-0.818	-0.847
(government affiliation)	(0.422)	(0.423)	(0.420)	(0.420)	(0.631)	(0.637)
Regional policy *	1.170	1.182	0.976	0.983	1.067	1.115
Regional development	(0.783)	(0.779)	(0.779)	(0.775)	(0.762)	(0.759)
Commission	-0.591*	-0.363	-0.577*	-0.329	-0.380	-0.055
	(0.309)	(0.475)	(0.308)	(0.472)	(0.417)	(0.543)
Regional development	-1.106***	-1.112***	-1.088***	-1.089***	-0.836**	-0.8282**
	(0.319)	(0.319)	(0.317)	(0.317)	(0.396)	(0.392)
Time limits	-2.071***	-2.065***	-2.042***	-2.030***	-2.160***	-2.162***
	(0.284)	(0.282)	(0.283)	(0.281)	(0.282)	(0.003)
Ad hoc	-0.311	-0.313	-0.309	-0.310	-0.278	-0.281
	(0.227)	(0.228)	(0.226)	(0.227)	(0.237)	(0.238)
Workload	0.004***	0.004***	0.004***	0.004***	0.002	0.002
	(0.001)	(0.001)	(0.001)	(0.001)	(0.003)	(0.003)
New members	0.485	0.472	0.458	0.445	-	-
	(0.376)	(0.377)	(0.375)	(0.375)		
Crisis	1.307***	1.331***	1.239***	1.258***	-	-
	(0.424)	(0.434)	(0.422)	(0.431)		
Constant	3.915***	3.771***	3.862***	3.692***	2.207**	2.035*
	(0.478)	(0.525)	(0.476)	(0.523)	(1.040)	(1.041)
Fixed effects	No	No	No	No	Yes	Yes
Number of observations	3249	3249	3249	3249	3127	3127
Wald chi2	449.96	466.94			432.49	448.65
Pseudo R2	0.4161	0.4165			0.4401	0.4407
Loglikelihood	-511.650	-511.325			-485.152	-484.614

Dependent Variable: Commission approves the aid. Robust Standard errors in parentheses.
*** p < 0.001; ** p <0.05; * p < 0.1

Table 4.3 – Predicted effects of the explanatory factors

Variables	Change in probability that the Commission approves the aid[a]	Change in probability that the Commission approves the aid[b]
Sectoral aid	-0.024 (0.006)	-0.025 (0.006)
Transparent aid	-0.007 (0.004)	-0.006 (0.005)
Unlawful aid	-0.173 (0.027)	-0.181 (0.028)
Commission	-0.014 (0.008)	-0.016 (0.008)
Competition	-0.032 (0.012)	---
Competition (government affiliation)	---	-0.023 (0.019)
Regional policy (if the aid is for regional development)	0.063 (0.025)	---
Regional policy (government affiliation) (if the aid is for regional development)	---	0.030 (0.020)
Ad hoc	-0.008 (0.007)	-0.009 (0.007)
Workload	0.0001 (0.00004)	0.0001 (0.00004)
Time limits	-0.132 (0.037)	-0.136 (0.039)
New members	0.004 (0.008)	0.011 (0.007)
Crisis	0.022 (0.006)	0.024 (0.006)

Note: change in the probability that the Commission approves an aid when a variables increases by one unity, all the other values being set at their means. Standard errors in the brackets.
[a] The predicted values are estimated from model 1 in Table 4.1.
[b] The predicted values are estimated from model 7 in Table 4.2.

The results of Table 4.1 highlight that when the aid concerns the member state that nominated the commissioner on competition, the Commission is likely to reject the aid. This correlation is statistically significant at .001 level, apart from the model including also the fixed effects. Focusing on the substantive effects, when the Commission evaluates the aid concerning the member state that nominated the commissioner on competition, the probability of approval decreases by about three percentage points. As shown in Table 4.2, also hypothesis 4 does not find any corroboration. When the Commission investigates an aid concerning the national government that nominated the commissioner on competition, the chances of approval decrease. This result is statistically significant only in the relogit model. Anyway, the sign of the correlation is always contrary to the expectations. In particular, when the Commission evaluates an aid concerning the national government that nominated the commissioner on competition, the chances of approval decreases by about two percentage points. This value is drastically lower if we take in consideration the coefficients of model 5 and 6 of Table 4.2, which include the fixed effects. Unlike the commissioner on regional policy, the commissioner on competition appears to manage state aid policy more independently from national pressures. Contrary to the appointment of the commissioner on regional policy, the appointment of the commissioner on competition does not give any advantage to member states.

The results corroborate the impact of the threats of non-compliance on the Commission decisions. As expected, the more third interested parties monitor the aid under investigation, the less the Commission is likely to approve the aid. This means that when third parties do not monitor the decision-making, as member states are incentivized not to comply with the supranational rules, the Commission tends to approve the aid in order take the measures under its supervision over the years. The results of Tables 4.1 and 4.2 show that the Commission is less likely to allow member states to implement an aid when third parties are more likely to monitor decision-making.

First, given the strong competition among firms, third parties are likely to pay attention to the supranational decisions regarding specific sectors. In line with hypothesis 1, the results show that the Commission is more likely to reject the aid when measures concern a specific economic sector. This relation is particularly significant in each model. The probability that the Commission approves a sectoral aid is two percentage points lower than the probability to allow the implementation of a measure that is not targeted to a specific sector.

Second, third parties can oversee the aid if the procedure of implementation is considered to be transparent. When member states use transparent policy instruments, third parties check more easily the compliance with supranational rules. Therefore, as the Commission can rely on the oversight of third parties, the threats of non-compliance by member states are less credible and the Commission is more likely to reject the aid. Despite this result corroborates hypothesis 1, it is statistically significant only in models 5 and 11, where fixed effects are included. However, the substantive impact of policy instrument of the final decision is limited: if a member state use a transparent policy instrument, the chances of approval decreases by about just one percentage point.

Third, third interested parties are likely to monitor the aid if they do not trust the member state concerned in the implementation, that is, if this member states have already implemented the aid without following the supranational rules. The results show that the Commission is likely to reject the aid that member states previously implemented unlawfully. This result is very robust: the negative correlation between the variable *Unlawful aid* and likelihood of approval is statistically significant in each model. In addition, also the substantive impact of the variable is large: the probability that the Commission approves an aid that have been already implemented illegally is about eighteen percentage points lower than the probability that the Commission approves an aid correctly notified the first time.

The interactions between the three above-mentioned indicators on the likelihood of non-compliance and the policy preferences of the Commission aim at testing hypothesis 2. According to this hypothesis, we expect that threats of non-compliances affect the Commission especially when it is *liberal*. The interaction terms in Tables 4.1 and 4.2 show the average trend, but we need to consider further analysis to interpret the interaction models (see Brambor, Clark and Golder 2006; Kam and Franzese 2007). Therefore, Tables 4.4 and 4.5 show the predicted impact of the interactions among the variables concerning the level of monitoring by third interested parties and the supranational preferences on the likelihood of approval. The results included in Table 4.4 refer to the estimation of model 1 in Table 4.1, whereas the values of Table 4.5 concern the model 7 in Table 4.2.

Table 4.4 – The impact of the interaction between threats of non-compliance and Commission's policy preferences on the likelihood of approval (Part I)

		Commission	
		Interventionist	*Liberal*
Sectoral aid	0	0.989 (0.003)	0.977 (0.004)
	1	0.970 (0.007)	0.894 (0.016)
Transparent aid	0	0.984 (0.005)	0.970 (0.005)
	1	0.982 (0.004)	0.947 (0.008)
Unlawful aid	0	0.987 (0.003)	0.978 (0.003)
	1	0.718 (0.050)	0.531 (0.044)

Note: The likelihood of approval is estimated from model 2 of Table 4.1. The values of all the other variables are set to their means. Standard errors in the brackets.

According to hypothesis 2, both Tables 4.4 and 4.5 show that the impact of threats of non-compliance on the final decisions depends on the Commission policy preferences. Since these threats rely on the level of monitoring by third parties, we expect that, as the level of monitoring decreases, the chances of approval increase especially if the Commission is *liberal*. If the Commission is *interventionist*, it approves the aid independently of the expected costs of non-compliance, that is, the oversight by third parties. On the contrary, a *liberal* Commission is expected to reject the aid when the mechanisms of oversight are robust, while it is forced to approve the applications when monitoring is weak. In this case, despite the Commission would prefer to reject the aid, it has an incentive to approve it in order to take the measure under its supervision.

Table 4.5 – The impact of the interaction between threats of non-compliance and Commission's policy preferences on the likelihood of approval (Part II)

		Commission	
		Interventionist	*Liberal*
Sectoral aid	0	0.989 (0.003)	0.975 (0.004)
	1	0.970 (0.007)	0.890 (0.016)
Transparent aid	0	0.984 (0.005)	0.968 (0.006)
	1	0.982 (0.004)	0.945 (0.008)
Unlawful aid	0	0.987 (0.003)	0.977 (0.003)
	1	0.719 (0.049)	0.529 (0.044)

Note: The likelihood of approval is estimated from model 8 of Table 4.2. The values of all the other variables are set to their means. Standard errors in the brackets.

First, if we assume that the level of monitoring by third parties depends on the competition in a specific economic sector, we notice that *liberal* and *interventionist* Commission behave differently. In both cases, according to hypothesis 1, the Commission is less likely to approve a sectoral aid than an aid that is not targeted to a specific sector. Nevertheless, when the Commission is *interventionist*, the likelihood of approval decreases by just one percentage point, while if the

Commission is *liberal* it decreases by more than eight percentage points. This result seems to confirm that *liberal* Commission are more affected by threats of non-compliance.

Second, moving from the assumption that the level of monitoring by third parties relies on the transparency of the policy instrument that member states use to implement the aid, we find a similar result. According to the expectations, the less the instrument is transparent, the more the Commission is likely to approve the aid. When the Commission is *interventionist*, such increase is negligible, whereas if the Commission is *liberal* the likelihood of approval increases by more than two percentage points.

Finally, even when we consider that third parties pay attention to the decision-making especially if the Commission evaluates an unlawful aid, we find that a *liberal* Commission is more affected than an *interventionist* one. Given the level of monitoring by third parties, the Commission is more likely to reject the unlawful aid than the measures that are correctly notified for the first time. For instance, an *interventionist* Commission approves an unlawful aid about seven times out of ten, while it approves a new aid about ten times out of ten. The likelihood of approval significantly changes when the Commission is *liberal*: as in the previous case it approves a new aid ten times out of ten, but, unlike the *interventionist* Commission, it approves an unlawful aid only five times out of ten. This result shows that, although the level of monitoring may significantly influence both an *interventionist* and a *liberal* Commission, the latter is more affected than the former.

On the whole, the results corroborate that member states are likely to affect the Commission through the commissioner on regional policy (according to hypotheses 5 and 6) and treats of non-compliances (according to hypotheses 1 and 2). Now I investigate if all the member states are able to influence the Commission equally or some members have benefited more from the appointment of commissioners and the strategic interactions during the decision-making.

I proceed to examine the cross-country differences on the impact of the commissioner on regional policy. Most of the state aid in the dataset has been evaluated when the commissioners on regional policy in office were Barnier (and then Barrot) or Hübner (and then Samecki).

Table 4.6 – Likelihood of approval depending on the commissioners

Commissioners	Likelihood of approval for the member state that nominated the commissioner	Likelihood of approval for other member states
Regional Policy		
Barnier /Barrot	0.995 (0.008)	0.922 (0.018)
Hübner and Samecki	0.996 (0.005)	0.978 (0.008)
Competition		
Monti	0.920 (0.005)	0.966 (0.019)
Kroes	0.982 (0.003)	0.988 (0.013)

Commissioners	Likelihood of approval for the government that nominated the commissioner	Likelihood of approval for other governments
Regional Policy		
Barnier /Barrot	0.986 (0.012)	0.923 (0.017)
Hübner and Samecki	0.976 (0.017)	0.983 (0.006)
Competition		
Monti	0.914 (0.005)	0.988 (0.013)
Kroes	0.982 (0.003)	0.987 (0.013)

Note: The likelihood of approval is estimated from model 1 of Table 4.1 and model 7 of Table 4.2. The values of all the other variables are set to their means. Standard errors in the brackets.

French government nominated Barnier and Barrot, while the Polish government nominated Hübner and Samecki. Both France and Poland took advantage from such appointments, but the former seems to get greater benefits than the latter. When the commissioner were Barnier or Barrot, the probability that the Commission approved a regional aid concerning France was about 99.5 per cent, while the probability of approval for another member state was about 92.2 per cent. When Hübner and Samecki were in office, the Commission approved the regional aid concerning Poland in 99.6 per cent of cases, while it allowed other states to implement a regional aid in 97.8 of cases. In short, the likelihood of approval in favour of France and Poland is similar, but France achieved a larger comparative advantage over the other countries.

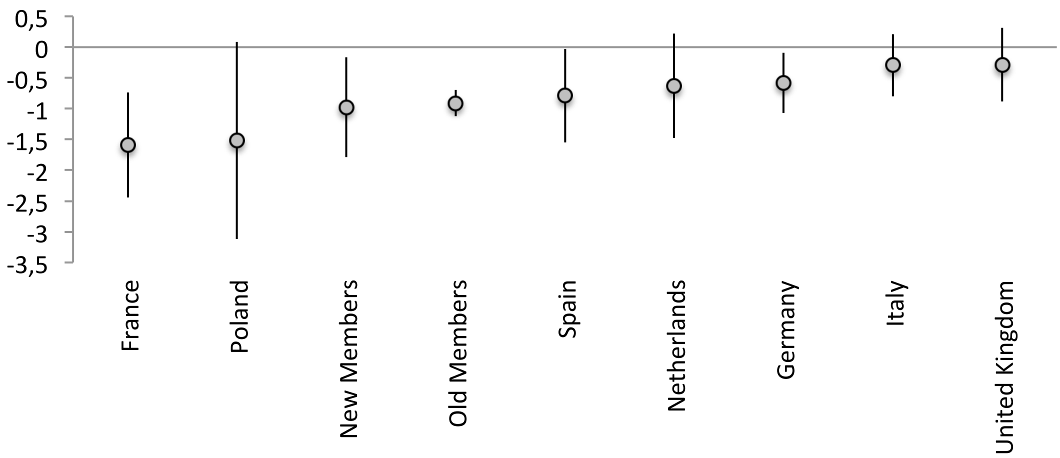
If we assume that, according to their affiliation with the government coalition, the commissioners favour just the national government that nominated them, the results present significant changes. During the terms of Barnier and Barrot, the French government that nominated them was allowed to implement a regional aid in 98.6 per cent of cases, while any other national government implemented the same type of measure in 92.3 per cent of cases. On the contrary, when Hübner and Samecki become commissioners, the Polish government that nominated both did not receive any relevant advantage.

Although no member state has benefited from the commissioners on competition, also this case presents interesting cross-country differences. I examine the changes in the probability that the Commission approved an aid when the commissioner on competition were Mario Monti and Neelie Kroes, nominated by Italian and Dutch government respectively. When Monti was in office, Italy was allowed to implement 92 per cent of its applications, whereas other member states implemented on average 96.6 per cent of their applications. Although even Netherlands did not take any advantage from the term of Kroes, unlike Italy, it was not penalized. While Kroes was in office, Netherlands was allowed to implement about 98.2 per cent of its applications, more or less the same ratio in favour of the other member states. This result does not change even if we assume that the commissioners favour only the government coalition that nominated them. Table 4.6 resumes the predicted likelihood of approval depending on the commissioners of competition and regional policy.

Let’s move to consider the cross-country differences about the impact of the threats of non-compliance. Some member states have taken more advantage from the scarce monitoring by third parties than others. Figures 4.1, 4.2 and 4.3 show the

coefficients of the variables measuring the level of monitoring in country-by-country regressions. The more the coefficient is negative, the more member states are able to benefit from the low probability to pay the costs of non-compliance.
Assuming that the level of monitoring by third interested parties is higher when the aid under investigation is targeted to a specific economic sector, on the whole, both old and new members benefit from threating the Commission not to comply. In particular, as result of this operationalization, France, Spain and Germany have a significant impact on the Commission decisions.

Figure 4.1 – Coefficient on Sectoral aid per country

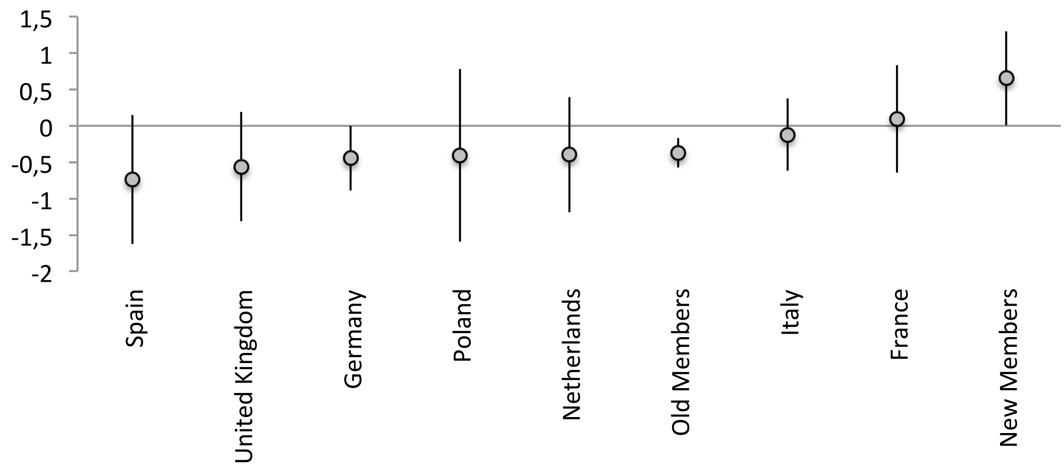


Note: the coefficients are estimated from a country by country logit model on all the factors included in the model 1 of Table 4.1.

As shown in Figure 4.2, if we measure the level of monitoring through the transparency of the aid implementation, the results presents relevant changes. On average, old member states benefit from the lack of transparency. In real facts, focusing on the member states that are more representative in the dataset, Germany is the only country that significantly increases its likelihood of approval when the policy instrument is not transparent.
Finally, as Figure 4.3 shows, in case the level of monitoring is measured by the attention of third interested parties to the cases of unlawful aid, we find that all the most representative member states significantly have influenced the Commission's decision by means of threats of non-compliance. In case third parties are likely not

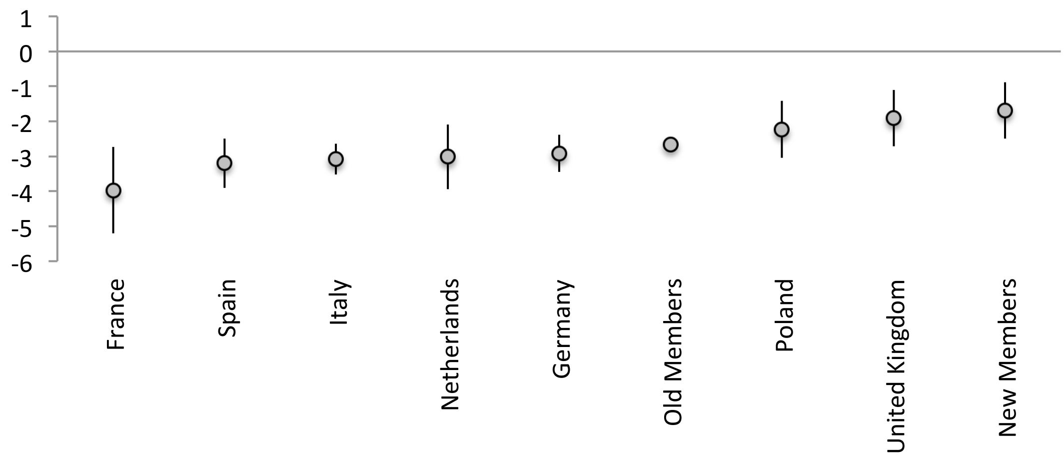
to control the aid under investigation, the member states that take the most advantages are France, Spain, Italy, Netherlands and Germany.

Figure 4.2 – Coefficient on Transparent aid per country



Note: the coefficients are estimated from a country by country logit model on all the factors included in the model 1 of Table 4.1.

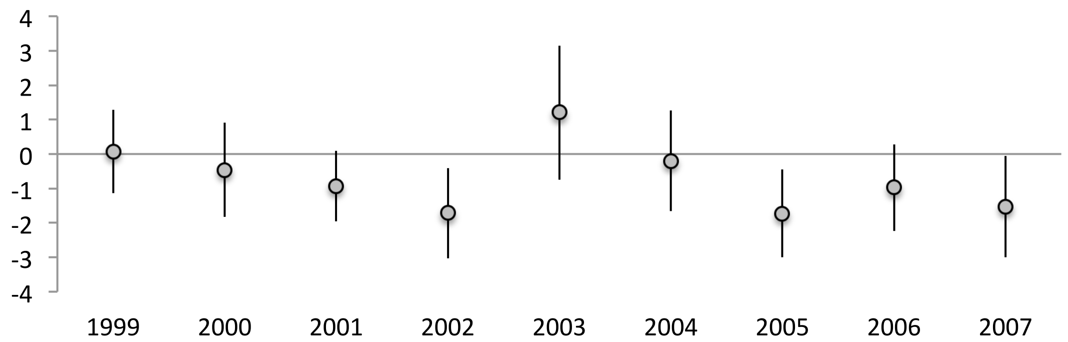
Figure 4.3 – Coefficient on Unlawful aid per country



Note: the coefficients are estimated from a country by country logit model on all the factors included in the model 1 of Table 4.1.

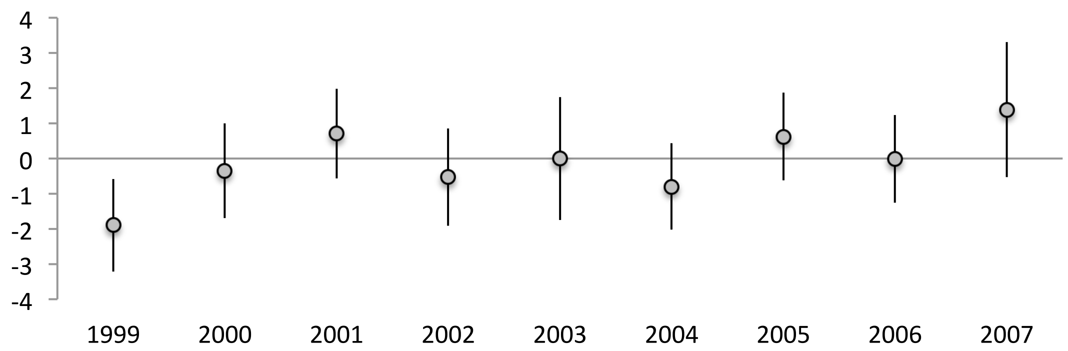
In addition to cross-country variations, the threats of non-compliance present significant cross-temporal differences. They have not affected supranational decisions equally over the years. Figures 4.4, 4.5 and 4.6 highlight the trend of the coefficients measuring the likelihood of monitoring by third interested parties. As in 2008 and 2009 the Commission approved almost all the applications, the figures focus on the period from 1999 to 2007. The negative coefficients mean that member states took advantage of the threats in that specific year.

Figure 4.4 – Coefficient on Sectoral aid per year



Note: the coefficients are estimated from a year by year logit model on all the factors included in the model 1 of Table 4.1.

Figure 4.5 – Coefficient on Transparent aid per year

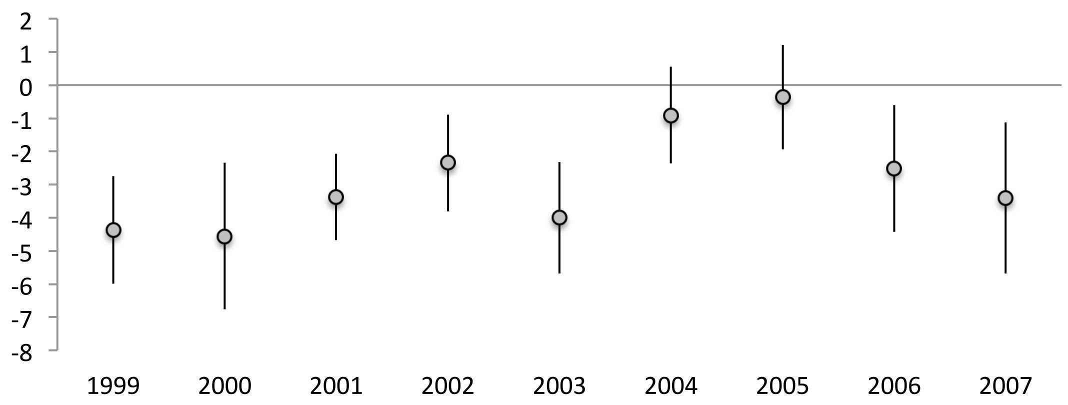


Note: the coefficients are estimated from a year by year logit model on all the factors included in the model 1 of Table 4.1.

As Figure 4.4 shows, looking at the variation of the variable Sectoral aid, we find that member states significantly benefited from threats of non-compliance in 2002, 2005 and 2007. On the contrary, Figure 4.5, which relies on the degree transparency to measure the level of control, shows that member states significantly benefited from threats of non-compliances only in 1999.

Then, Figure 4.6, which assumes that third parties monitor especially the cases of unlawful aid, highlights that, aside from 2004 and 2005, member states have always taken a significant advantage from threating the Commission not to comply with the European regulation.

Figure 4.6 – Coefficient on Unlawful aid per year



Note: the coefficients are estimated from a year by year logit model on all the factors included in the model 1 of Table 4.1.

So far I have passed in review the impact of member states. Now I focus the attention on the control variables. The policy preferences of the Commission matter, even if they have a moderate effect on the probability that the aid is approved. According to the predictions of the game in chapter 2, the more the Commission is *liberal*, that is, it sides against the national intervention under investigation, the more the Commission is likely to reject an aid. In other words, taking into account the operationalization of the variable *Commission*, when member states apply measures that do not pursue supranational priorities, the Commission does not allow member states to implement the aid. The policy preferences of the Commission and the type of supranational decision are significantly correlated both in the logit and relogit models, whereas this correlation is not statistically significant when we include the fixed effects. Anyway, if we focus on the results of model 1 included in Table 4.1 and model 7 in Table 4.2, even where the variable

Commission is significantly correlated with the type of final decision, the supranational policy preferences slightly affect the probability of approval. For instance, if the Commission is *liberal*, the probability that the Commission decides to approve the aid is at the utmost two percentage points lower than if the Commission is *interventionist*.

On the contrary, the final decisions are affected by the constraints included in the formal procedure. When the Commission decides after the end of the formal investigation, it usually rejects the aid. This result is particularly robust: if the Commission takes a decision beyond the time limit, the likelihood of approval significantly decreases in each model presented both in Table 4.1 and Table 4.2. Looking at the results of Table 4.3, if the Commission has not decided yet before the end of the formal investigation, the probability that the aid is approved is about thirteen percentage points lower than in case the Commission takes the decisions within the time limits. As provided for by the Council regulation 659/1999, this means that, most of times that the Commission takes a decision after the formal investigation, it is still not able to evaluate the compatibility of the aid and, according to the rules, it has to reject the measure.

The results highlight also that the decision-making is affected by the degree of workload. The more applications the Commission has to evaluate, the more likely the aid is approved. This correlation is statistically significant, except in the models including the fixed effects. Nevertheless, the increase of the number of application have a limited impact on the chances of approval: in case the number of measures that the Commission has still to take a decision on suddenly increases by one hundred unit, the probability that the aid is approved increases by only about one percentage point.

Examining the results both in Tables 4.1 and 4.2, the decisions on state aid do not seem to rely on the degree of selectivity of national intervention. The Commission is less likely to approve ad hoc measures, but this result is not statistically significant. Therefore, when member states apply state aid in favour of selective targets, the probability of approval decreases, even if, in practise such decrease is essentially very tenuous. This result partially agrees with the analysis of Buts, Jegers and Joris (2011), which focus just on state aid decisions in 2007. As in the present analysis they find that ad hoc measures are less likely to be approved, but, on contrary to the results in Tables 4.1 and 4.2, they show that this correlation is statistically significant.

Besides, the Commission has been affected by the serious changes in the global economy, whereas it does not seem to be influenced by the consequences of the EU enlargement. The recent financial crisis has had a significant impact on the decisions taken in 2008 and 2009. During this period the probability of approval has increased by about two percentage points. On the contrary, the Commission does not seem to take into account the relevant differences between old and new member states.

To resume, this section corroborates that member states affect the supranational decisions on state aid. The impact varies among member states and over the years, but, overall, the results offer corroborating evidences in favour of hypotheses 1, 2, 5 and 6. So far, I have taken into account all the measures for industry and services, including very different types of aid. In the next two sections I investigate separately the determinants of regional and horizontal aid, which represented the most relevant categories of aid in the dataset. Both present specific features: the former is likely to be affected by the bargaining between the most influential commissioners on state aid, while the second has constituted a primary supranational objective especially in the recent years.

4.2 The determinants of regional aid for industry and services

Table 4.7 shows the determinants of Commission's decisions on the state aid for industry and services that aim to develop a specific region. Since the results focus only on regional aid, unlike the previous analysis, they do not include some independent variables. First, since regional development has always been a supranational priority, the models in Table 4.7 do not include the variable about the Commission's policy preferences. Second, since all the measures concern regional development, the models do not include the interactions terms, while hypotheses 5 and 6 are tested just by means of variables Regional Policy and Regional Policy (government affiliation). In addition, because of collinearity, models do not include the variable Crisis.

The decisions on regional aid are substantially affected by the nationality and the government affiliation of the commissioner on regional policy, but this result is not statistically significant in most of models. The probability that the Commission approves a regional aid is about six percentage points higher when the measure under investigation concerns the member state that nominated the commissioner on regional policy. This probability tends to double if we consider the results of model 5, including the fixed effects. When the Commission decides on a regional aid that concerns the national government that nominated the commissioner on regional policy, the chances that the aid is approved increase by just one percentage point. On the contrary, if we take into account the effect of the fixed effect, member state do not take any advantage from the commissioners on regional policy according to their affiliation with the national governments.

Member states do not significantly affect the Commission's decisions through the commissioner on competition. Nevertheless, the results considerably changes if we assume that the commissioner act according the government affiliation. In fact, while member state do not gain any advantage from the nationality of the commissioner of competition, they may benefit from his or her government affiliation. In particular, when the Commission investigates a regional aid that regards the member state that nominated the commissioner on competition, the chances of approval decrease by about two percentage points. On the contrary, if the regional aid concerns only the government coalition that nominated the commissioner, the likelihood that the Commission approves such aid increases on average by about three percentage points.

The results of Table 4.7 provide evidence in favour of the impact of the threats of non-compliance. According to hypothesis 1, the Commission seems to be affected by the level of monitoring by third interested parties especially if we use as indicators the economic sector concerned in the regional aid and the attention towards aid implemented illegally. In both cases the correlation between level of monitoring and likelihood of approval is negative and significant in each model.

Table 4.7 - Determinants of decisions on state aid for regional development

	(1) Logit	(2) Logit	(3) Relogit	(4) Relogit	(5) Logit	(6) Logit
Sectoral aid	-0.916**	-0.932**	-0.862**	-0.877**	-0.905*	-1.012**
	(0.439)	(0.445)	(0.432)	(0.438)	(0.473)	(0.485)
Transparent aid	-0.760	-0.440	-0.696	-0.396	-0.759	-0.610
	(0.585)	(0.502)	(0.576)	(0.495)	(0.793)	(0.708)
Unlawful aid	-3.190***	-3.340***	-3.030***	-3.196***	-4.358***	-4.497***
	(0.414)	(0.422)	(0.408)	(0.416)	(0.610)	(0.664)
Competition	-0.849	-	-0.827	-	0.532	-
	(0.518)		(0.510)		(0.901)	
Regional policy	2.453***	-	2.124	-	4.393	-
	(1.421)		(1.400)		(3.152)	
Competition (government affiliation)	-	0.889	-	0.789	-	1.770
		(0.941)		(0.927)		(1.158)
Regional policy (government affiliation)	-	0.368	-	0.144	-	-5.381
		(0.729)		(0.718)		(4.446)
Time limits	-2.763***	-2.553***	-2.599***	-2.426***	-3.743***	-4.212***
	(0.769)	(0.806)	(0.757)	(0.793)	(0.980)	(1.453)
Ad hoc	-0.491	-0.434	-0.484	-0.429	-0.595	-0.606
	(0.521)	(0.525)	(0.513)	(0.517)	(0.644)	(0.634)
Workload	0.011***	0.009***	0.011***	0.009***	0.012**	0.007
	(0.003)	(0.003)	(0.003)	(0.003)	(0.006)	(0.007)
New members	0.558	1.421*	0.469	1.287	-	-
	(0.797)	(0.813)	(0.785)	(0.801)		
Constant	1.955***	2.156***	1.814***	2.046***	1.092	0.662
	(0.651)	(0.628)	(0.642)	(0.618)	(0.925)	(1.834)
Fixed effects	No	No	No	No	Yes	Yes
Number of observations	657	657	657	657	513	513
Wald chi2	115.25	107.98			125.07	106.55
Pseudo R2	0.4793	0.4513			0.5833	0.5881
Loglikelihood	-103.333	-108.890			-76.288	-75.406

Dependent Variable: Commission approves the aid. Robust Standard errors in parentheses.
*** p < 0.001; ** p <0.05; * p < 0.1

If we assume that third parties monitor especially aid towards specific sectors, we notice that the probability that the Commission approves a regional aid towards a specific economic sector is about two percentage points lower than the likelihood of approval in favour of the measures that are not sectorally targeted. In case the Commission evaluates a case of unlawful aid, the likelihood of approval decreases by about eight percentage points. The level of transparency is not significantly related with the type of supranational decision, but its substantive impact is higher for regional aid than for any other type of measures.

Table 4.8 - Predicted effects of the explanatory factors (regional aid)

Variables	Change in probability that the Commission approves the aid[a]	Change in probability that the Commission approves the aid[b]
Sectoral aid	-0.021 (0.013)	-0.029 (0.015)
Transparent aid	-0.018 (0.013)	-0.014 (0.016)
Unlawful aid	-0.075 (0.026)	-0.103 (0.023)
Competition	-0.020 (0.013)	---
Competition (government affiliation)	---	0.027 (0.029)
Regional policy	0.057 (0.024)	---
Regional policy (government affiliation)	---	0.011 (0.022)
Ad hoc	-0.011 (0.012)	-0.013 (0.016)
Workload	0.0003 (0.0001)	0.0002 (0.0001)
Time limits	-0.065 (0.024)	-0.079 (0.030)
New members	0.013 (0.018)	0.044 (0.021)

Note: change in the probability that the Commission approves an aid when a variables increases by one unity, all the other values being set at their means. Standard errors in the brackets.
[a] The predicted values are estimated from the model 1 in Table 4.7.
[b] The predicted values are estimated from the model 2 in Table 4.7.

As the level of transparency increases, the chances of approval for a regional aid decrease by about two percentage points.
Looking at the control variables, the decision-making on regional aid is significantly affected both by the time limits provided for by the formal procedure and the amount of workload. In case the Commission goes beyond the time limits, the likelihood of approval considerably decreases. Looking at the substantive impact of the procedural constraints, as shown in Table 4.8, when the Commission takes a decision after the end of the formal investigation, the likelihood of approval is about seven percentage points lower than the cases where the Commission decides on time. The amount of workload increases the probability of approval and is significantly correlated in each model, but in model 6, which includes fixed effects. As the notifications on regional aid increase by one hundred units, the likelihood of approval increases by about three percentage points.
Overall, the Commission seems to prefer schemes rather than ad hoc measures. The relation between degree of selectivity and type of final decision on regional measures is not significant and as the degree of selectivity increases the likelihood of approval by about just one percentage point.
In addition, the Commission has a positive attitude towards new member states. However, aside on model 2, this relation is not significant and member states that have recently joined the European Union have a positive but very tenuous impact on the supranational decisions about regional aid.
On the whole, in comparison with the previous analysis concerning all the state aid in favour of industry and services, the results on the determinants of the aid towards regional development do not present relevant differences. As the previous analysis, the results provide a robust or partial corroboration for the impact of threats of non-compliance (hypothesis 1) and the commissioner on regional policy (hypotheses 5). In addition, there are some results showing that member states may benefit from the government affiliation with both the commissioner on competition (hypotheses 4) and the commissioner on regional policy (hypotheses 6).

4.3 The determinants of horizontal aid for industry and services

Tables 4.9 and 4.10 show the determinants of the general measures for industry and services that do not follow specific supranational frameworks and guidelines. As the present section does not take into account the aid for regional development, the model in Tables 4.9 and 4.10 do not include the variables that test the impact of the commissioner on regional policy.

The result in Table 4.9 and 4.10 highlight that member states do not benefit from the commissioner on competition when the Commission investigates a horizontal aid. When the Commission evaluates an aid that concerns the member state or just the national government that nominated the commissioner on competition, the likelihood of approval decreases. This relation is significant, except in the models that include also the fixed effects.

As in the decision-making concerning regional aid, member states may affect the decisions by means of threats of non-compliance. As the level of monitoring by third interested parties changes, the likelihood of approval by the Commission varies considerably. The relation between the likelihood of monitoring and approval is significant in two indicators out of three. If the aid is in favour a specific economic sector, according to our assumptions, the Commission is more likely to approve the horizontal aid. At the same time, the likelihood of approval increases when the investigation concerns a measure that member states have previously implemented illegally. In the former case, as the monitoring by third parties increases, the likelihood of approval is up by about two percentage points. In the latter case, the probability may increase by until eleven points. Unlike the other indicators, the level of transparency during the implementation is rarely significant and the substantive impact of this factor is marginal.

According to hypothesis 2, we expect that threats of non-compliance affect the decision-making depending on the Commission policy orientations. In particular, as the level of monitoring by third parties decreases, member states are more likely to influence the likelihood of approval when the Commission is *liberal* than it is *interventionist*.

Table 4.9 - Determinants of decisions on aid for horizontal objectives (Part I)

	(1) Logit	(2) Logit	(3) Relogit	(4) Relogit	(5) Logit	(6) Logit
Sectoral aid	-0.815***	-0.923*	-0.802***	-0.866	-0.767***	-0.804
	(0.288)	(0.532)	(0.2869)	(0.529)	(0.294)	(0.565)
Transparent aid	-0.369	0.467	-0.355	0.474	-0.484*	0.426
	(0.267)	(0.544)	(0.266)	(0.540)	(0.288)	(0.580)
Unlawful aid	-1.917***	-1.241**	-1.891***	-1.234**	-2.036***	-0.980
	(0.271)	(0.621)	(0.269)	(0.617)	(0.296)	(0.683)
Sectoral aid*Commission	-	0.136	-	0.092	-	0.032
		(0.610)		(0.606)		(0.664)
Transparent*Commission	-	-1.099*	-	-1.083*	-	-1.189*
		(0.635)		(0.631)		(0.680)
Unlawful*Commission	-	-0.842	-	-0.816	-	-1.380*
		(0.664)		(0.660)		(0.752)
Competition	-0.757**	-0.787**	-0.767**	-0.794**	-0.370	-0.355
	(0.323)	(0.330)	(0.321)	(0.327)	(0.413)	(0.431)
Commission	-0.591*	0.422	-0.574*	0.480	-0.812	0.608
	(0.323)	(0.765)	(0.321)	(0.760)	(1.021)	(1.144)
Time limits	-2.022***	-2.012***	-1.983***	-1.963***	-2.074***	-2.050***
	(0.326)	(0.325)	(0.324)	(0.323)	(0.332)	(0.338)
Ad hoc	-0.769***	-0.824***	-0.760**	-0.811***	-0.787**	-0.883***
	(0.297)	(0.304)	(0.295)	(0.302)	(0.329)	(0.337)
Workload	0.004**	0.004**	0.004**	0.004**	-0.002	-0.004
	(0.002)	(0.002)	(0.002)	(0.002)	(0.003)	(0.003)
New members	0.006	-0.007	-0.029	-0.041	-	-
	(0.509)	(0.495)	(0.506)	(0.491)		
Crisis	1.147**	1.333**	1.066**	1.240**	-	-
	(0.540)	(0.597)	(0.537)	(0.593)		
Constant	3.941***	3.205***	3.868***	3.075***	2.965**	2.345
	(0.588)	(0.862)	(0.585)	(0.856)	(1.442)	(1.456)
Fixed effects	No	No	No	No	Yes	Yes
Number of observations	2106	2106	2106	2106	1964	1964
Wald chi2	271.16	294.27			268.31	308.82
Pseudo R2	0.3766	0.3821			0.4131	0.4215
Loglikelihood	-302.509	-299.829			-279.320	-275.340

Dependent Variable: Commission approves the aid. Robust Standard errors in parentheses.
*** p < 0.001; ** p <0.05; * p < 0.1

Table 4.10 - Determinants of decisions on aid for horizontal objectives (Part II)

	(7) Logit	(8) Logit	(9) Relogit	(10) Relogit	(11) Logit	(12) Logit
Sectoral aid	-0.844***	-0.927*	-0.831***	-0.869	-0.768***	-0.790
	(0.285)	(0.610)	(0.283)	(0.531)	(0.294)	(0.567)
Transparent aid	-0.386	0.487	-0.373	0.495	-0.498*	0.404
	(0.268)	(0.548)	(0.267)	(0.544)	(0.286)	(0.576)
Unlawful aid	-1.904***	-1.241**	-1.879***	-1.231**	-2.039***	-0.966
	(0.269)	(0.622)	(0.267)	(0.618)	(0.295)	(0.682)
Sectoral aid*Commission	-	0.099	-	0.054	-	0.009
		(0.610)		(0.606)		(0.664)
Transparent*Commission	-	-1.152*	-	-1.137*	-	-1.175*
		(0.641)		(0.636)		(0.679)
Unlawful*Commission	-	-0.825	-	-0.803	-	-1.405*
		(0.665)		(0.661)		(0.750)
Competition	-1.069**	1.127**	-1.110**	-1.164**	-0.323	-0.343
(government affiliation)	(0.478)	(0.474)	(0.475)	(0.471)	(0.560)	(0.585)
Commission	-0.692**	0.373	-0.674**	0.437	-0.830	0.610
	(0.329)	(0.770	(0.327)	(0.765)	(1.019)	(1.144)
Time limits	-2.026***	-2.016***	-1.990***	-1.970***	-2.072***	-2.050***
	(0.325)	(0.324)	(0.324)	(0.322)	(0.332)	(0.338)
Ad hoc	-0.798***	-0.851***	-0.788***	-0.838***	-0.784**	-0.882***
	(0.293)	(0.300)	(0.291)	(0.298)	(0.328)	(0.337)
Workload	0.004**	0.004**	0.004**	0.004**	-0.002	-0.004
	(0.002)	(0.002)	(0.002)	(0.002)	(0.003)	(0.003)
New members	0.024	0.009	-0.012	-0.027	-	-
	(0.514)	(0.500)	(0.5109)	(0.497)		
Crisis	1.157**	1.353**	1.075**	1.258**	-	-
	(0.539)	(0.597)	(0.536)	(0.594)		
Constant	4.014***	3.232***	3.942***	3.101***	2.955**	2.332
	(0.590)	(0.862)	(0.587)	(0.856)	(1.444)	(1.461)
Fixed effects	No	No	No	No	Yes	Yes
Number of observations	2106	2106	2106	2106	1964	1964
Wald chi2	263.18	287.31			268.20	312.31
Pseudo R2	0.3763	0.3821			0.4128	0.4212
Loglikelihood	-302.627	-299.829			-279.485	-275.454

Dependent Variable: Commission approves the aid. Robust Standard errors in parentheses.
*** p < 0.001; ** p <0.05; * p < 0.1

Table 4.11 - Predicted effects of the explanatory factors (horizontal aid)

Variables	Change in probability the Commission approves the aid[a]	Change in probability the Commission approves the aid[b]
Sectoral aid	-0.019 (0.008)	-0.020 (0.008)
Transparent aid	-0.007 (0.005)	-0.008 (0.005)
Unlawful aid	-0.090 (0.025)	-0.088 (0.024)
Commission	-0.013 (0.007)	-0.015 (0.007)
Competition	-0.022 (0.013)	---
Competition (government affiliation)	---	-0.037 (0.025)
Ad hoc	-0.022 (0.011)	-0.022 (0.010)
Workload	0.0001 (0.00004)	0.0001 (0.00004)
Time limits	-0.113 (0.039)	-0.112 (0.039)
New members	0.0001 (0.011)	0.0005 (0.011)
Crisis	0.019 (0.007)	0.019 (0.007)
Note: change in the probability that the Commission approves an aid when a variables increases by one unity, all the other values being set at their means. Standard errors in the brackets. [a] The predicted values are estimated from the model 1 in Table 4.9. [b] The predicted values are estimated from the model 7 in Table 4.10.		

Overall, as shown in Table 4.12[46], a *liberal* Commission suffers effectively more from the threats of non-compliance, but the results change considerably according to the different variables.

[46] The results of Table 4.12 refer just to the estimation of model 1 in Table 4.9. However, the results do no present significant variations in comparison to the estimation of model 7 in Table 4.10.

Table 4.12 - The impact of the interaction between threats of non-compliance and Commission's policy preferences on the likelihood of approval (horizontal aid)

		Commission	
		Interventionist	*Liberal*
Sectoral aid	0	0.978 (0.008)	0.877 (0.022)
	1	0.993 (0.003)	0.976 (0.005)
Transparent aid	0	0.984 (0.006)	0.973 (0.007)
	1	0.989 (0.003)	0.947 (0.009)
Unlawful aid	0	0.989 (0.003)	0.976 (0.004)
	1	0.923 (0.038)	0.614 (0.051)

Note: The likelihood of approval is estimated from model 2 of Table 4.9. The values of all the other variables are set to their means. Standard errors in the brackets.

As the monitoring by third interested parties decreases, member states affect more a *liberal* than an *interventionist* Commission if we assume that the level of monitoring depends either on the transparency of the policy instrument or the attention paid to the cases of unlawful aid. In the former case, as the level of transparency decreases, the likelihood that a *liberal* Commission approves an aid increases by about three percentage points. On the contrary, the degree of transparency does not significantly affect the likelihood of approval by an *interventionist* Commission. If the measure under investigation concerns an unlawful aid, the likelihood of approval varies both if the Commission is *interventionist* and *liberal*, but the change is more significant in this last case. This result is also more relevant if we consider the estimation of the models including the fixed effects. On the contrary, if we focus the attention on the specificity of the economic sector, the results do not corroborate hypothesis 2 at all: as the level of control decreases, also the likelihood of approval decreases both when the Commission is *interventionist* and *liberal*.

As in the analysis on the cases of regional aid, the Commission's decisions are affected by the statutory constraints and the level of workload. In comparison to the decisions on regional aid, the decisions on horizontal aid suffer more from the time limits of the formal procedure, while they are less affected by the amount of workload. As Table 4.11 shows, the former changes the likelihood of approval by about eleven percentage points, whereas the latter has a negligible impact on the final decision.

As in the previous sections, the Commission decides especially in favour of schemes than ad hoc measures, but unlike the previous analysis, the correlation between selectivity and likelihood of approval is both negative and significant. Looking at the substantial impact of the degree of selectivity, the probability that the Commission approves an ad hoc measure is about two per cent lower than the likelihood of approval in favour of schemes. In addition, the supranational decisions on horizontal aid seem to take seriously into account the changes in the global economy. The recent financial crisis has increased the likelihood of approval by about two points. On the contrary, the Commission has no particular attitude towards the horizontal measures notified by new member states. The Commission's policy preferences affect the final decisions, but this result loses statistical significance when we include the fixed effects. However, when the Commission is *liberal*, the likelihood of approval for horizontal aid decreases by about two percentage points.

On the whole, this section shows that member states affect the decisions on horizontal aid especially by means of threats of non-compliance (hypothesis 1 and hypothesis 2), whereas they do not take any advantage from the commissioner on competition (hypotheses 3 and 4).

4.4 Main findings

In light of the analysis in the present chapter, the Commission does not appear fully independent of national pressures. On the whole, the results highlight that member states have some opportunities of influencing the decision-making in their favour. In particular, member states may take advantages both from the most influential commissioners on state aid policy and the weaknesses of state aid control. Member state benefit especially from nominating the commissioner on regional policy. The results show that *Commission is more likely to approve the regional aid concerning the member states and the national governments that nominated the commissioner on regional policy*. Assuming that member states nominate the commissioner on regional policy to represent national or government interests within the Commission, this result means that member states may strategically use the commissioners to affect the decision-making and the chances of approval of the aid under investigation. On the contrary, member states do not derive significant benefits from the appointment of the commissioner on competition. I find that national government are likely to benefit from the appointment of such commissioner only when the procedures regard regional aid. However, this result is not statistically significant and we need to investigate further this point.

In addition, when third interested parties are not likely to monitor the aid, *member states may affect the decision-making through credible threats not to comply with supranational regulation and Commission's decisions*. In particular, when third parties either do not or cannot hardly monitor to the aid under investigation, the Commission approves the measure in order to regulate it over the years. Even though this result varies according to the variables that we use to measure the likelihood of monitoring by third interested parties, it is significantly corroborated both by the analysis on the determinants of regional and horizontal aid. Besides, according to our expectations, the impact of threats of non-compliance is depends on the Commission's policy preferences. Member states influence especially the Commission when it is against the implementation on the aid.

In short, as shown in Table 4.13, the analysis in the present chapter finds substantial or preliminary evidences in corroboration of most of the hypotheses I formulate about the impact of member states on state aid decisions.

Table 4.13 – Hypotheses on the member states' influence and empirical evidences

Hypotheses	**State aid (1999-2009)**	**Regional aid (1999-2009)**	**Horizontal aid (1999-2009)**
1. *The less third interested parties are expected to control the aid under investigation, the more the Commission is likely to approve the aid*	✔✔	✔✔	✔✔
2. *The less third interested parties are expected to control the aid under investigation, the more a liberal Commission is likely to approve the aid*	✔		✔
3. *Commission is likely to approve the aid concerning the member states appointed the commissioner on competition*	✖	✖	✖
4. *Commission is likely to approve the aid concerning the government coalition appointed the commissioner on competition*	✖	✔	✖
5. *Commission is likely to approve the regional aid concerning the member states appointed the commissioner on regional policy*	✔✔	✔	
6. *Commission is likely to approve the regional aid concerning the government coalition appointed the commissioner on regional policy*	✔	✔	

Note:
✔✔ : the empirical analysis significantly corroborates the hypothesis
✔ : the empirical analysis partially corroborates the hypothesis
✖ : the empirical analysis does not corroborate the hypothesis

Therefore, supranational decisions on state aid do not rely exclusively on the features of formal procedure and the Commission's policy preferences. Undoubtedly, both these two factors play a relevant role: the final decisions are influenced both by the procedural constraints and the attention paid by the

Commission’s policy preferences. Although this factor has a marginal impact on the likelihood of approval, overall, the decision-making is strongly affected by how the Commission manages the state aid regulation. As a proof that also the Commission organization matters, the type of decision is significantly correlated with the amount of workload. In addition, especially when the procedure concerns a horizontal measure, the final decisions seem to depend also on the attention that the Commission pays both to the degree of selectivity of the aid and the changes in the global economy.

In conclusion, the analysis shows that member states are able to influence the decision-making on state aid. Nevertheless the results do not show how much member states may bias the overall outcome of supranational decisions. In other words, as the Commission’s decisions have an impact on the amount of national intervention in the domestic economy, the point at issue is the extent to which national pressures have serious repercussions on the public expenditure for industry and services.

In order to examine this point more in depth, the next chapter will focus on the impact of Commission’s decisions on a specific sector. Since state aid regulation may vary from an economic sector to another, I will focus the attention on the government measures in favour of car industry. Over the decades, this has been a very contested sector, and, for this reason, it looks suitable to investigate the effects of EU regulation under national pressures.

CHAPTER 5

The effects of Commission's decisions under national pressures: an analysis of state aid for car industry

The previous chapter has shown that member states may influence the supranational decisions on state aid. Since the Commission's decisions may have an important impact on the amount of expenditure that member states grant to industries, the present chapter investigates the effects of supranational decisions on domestic economies when member states affect the Commission. In particular, in the next pages I will examine the consequences of member states' influence on the Commission decisions regarding the measures in favour of car industry. Since car manufacturing constitutes a key sector in many European countries, it represents an ideal case to evaluate the effects of the EU regulation when member states have an incentive to influence the decision-making.

Several contributions have shown how European rules had significantly affected state aid reducing the opportunities for national government to intervene for car manufacturing. This chapter shows that, although state aid control on car industry has considerably consolidated over the decades, the outcome of Commission's decisions on this sector is likely to be still biased by national pressures.

The first section briefly summarizes the main features and the development of the supranational regulation of car industry. Then, the second section focuses on the overall impact of the supranational regulation on the expenditure to car-manufacturers between 1992 and 2009. Finally, the third section shows the effects of the Commission's decisions from 2000 to 2009.

5.1 The development of state aid control on the car industry

Over the decades, the government measures in favour of car industry have usually underlined the conflicting interests of member states and the European institutions. Since the car industry has often constituted a key sector of the domestic economy, national governments have been interested to intervene, for instance, to avoid cases of company failures and the related bad effects on unemployment and domestic production. On the contrary, supranational rules, which aim at preventing that member states protect national champions, have strongly constrained the measures in favour of such sector.

Until the end of the Eighties, as the regulation on car industry was still weak, the interests of member states prevailed over the supranational provisions. As car industries were among the main victims of the first (1973-75) and especially the second (1980-84) oil crisis, the most industrialized countries intervened for this sector (Dancet and Rosenstock 1997). Given both the strategic importance of car manufacturing to domestic economies and the weakness of state aid control, the Commission approved most of the aid between 1977 and 1987 and, as a result, motor vehicle producers benefited from twenty-six billions of Ecu (Dancet and Rosenstock 1997).

Subsequently, once the recession period was over, the regulation of automobile sector completely changed: as member states were more willing to strengthen the single market according to supranational rules, the Commission was able both to foster competition and change approach to national intervention for car industry. In 1985 the Commission presented the White Paper on the completion of the internal market (Commission 1985), but the main change occurred in 1987 when member states signed the Single European Act, committing themselves to remove any trade barrier by the end of 1992 (Stephen 2000). As Germano (2007; 2009) points out, the fall of trade barriers had a deep effect on the strategies of car industries, which were incentivized to gain shares in the global market in order to be competitive. In other words, once trade barriers fell, car industries relied less on the domestic market and, therefore, on the state aid provided by national governments. The effects of the Single European Act have been particularly evident in the case of Fiat. Since 1993, Fiat has significantly changed its strategies in order to increase the sale of motor vehicles outside Italy. Therefore, also the special relationship that Fiat had with the Italian government has considerably changed (Volpato 2008; Germano 2009).

In addition, the Commission strengthen the state aid rules on car industry by means of specific frameworks and guidelines. In particular, in 1988 the Commission adopted a specific framework to regulate national intervention for automobile sector (Cini 2001).

A direct consequence of the significant change of increased competition and the improvements in state aid control was that between the end of eighties and the first half of nineties the Commission rejected many government measures in favour of car industry. For instance, as shown in Table 5.1, between 1989 and 1995 the Commission did not allow member states to implement eleven measures for car industry[47]. In addition to the measures included in Table 5.1, the Commission rejected also two aid regimes in Germany (case 90/381/CEE) and Spain (case 96/313/CEE) and an aid concerning a company producing car components in France (case 89/305/CEE). Some negative decisions had a significant impact on domestic economy. For instance, this is the case of the decisions on the measures granted by the Italian and the British government to Alfa Romeo and Rover respectively.

In 1985 the Italian government, through IRI (the national agency for industrial reconstruction) and Finmeccanica (an Italian holding involved in several industrial sectors) made a contribution of capital in favour of Alfa Romeo. This contribution was about 260.2 billions of lire. Then, in 1986 Finmeccanica made a second contribution of 408.9 billions of lire before Alfa Romeo was sold to Fiat in November of the same year. These measures were considered illegal from the Commission, which ordered Alfa Romeo to pay back the aid, because Italian

[47] This is a considerable figure: it constitutes about the seven per cent of all the negative decisions reported in the Official Journal of the European Union from 1964 to 1995.

government did not notify any restructuring program as provided for in that case by the EU law on state aid[48].

Table 5.1 – Negative decisions concerning car-industry from 1988 to 1995

Company	**Member State concerned**	**Document**	**Decision date**
Renault group	France	88/454/CEE	29/03/88
Rover group	United Kingdom	89/58/CEE	13/07/88
Pegeut	France	89/305/CEE	21/12/88
Alfa Romeo	Italy	89/661/CEE	31/05/89
Renault group	France	91/C11/03	22/05/90
Rover group	United Kingdom	91/C21/02	27/08/90
Volkswagen	Belgium	91/254/CEE	28/11/90
Toyota Motor	United Kingdom	92/11/CEE	31/07/91
Daimler-Benz	Germany	92/465/CEE	14/04/92
Rover DAF	United Kingdom	93/349/CEE	09/03/93
Volkswagen	Germany	96/313/CEE	20/12/95

Source: Official Journal of the European Union (1988-1995)

The Commission ordered the recovery also of the measure from British government in favour of Rover. Since the British government altered the terms of sale to confer selective advantages to British Aerospace, which took over Rover, the Commission did not allow the aid. In particular, the Commission requested British Aerospace to pay back both the amount of the aid (about 44 millions of pound sterling) and the connected interest payment[49].

These decisions created important precedents and contributed further to strengthen the authority of European institutions on automobile sector. Nevertheless, as car-

[48] For further information, see the decision of the European Court of Justice included in C-305/89.
[49] As Dancet and Rosenstock (1997) stress, this was the first case of interest payment connected to reimbursement.

industry is particularly sensitive to the changes in the international market, the Commission has continued to adjust the regulation over the years. In 2001, and then 2003, the Commission included specific norms for motor-vehicle industry in the multi-sectoral frameworks on regional aid (Commission 2001; 2003b). Furthermore, recently these frameworks have been temporarily revisited in response to the repercussions of the financial crisis on the motor vehicle market.

At present, according to supranational guidelines (Commission 2004c; 2006a; 2006b; 2008a) and frameworks (Commission 2006f), Commission is expected to authorise member states to support car industry if the primary objective of the aid is environmental protection, research and development, regional development, promoting risk capital investments and in some cases restructuring and rescuing firms in difficulty. However, examining the decisions case by case, these provisions seem to have contributed only partially to orient member states towards Commission preferences. For instance, in the last decade the Commission has rejected also government measures in favour of consolidated priorities, such as regional development. In particular, in 2002 the Commission did not authorize nor the regional aid granted from the German government to BMW neither the regional aid from the Spanish government to Volkswagen[50]. In addition, focusing the attention on some recent cases, car manufacturing seems still to represent a tricky sector in state aid regulation. For instance, as shown by the aid granted by Belgian and Romanian government to Ford in 2005 and 2008, in the last years Commission and member states have strongly disagreed on the government measures having training as primary objective[51].

On the whole, although the regulation is still debatable, recent analysis suggest that the EU rules have significantly affected the opportunities for member states to intervene in favour of car industry. I investigate this point in the next section, where I show the trend of aid expenditure for car manufacturing over the years.

[50] For further information, see the state aid C26/2002 (Commission 2003a) and C38/2002 (Commission 2004a).

[51] For further information, see the state aid C40/2005 (Commission 2006d) and C39/2008 (Commission 2010b).

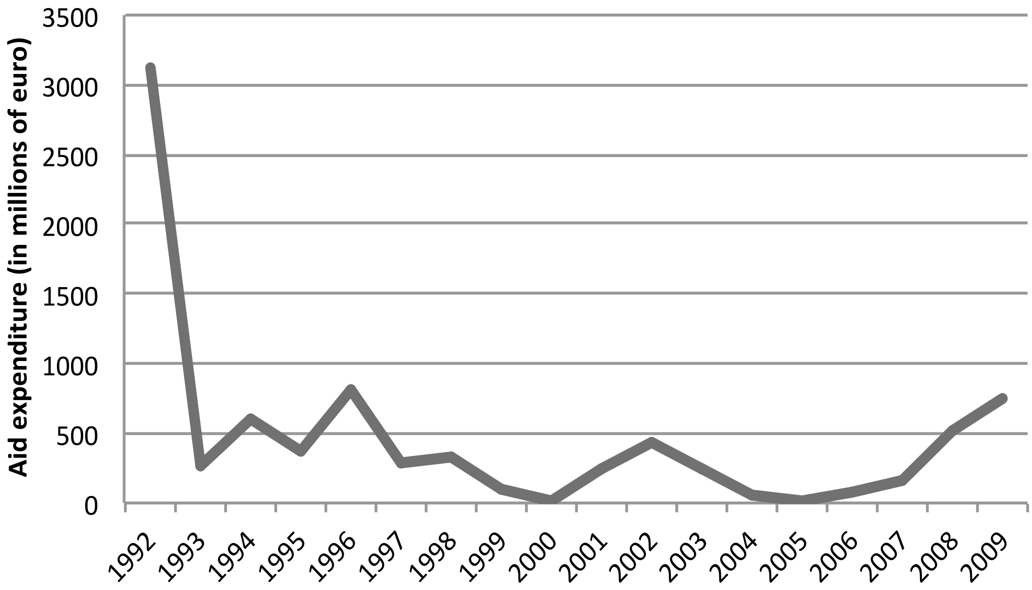
5.2 The overall impact of EU regulation on the aid to car industry

Some recent contributions focusing on car-industry point out the considerable impact of the European institutions on state aid. Germano (2007; 2009) points out that European rules have significantly reduced the opportunities and the incentives for government intervention to support the automobile sector. In particular, Germano (2009:208) emphasizes the serious changes that have occurred since 1993, when trade barriers within EU fell. After 1993, state expenditure suddenly decreased to the point that the overall expenditure for car industry between 1989 and 1996 was lower than the aid granted to Renault during the eighties (McLaughlin and Maloney 1999). Focusing on the period between 1992 and 1999, Germano highlights how member states have significantly cut down the grants for car industry over the decades. Between 1992 and 1999 all the member states spent less than just France and Italy between 1977 and 1987: in this last period, French governments granted more than 4.5 billions of Ecu to Renault and Italian governments subsidized Fiat with more than 6.5 billions of Ecu (Germano 2007; 2009).

As Figure 5.1 shows, the overall expenditure from member states to the car industries suddenly lowered after 1992. The value of 1992 is affected by the intensity of the aid provided by the Italian government, which granted more about three billions of Ecu. Even so, this figure gives further evidence for the overall decrease of state aid expenditure: from 1993 to 2009 the overall expenditure has never exceeded one billion of euros per year, despite the number of EU countries has practically doubled. As Germano (2007; 2009) emphasizes, the overall decrease of state aid expenditure for car-industry corresponds to significant reductions in the amount of national intervention in France, Germany, Italy and United Kingdom, that is, the countries that had most granted car industry in the past decades.

As Table 5.2 shows, over the years the governments in France, Germany, Italy, Spain and United Kingdom have progressively lowered the amount of state aid. In all these member states, the drop in the expenditures is particularly evident: in each country, national governments implemented between 2004 and 2009 less than the five per cent of the grants of 1992-1997 period. Unlike the other countries, in Germany the national support is still important and the aid expenditure has significantly decreased only recently. Nevertheless, no government in these countries has spent as much as it usually did during the eighties.

Figure 5.1 – State aid expenditure for car-industry per year (1992-2009)



Sources: Data from 1992 to 1999 (Commission 1997; 1998; 1999); Data from 2000 to 2009: personal computations on information available at the official website of the EU Commission.

According to the analysis of Germano, both Figure 5.1 and Table 5.2 highlight the effects of the changes at European level on the government intervention in the domestic economies. Germano (2007: 254-255; 2009: 208) emphasizes especially the role played by the Single European Act and the increasing competition after 1993. However, Figure 5.1 provides some evidences also for the impact of supranational rules on state aid. On the whole, it seems plausible that as the competition among car manufacturer has increased, the supranational rules on state aid have contributed to reduce the the opportunities for government intervention.

As the trend shows, as soon as the Commission consolidated both the specific provisions for aid to the car industry and the procedure of notification, the overall aid expenditure further decreases. In particular, since 1999 member states have constantly granted less than 0.5 millions of euros, excepting in 2008 and 2009, where governments have slightly increased the amount of aid in response to the international period of crisis.

Table 5.2 – Aid expenditure for car-industry in five countries (in millions of euro)

Member State	**1992-1997**	**1998-2003**	**2004-2009**
Italy	3285	154.5	75.01
Germany	980	742.68	362.19
Spain	626	86.11	62.11
United Kingdom	224	190.39	44.93
France	121	52	0

Sources: Data from 1992 to 1999 (Germano 2009: 180); Data from 2000 to 2009: personal computations on information available at the official website of the EU Commission.

The results in this section show that supranational rules have increasingly constrained government intervention in the domestic economy. However, they do not point out the extent to which the Commission's decisions and their outcomes are affected by national pressures. The next section focuses on this point, looking at the overall effects of member states' influence on the decisions concerning car industry that the Commission has taken in the last decade.

5.3 The effects of Commission's decisions on aid to car industry

From 2000 to 2009 the Commission has evaluated sixty aid concerning fourteen member states and thirteen companies[52]. Only nine aid have been notified according to the Block Exemption rules, whereas most of the measures have followed the standard procedure provided by the Council regulation 659/1999. About the half of measures constitutes ad hoc aid, while thirty cases refer to

[52] According to the data provided by OICA, I examine only the companies that have a plant at least in one EU country. Data are available at http://oica.net/categiry/production-statistics/. Some companies operate in Europe but they have not benefited from state aid from 2000 to 2009 (for instance, Honda, Lotus, Mitsubishi, Paccar, Porsche and Suzuki).

individual applications. Only in three cases national governments have applied a scheme.
The Commission has opened a formal investigation in twenty-four cases and in fifteen cases the procedure has ended with either a negative decision or a withdrawal. Member states have correctly notified twenty-six aid, while the remaining cases have started with an application by third interested parties.
All the measures concern car industry, but they involve different sectors. Member states have granted thirty-four aid to install industrial machinery or equipment and twenty-one measures for the manufacturing of vehicles or car components. One aid regards the sale of motor vehicles, while in four notifications the national governments have not specified the economic sector concerned.
In most cases, the primary objective of the aid has been regional development (thirty four measures) and training (sixteen measures). Furthermore, member states have applied two measures for environment protection and one aid each to remedy for a serious disturbance in the economy, research and development, sectoral development, small and medium enterprises. In five cases, notifications have not included specific information about the primary objective of the aid.
In forty-eight applications, member states have notified to implement the aid mainly by direct grant. Apart from eight cases where the notifications do not present any information on the policy instrument, the remaining four aid have been implemented either by guarantees or tax allowance.
On the whole, the measures show that Commission has not been independent by national pressures. According to the hypotheses presented in chapter 2 and the results of chapter 4, member states seem to affect the supranational decisions on car industry especially when they can credibly threaten the Commission not to comply. In particular, when other member states and firms monitor the aid under investigation, that is, when the aid was previously not implemented in agreement with supranational rules, the Commission rejects about the half of applications (fifteen aid out of thirty-four). On the contrary the Commission approves all the twenty-six measures that it evaluates when it cannot rely on the monitoring by third interested parties. According to our hypotheses, this result seems to corroborate that the Commission is forced to approve in order to avoid that member states

implement the measure without following the European rules and take the aid under its authority over the years.

In addition, despite the number of cases is limited, member states seem to influence the decision-making also through the commissioner on competition and regional-policy. In seven cases the member state that applies the aid to car industry is also the member state of the most influent commissioners: in five cases out of seven the Commission approves the aid. Italian government benefits from the commissioner on competition to approve two aid for Fiat, while Poland take advantages of the commissioner on regional policy to implement three measures to Volvo and Ford.

As the data mean that member states have an impact on decisions on car industry, we can examine the overall effects of Commission' authority when it is affected by national pressures. On the whole, the Commission's decisions have marginally affected the national spending to the car industry. Although negative decisions have contributed to decrease the expenditure, the amount of aid authorised by the Commission is very close to amount that member states intended to implement. Between 2000 and 2009 member states have applied about 2.8 billions of euro[53] and the Commission has allowed national governments to spend about 2.5 billions of euro. In other words, Commission's decisions have cut about the eleven per cent of the overall expenditure notified by member states.

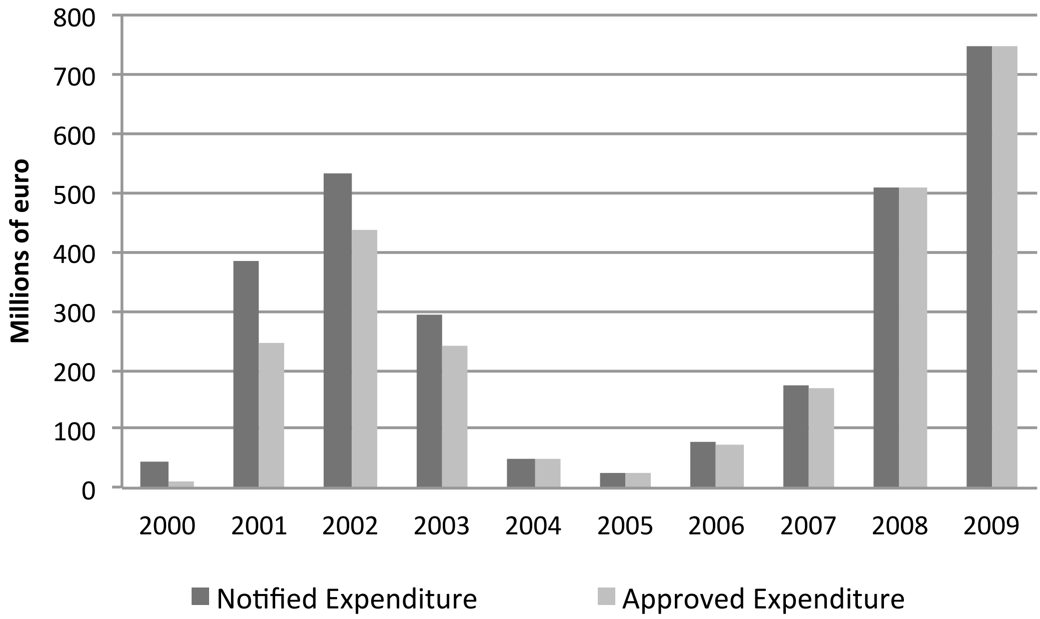
As shown in Figure 5.2, supranational decisions have affected the national spending for car industry especially from 2000 to 2003. In 2000 the Commission allowed member states to implement only a quarter of the amount of aid that they intended to grant. In particular, the Commission approved about 11 millions of euro, whereas member states had applied for granting about 45 millions of euro. In particular, in 2000 the Commission did not allow the Italian authorities to grant 24 millions of euro to the Fiat plant in Rivalta[54]. Between 2001 and 2003, the impact of supranational decisions on government measures decreased, but it was still significant. In 2001, supranational decisions contributed to cut a third of the overall expenditure, while in 2002 and 2003, the Commission rejected about a fifth of the

[53] This figure may be downwardly biased because the notifications C64/2002, which concerns a state aid granted by German government to Daimler-Chrysler, and C75/2002, which concerns a granted by Spanish government to Opel, do not include specific information on the amount of expenditure applied by member states.

[54] For further information, see state aid C8/1999 (Commission 2000).

national spending for the car industry. After 2003, the Commission has just slightly affected the amount of state aid. In 2006 and 2007 the Commission allowed member states to implement more than ninety per cent of the notified expenditure. On the contrary, in 2004, 2005, 2008 and 2009 the Commission's decisions had no impact of the aid expenditure: in these years the Commission approved all the national measures for the car industry.

Figure 5.2 – Trend in notified and approved aid expenditure (2000-2009)



Sources: personal computations on data available at the official website of the EU Commission.

Examining the data more in detail, the impact of the supranational decisions on aid expenditure between 2000 and 2009 has depended especially on three cases of rejections. First, in 2001 the Commission evaluated negatively most of the aid that German authorities planned to grant in favour of Daimler-Chrysler, considerably reducing the regional aid for a new engine plant in Thüringen. The Commission found that only 57 millions of euro for a total eligible costs of around 185 millions was compatible with state aid rules for motor vehicle sector[55].

Second, in 2002 the Commission did not allow Germany to implement part of the aid for a new Bmw car plant in Leipzig. Although the Commission considered the

[55] For further information, see state aid C61/2001 (Commission 2002b).

aid useful and necessary, according to state aid rules, in this case it could authorise only the thirty per cent of the eligible investments costs. Therefore, German authorities were allowed to grant 363.16 millions of euro instead of 418.6 millions[56].

Third, in 2003 the Commission approved only a quarter of the measure in favour of a Volkswagen plant in Navarra. After the formal investigation, the Commission concluded that just a part of the regional aid planned by Spanish government was compatible with the common market. As a result, the Commission authorised Spain to implement 15 millions of euro out of the 61 millions notified by Spanish authorities[57].

Since the impact of the supranational decisions is limited to three cases especially, the Commission has significantly constrained a few member states and car manufacturers. As shown in Table 5.3 and 5.4, which show the consequences of Commission decisions on aid expenditure in each member state and company, between 2000 to 2009 state aid regulation had a significant impact especially for five countries and four car manufacturers.

As Table 5.3 shows, the Commission has considerably reduced the amount of national intervention in Spain, Belgium, Germany, United Kingdom and Italy. Spain was the country most affected by the supranational decisions: the Commission has allowed around sixty per cent of the state aid and, on the whole, rejected about 50 millions of euro. On the contrary, the Commission has cut less than twenty per cent of aid expenditure in Belgium, Germany, United Kingdom and Italy. In addition, the supranational decisions have slightly affected the measures for car industry in Austria, which has implemented around 37 millions of euro instead of the 44 millions that the national government had previously planned. Finally, the Commission has marginally changed the national expenditure for car industry in Portugal and France, while it has approved all the state aid for this sector in Czech Republic, Hungary, Poland, Romania, Slovakia and Sweden.

Table 5.4 highlights that the supranational decisions have affected especially the state aid in favour of Daimler-Chrysler, Volkswagen, Fiat and Psa. In particular, the

[56] For further information, see state aid C26/2002 (Commission 2003a).

[57] For further information, see state aid C38/2002 (Commission 2004a).

Commission has cut down around forty-three and twenty-four per cent of the national expenditure for Daimler-Chrysler and Volkswagen respectively.

Table 5.3 – Expenditure for car-industry per member state (2000-2009)

Member State	**Number of aid**	**Number of negative decisions**	**Notified Expenditure**	**Approved Expenditure**
Belgium	11	3	104.17	88.48
Germany	8	4	1138.5 [a]	941.87
Spain	7	2	160.84 [b]	110.21
United Kingdom	7	1	145.45	117.32
Italy	7	2	188.41	161.51
Poland	4	0	7.95	7.95
Romania	3	0	600	600
Slovakia	3	0	99.8	99.8
Sweden	3	0	74.44	74.44
Austria	2	1	44.52	37.22
Portugal	2	1	41.7	38.26
Hungary	1	0	111.5	111.5
Czech Republic	1	0	111	111
France	1	1	5.48	0
Total	60	15	2833.76	2499.56

Sources: personal computations on data available at the official website of the EU Commission.
[a] This figure does not include the amount notified in the aid C64/2002 (information not available)
[b] This figure does not include the amount notified in the aid C75/2002 (information not available).

The aid for Fiat and Psa were reduced only by about fifteen per cent, whereas the government measures for Ford, Bmw, Opel have been reduced by less than ten per cent. In addition, the Commission had an impact on the expenditure for General Motors, but the substantial effects on the final outcome are negligible.

Table 5.4 – Expenditure for car-industry per car manufacturer (2000-2009)

Manufacturer	**Number of aid**	**Number of negative decisions**	**Notified Expenditure**	**Approved Expenditure**
Ford	17	3	845.52	800.22
Volvo	8	0	86.52	86.52
Fiat	7	2	188.41	161.51
Bmw	6	2	826.48	763.74
Volkswagen	4	2	246.83	187.65
Opel	4	2	62.7 [b]	59.26
Nissan	3	0	72.52	72.52
Daimler-Chrysler	3	2	296.5 [a]	168.5
Toyota	2	0	2.72	2.72
PSA	2	1	35.22	29.74
Hyundai	1	0	111	111
General Motors	1	1	5.33	2.18
Kia	1	0	32	32
Renault	1	0	22	22
Total	60	15	2833.76	2499.56

Sources: personal computations on data available at the official website of the EU Commission.
[a] This figure does not include the amount notified in the aid C64/2002 (information not available)
[b] This figure does not include the amount notified in the aid C75/2002 (information not available)

In conclusion, the above analysis stresses that when the Commission operates under national pressures, supranational decisions have a marginal impact on the government measures for the car industry. The Commission's decisions do not contribute to cut significantly the national spending for car manufacturing. In particular, the supranational decisions have considerable repercussions only on few member states and companies and in most of cases the Commission approves exactly what member states planned.

In light of the analysis in the previous section, European rules have been able to reduce the incentives for member states to plan state aid to car industry over the decades. However, the results of this section suggest that the overall expenditure to car manufacturing is likely to decrease further, if the Commission consolidates it autonomy from national pressures.

CONCLUSIONS

The Commission's decisions on state aid do not seem fully independent from national pressures. The results presented in chapter 4 show the strong correlation between the nature of supranational decisions and the opportunities for member states to influence the decision-making.

First of all, the present analysis emphasizes that the Commission is affected by member states when third parties are not likely to monitor the aid under investigation. This result is in accordance with the expectations deriving from the formal model in chapter 2, which underlines that member states are expected to take advantage from the circumstances where the costs on non-compliance are likely to be lower than the benefit of the aid. In particular, where member states do not feel controlled by third interested parties, such as other members or firms, they can credibly threaten the Commission not to comply either with state aid rules and eventual negative decisions. Therefore, the Commission should approve the measure under investigation in order to keep the aid under its supervision and, therefore, to consolidate its authority on state aid policy over the years. According to this point, the results show that the likelihood of approval decreases when third parties are more likely to monitor the aid under investigation, that is, when they compete with the member states concerned in the aid, when they have more opportunity to evaluate the distortive impact of the aid or when they have reasons not to trust the member state that will implement the aid.

Furthermore, according to the expectations, the results show that the effects of the threats of non-compliance on the final decision depend on the Commission's policy orientations. In fact, they affect the Commission especially when it strongly sides against government intervention in the domestic economy. On the contrary, they have lower or negligible influence on the decisions when the Commission is more *interventionist*. As expected by the model in chapter 2, if the Commission is more *interventionist*, it agrees on government intervention independently of other factors. On the contrary, when the Commission is more *liberal*, it approves the aid especially to avoid that member state does not implement the measure without following the supranational rules.

Second, the analysis shows that supranational decisions may be influenced from the nationality and the government affiliation of the commissioners that are most influential on state aid policy. This evidence corroborates the hypotheses that member states may benefit from the commissioner to affect the decision-making. The results highlight especially the role played by the commissioner on regional policy. In particular, the likelihood that the Commission approves an aid increases significantly when the regional aid under investigation concerns the member state or the government coalition that nominated the commissioner on regional policy, who is the commissioner most influential on government measures aiming at regional development. On the contrary, the analysis emphasized that, except for the procedures on regional aid, member states do not take advantage from the nationality and the government affiliation of the commissioner on competition.

Overall, the analysis emphasizes that member states may influence the Commission's decisions. Nevertheless, such influence varies both among policy objectives and member states. The Commission is affected especially when it evaluates aid concerning regional development. On the contrary, when the decision-making concern horizontal measures, the Commission seems to be affected only by the threats of non-compliance. In addition, although in theory all the member states are able to influence decision-making, the results show that France, Germany and Spain and, to a lesser degree, Italy and Netherlands have benefited more than others from the weakness of state aid control. In addition, France and Poland appear to influence the decisions also through the commissioner on regional policy.

In light of these results, the Commission is to be considered fully independent of member states on two conditions. First, the Commission has always to rely on the control by third interested parties. Second, the commissioners should not favour national interests. Therefore, the Commission may increase its independence of national preferences in two ways. First of all, it should consolidate further state aid control increasing the opportunities to monitor directly the implementation of state, relying as little as possible on third parties. Second, although member states may choose strategically the commissioners, the Commission should constrain more the commissioners to supranational priorities. For instance, the Commission could specify further state aid rules on specific sectors and objectives in order to reduce the cases where commissioners may use their discretion to favour the respective national governments. As a proof of this point, the results stress the impact of commissioners on the measures concerning regional development, that are the policy objective on which the supranational regulation is often matter of conflict among DGs and can still be improve upon.

Commission should improve its autonomy especially because member states' influence may have repercussions on the domestic economies and the competition in the common market. The analysis on the government measures in favour of car industry shows that, despite state aid control has consolidated over the years, national pressures on supranational decisions may have considerable impact on the outcome. In particular, when the decision-making is influenced by member states, the Commission tends to approve the expenditure that national government planned to grant for domestic firms. On the contrary, if the Commission were more independent from member states, it would be likely to cut the public spending to industry.

On the whole, the present analysis contributes to shed new light on the independence that the Commission enjoys when it performs its exclusive competences. The formal autonomy of Commission does not coincide with the independence from national interests that it really enjoys. This study shows that even when the Commission performs its exclusive competences on competition policy is affected by member states. In particular, according to Pollack (1997), the Commission's independence depends on the control mechanisms that member states can execute. Although Commission derives its competence on state aid control directly from the Treaty and, therefore, member states have few means to affect its decisions, the results show that under certain circumstances supranational decisions may be affected by national preferences. As the independence is conditional to the context, the present analysis contribute to explain both why the Commission may appear autonomous from national pressures, as highlighted in Smith (2001) and Blauberger (2009) and state aid can seem time inconsistent, as suggested by many contributions of comparative political economy (e.g. Aydin 2007; Zahariadis 2010).

However, we need further analysis to examine more in depth the influence of member states on state aid and competition policy. First of all, we need to investigate further the relationship between national governments and commissioners. The results highlight that often member states benefit from the appointment of commissioners, but we do not know the extent to which our assumptions are correct. In short, we have a significant relation, but we need to know more about the rationale of appointment in order to interpret the results as a strong proof of national influence on the decision-making. Second, the present analysis does not take into account the conflict between commissioners and the head of general directorates. As Cini and McGowan (2008:48) stress, commissioners and general directorates may disagree because the former its more subject to external political pressures while the latter is likely to ensure legal and economic consistency of supranational control. Third, the present analysis ignores the relationship within the College of commissioners during the decision-making. It implicitly assumes that commissioner on competition and the commissioner on regional policy affect the nature of the decision-making. In real facts, although these two commissioners are likely to be the agenda setter in the decision-making, we should investigate more attentively the coalition formation within the Commission in the most controversial cases.

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