



C&S MONTHLY REPORT – SEPTEMBER 2026



Brussels, October 2026

Clayton & Segura State Aid Lawyers report regularly on the most relevant developments from the capital of Europe on State aid matters.

State Aid Report – September 2026

State aid is back in full swing after the summer, with fresh developments at the Commission, the EU Courts and the EFTA Surveillance authority.

On the Commission's side, the opening of an in-depth investigation into an arbitration award ordering Spain to compensate JGC has been published in the Official Journal, triggering the period for interested parties to submit their observations. There have also been two developments related to the Commission's objective of technological independence: the first Important Project of Common European Interest in the field of AI has been pre-notified under State aid rules, and the Commission and the European Investment Bank have launched an initiative to boost investment in European tech scale-ups.

At the judicial level, the Court of Justice has addressed the question of the exclusion of undertakings in difficulty from aid under other State aid frameworks, and non-contractual liability for State aid.

All these developments are described in this briefing.

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NEW DECISIONS

I. Formal investigation

In-Depth Investigation into Arbitration Award Ordering Spain to Compensate JGC

On 23 September, the Commission published the opening of in-depth investigation procedure regarding the arbitration award ordering Spain to pay JGC Holdings Corporation (JGC) compensation for regulatory changes to its 2007 renewable electricity support scheme. The 2021 arbitral award

ordered Spain to pay EUR 23.5 million, plus interests and additional costs.

The Commission's preliminary view is that the arbitration award and its implementation constitute State aid within the meaning of [Article 107\(1\) TFEU](#). It will further investigate its compatibility with the internal market and with the criteria of the applicable [State aid guidelines](#). Furthermore, the Commission will analyse whether a decision by an investor-State arbitration is in accordance with the principle of autonomy of the EU's legal order.



Interested third parties can submit comments within a month of publication. Clayton & Segura can help you prepare and submit your comments.

For more information on [SA. 102404](#), see the publication in the [OJ](#) and our [PR](#).

II. Energy and Decarbonisation - CEEAG

Germany: Commission approves up to EUR 35.2 billion State aid for electricity production

This measure, with an estimated cost between EUR 15.6 billion and EUR 35.2 billion, aims to ensure security of electricity supply in 2031.

The aid will be granted through competitive bidding. The first auctions will be organised in 2026 and in 2027, if undersubscription occurs. These auctions are reserved for additional long-term capacity based in Germany. The subsequent auctions, to be organised in 2027 and 2029, will be open to all technologies and to both existing and additional capacities.

Germany will also implement decarbonisation tenders to accelerate the decarbonisation of part of its gas-fired capacity via a switch to hydrogen, helping to offset a possible lock-in of natural gas, and provide support for the switch from gas.

The Commission assessed the German measure under [Article 107\(3\)\(c\) TFEU](#) and the Guidelines on State aid for climate, environmental protection and energy 2022 ([CEEAG](#)). It found that the measure is necessary, appropriate and proportionate.

For more information, see the Commission's [PR](#).

III. Aid approved under the Middle East Crisis Temporary State Aid Framework (METSAF)

Romania: Commission approves EUR 11 million State aid for pig farmers facing increased fuel and fertiliser prices

The scheme aims to mitigate the impact of additional costs incurred by pig farmers directly affected by the Middle East crisis between 1 March 2026 and 31 December 2026. The aid will take the form of direct grants, and the amount will be calculated based on the increase of fuel and fertiliser prices affecting

production costs, with a maximum of EUR 50 000 per company. The scheme will run until 31 December 2026.

The Commission assessed the scheme under [Article 107\(3\)\(c\) TFEU](#) and Sections 1 and 2.1 of the Middle East Crisis Temporary State Aid Framework ([METSAF](#)) and found that it is necessary, appropriate and proportionate to facilitate the economic activity and does not adversely affect trading conditions to an extent contrary to the common interest.

The decision will be made available under the case number SA.124649 in the [State aid register](#).

For more information see the Commission's [PR](#).

Romania: Commission approves EUR 52 million State aid for cattle farmers facing increased fuel and fertiliser prices

The scheme will run until 31 December 2026 and aims to mitigate the impact of the increase in agricultural fuel and fertiliser prices.

The aid will take the form of direct grants, with a maximum of EUR 50 000 per company.

The Commission assessed the scheme under [Article 107\(3\)\(c\) TFEU](#) and Sections 1 and 2.1 of the Middle East crisis Temporary State Aid Framework ([METSAF](#)). It found that the scheme is necessary, appropriate, proportionate and does not adversely affect trading conditions to an extent contrary to the common interest.

For more information, see the Commission's [PR](#).

Portugal: Commission approves EUR 30 million State aid for agricultural, fishery and aquaculture companies facing increased fuel and fertiliser prices

The scheme, which will run until 31 December 2026, aims to mitigate the impact of the increase in agricultural fuel and fertiliser prices due to the Middle East Crisis.

It will take the form of direct grants, and each company may receive a maximum of EUR 50 000.



For the agricultural sector, the aid for fertilisers is based on a fixed amount depending on the number of hectares of agricultural surface and the animals of the company. The aid for fuel costs consists of EUR 0.10 per litre of agricultural or marine diesel consumed from 1 April to 30 June 2026.

The Commission assessed the scheme under [Article 107\(3\)\(c\) TFEU](#) and Sections 1 and 2.1 of the Middle East Crisis Temporary State Aid Framework ([METSAF](#)). It found that the scheme is in line with the conditions set out in the METSAF. In particular, the aid will be granted based on a scheme with a clear estimated budget and will be provided to temporarily support the development of companies active in the above-mentioned fields. In conclusion, the Commission found that the scheme is necessary, appropriate and proportionate.

For more information, see the Commission's [PR](#).

IV. Infrastructure

Czech Republic: Commission approves EUR 53 million State aid for construction of multifunctional hall in Brno

The measure covers an increase in the construction costs that was not anticipated at the initial stage of the project. Without the aid, the project would not continue. The original measure was approved by the Commission in [July 2023](#).

The Commission assessed the measure under [Article 107\(3\)\(c\) TFEU](#). It found that the additional aid is necessary and appropriate to strengthen sport and cultural economic activities that will contribute to the economic development of the South Moravian region. Furthermore, it found that the aid is proportionate and will have limited impact on competition and trade between Member States.

The decision will be made available under the case number SA.124035 in the [State aid register](#).

For more information, see the Commission's [PR](#).

V. Services of General Economic Interest (SGEI)

Germany: Commission approves EUR 400 million State aid to enhance insulin supply resilience

The aid, a compensation for providing a service of general economic interest (SGEI), is granted to Sanofi-Aventis Deutschland GmbH.

As part of its public service obligation, Sanofi will:

- build a new insulin factory at its site at Industriepark Frankfurt-Höchst by 31 December 2032;
- ensure an annual production of at least 1.1 tonnes of insulin analogues (insulins) at its Frankfurt-Höchst site until 31 December 2042;
- stockpile 1 tonne of insulin active pharmaceutical ingredients until 31 December 2042; and
- prioritise the European Economic Area ('EEA') markets in case of insulins shortages.

Without receiving the aid in question, Sanofi would close its German site. This would decrease the security of supply of insulins in the EEA markets, as no production sites would remain in Germany and only one production site would remain in the EEA. As some products, such as human insulin, would no longer be produced in the EEA, this would make European markets dependent on imports from third countries.

The Commission assessed the German measure under [Article 106\(2\) TFEU](#) and the [2012 SGEI Framework](#) and found that the SGEI entrusted upon Sanofi is genuine, the compensation does not exceed the net costs of the provision of the public service obligation, arrangements have been made for avoiding and recovering any overcompensation, and the entrustment act complies with public procurement rules. This measure was assessed in the context of the [Commission's proposal relating to the Critical Medicines Act](#) and its [Guidance on the application of State aid rules in the context of the Critical Medicines Act](#).



For more information, see the Commission's [PR](#).

VI. Nature conservation

Belgium: Commission finds that support for Flemish land management associations does not constitute State aid

The public funding was granted between 2003 and 2017 to Natuurpunt Beheer, Durme and Limburgs Landschap, all three non-for-profit organisations. It was conceded for the acquisition of land suitable for nature conservation in Flanders, which was subsequently landscaped, transformed into and managed as nature reserves.

In June 2024, the Commission opened an in-depth investigation to assess whether the public funding of the three associations constituted State aid, following a complaint by the Flemish Association for Equal Rights in relation to Nature Management.

The Commission concluded that, as nature conservation and education activities are not economic in nature, public funding awarded in their support does not constitute State aid. Other activities, such as cafeteria services or book sales were conducted on a limited scale and only on local markets. As they are not liable to have an effect on trade, they do not constitute State aid.

The decision will be made available under the case number SA.36303 in the [State aid register](#).

VII. Agriculture

Italy: EU allocates over EUR 73 million in support to farmers

Member States have endorsed the Commission's proposal to mobilise over EUR 73 million from the agricultural reserve to Italy to help compensate farmers in areas affected by outbreaks of avian flu and African swine fever between November 2024 and April 2025.

These funds will support farmers working in the poultry and egg, as well as pigmeat sectors, which were exceptionally affected by the outbreaks. National authorities must distribute the aid by 31 May 2027 at the latest. A total of EUR 61 million will

be provided for poultry and egg farmers for outbreaks, while EUR 12.5 million will be allocated to affected pigmeat farmers.

The funds come from the [Common Agricultural Policy for 2023-2027](#), which includes an agricultural reserve of at least EUR 450 million per year to cope with market disruptions or exceptional events affecting production or distribution.

For more information, see the Commission's [PR](#).

NEWS FROM THE EFTA SURVEILLANCE AUTHORITY

Norway: ESA approves prolongation of support scheme for digital games

The EFTA Surveillance Authority (ESA) has approved a one-year prolongation of Norway's aid scheme for digital games. The scheme will now run until 31 December 2027.

Its aim is to support the development, production, promotion and distribution of digital games that promote Norwegian culture. This can include games developed in Norwegian or Sami, or games focusing on Norwegian culture, history or topics.

The original aid scheme was approved in [2021](#). Norway notified a prolongation of the scheme without any material changes as the market situation has not materially changed since the adoption of ESA's decision. Therefore, the budget for the scheme has been increased from NOK 80 million to NOK 90 million.

ESA assessed the prolongation and considered it compatible pursuant to [Article 61\(3\)\(c\)](#) of the EEA Agreement.

For further information, see ESA's [PR](#) and ESA's [decision](#).

Norway: ESA approves amendments to CO2 compensation scheme

The scheme compensates undertakings in certain energy-intensive industries for increases in electricity



prices resulting from indirect emission costs under the European Emissions Trading System (ETS) and is aimed at reducing the risk of carbon leakage, which may follow from companies relocating their production to countries outside Europe with weaker emission constraints.

ESA initially approved the Norwegian scheme in [2022](#) and adopted amendments in [2023](#) as well as in [April](#) and [December 2024](#). ESA's latest approval concerns the following amendments:

- An expansion of the list of sectors that are eligible for aid to include the sectors added by ESA's 2026 amendments to the Guidelines.
- An increase of the maximum aid intensity that can be granted to sectors that were included in the original scheme from 75% to 80%, for costs incurred as of 2026. For newly added sectors the maximum aid intensity will remain at 75%.
- An update of the methodology for setting the Norwegian CO2 emission factor and the setting of a new CO2 emissions factor for Norway.

The scheme remains subject to an annual compensation cap of NOK 7 billion.

ESA assessed the amendments under [Article 61\(3\)\(c\)](#) of the EEA Agreement and the ETS Guidelines and concluded that the scheme remains compatible with the functioning of the EEA Agreement.

For further information, see ESA's [PR](#).

NEWS FROM THE COURTS

The Court of Justice states that undertakings in difficulty are excluded from the advantages granted to high consumers of natural gas or electricity

The Court of Justice has delivered its judgment in Joined cases [C-503/25](#) and [C-504/25](#), *Acciairie*

d'Italia SpA v CSEA. The Court answered two preliminary questions concerning one issue: whether a national provision excluding benefits to undertakings placed under extraordinary administration because of being considered an undertaking in difficulty was compatible with EU law.

The company, Acciairie d'Italia Spa (ADI), is the parent company of Italy's leading steel group. It was placed under extraordinary administration on 29 February 2024. Later, it requested CSEA, a national authority, to benefit from support conceded to high electricity and high gas consumption companies. CSEA denied the request arguing that its condition amounted to undertakings in difficulty in accordance with point 20 of the [Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty](#).

ADI brought the matter before the national courts, which referred the above-mentioned question to the Court of Justice. The latter concluded that an undertaking placed under extraordinary administration is an "undertaking in difficulty" within the meaning of EU law. Furthermore, according to point 23 of the Guidelines, an undertaking in difficulty cannot be considered an appropriate vehicle for promoting other public policy objectives until such time as its viability is assured. Finally, it stated that energy aid cannot be confused with rescue aid, which pursues separate objectives.

For more information, see the [Court's judgment](#).

Court of Justice judgment in a non-contractual liability claim against the Commission

The Court of Justice has delivered its judgment in [Case C-145/24 P, BdM Banca SpA v. Commission](#), partially annulling the judgment of the General Court in [Case T-415/21](#).

The origin of the dispute is Decision [SA.39451](#), adopted in 2015, in which the Commission found that an intervention from the Fondo interbancario di tutela dei depositi (FITD) in favour of the Italian bank Tercas constituted incompatible State aid. The EU Courts annulled the decision because the Commission had not correctly assessed whether the measures were imputable to the State. BdM Banca



(former Banca Popolare di Bari), who had acquired the bank Tercas in 2014, initiated proceedings against the Commission for non-contractual liability.

In its judgment, the Court of Justice stated that, since the notion of State aid laid down in [Article 107.1 TFEU](#) is based on objective criteria, the Commission has very little discretion when determining whether a measure constitutes State aid. Endorsing the General Court's finding, the Court of Justice considered that the Commission made two conceptual errors relating to the interpretation and application of the concept of State aid. Contrary to the General Court, it found that by making these conceptual errors the Commission infringed Article 107.1 TFEU in a sufficiently serious manner.

The Court of Justice recalled the conditions required by the case law for the European Union to incur non-contractual liability and found that no causal link could be established to the damage claimed. It therefore dismissed the claim for compensation of alleged damages.

For more information, see the [Court's judgment](#).

OTHER NEWS - TECHNOLOGY

1st IPCEI in AI

19 Member States have created and pre-notified under State aid rules the first Important Project of Common European Interest (IPCEI) in the field of artificial intelligence (AI). The countries involved are the following: Austria, Belgium, Croatia, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden. The coordination is in the hands of Germany.

The pre-notification has been done through the [IPCEI Design Support Hub](#), a system through which Commission services help Member States to prepare State aid notifications.

The aim of the project is to develop a range of decentralised and commonly accessible AI services. IPCEI AI covers the entire AI stack and aims to develop advanced and highly innovative AI and compute management technologies and applications, industrial products and services going beyond the state of the art in the sector concerned. This contributes to European digital sovereignty and to the target of the EU becoming a global leader in AI, as set out in the Commission's [AI Continent Action Plan](#), the [Apply AI Strategy](#) and the proposal for a [Cloud and AI Development Act](#).

For more information, see the Commission's [PR](#).

Commission and EIB launch an initiative to boost investment in European tech scale-ups

On 22nd September, the Commission and the European Investment Bank (EIB) Group launched the European Institutional Investors Pact (EIIP) at the [TechEU Equity Summit](#).

The EIIP aims to make it easier for institutional investors to invest in European venture capital and growth equity funds, helping high-growth European companies access the capital they need to scale up and compete globally while remaining rooted in Europe. These institutional investors can be banks, pension funds and insurance companies, among others.

The Pact includes two complementary elements to support investors:

- A Policy Dialogue Forum: led by the Commission, it will enable exchanges with institutional investors on regulatory and investment policies developments.
- An Investment Platform: led by the EIB, it will help investors access investment opportunities.

Thirteen institutional investors have already expressed their intention to channel investments into Europe's innovation and scale-up ecosystem, including through the EUR 15 billion European Tech Champions Initiative (ECTI) 2.0 and the EUR 5 billion Scaleup Europe Fund.



For more information, see the Commission's [PR](#).

STATE AID CALENDAR

- 8 October 2026 Judgment Case [C-173/25](#) P *Agropalma Holdings and Others v Commission*
- 15 October 2026 AG Opinion Case [C-477/25](#) *Servicekörperschaft*
- 22 October 2026 Judgment Case [C-348/25](#) P *PGI Spain and Others v Commission*
- 5 November 2026 Judgment Case [C-505/24 P](#), *Condor Flugdienst v Ryanair*

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