State Aid Report – October 2026

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

October has been a busy month for the State aid world. We have compiled the most relevant State Aid News for you in this Report. Particularly interesting this time from the decision-making practice of the Commission is the support approved in the energy and transport sectors, aid for a semiconductor first of a kind facility, and two openings of formal investigations. But there is more…. including three judgments from the Court of Justice, several Opinions from AG Rantos as well as the Annual Report from the Court of Auditors with State aid relevant findings.

We invite you to read this briefing and to visit the press releases section on our website for further details.

DECISIONS TO OPEN THE FORMAL INVESTIGATION PROCEDURE

Romania: In-depth investigation into arbitral compensation award (SA.113263)

The opening of an in-depth investigation into the arbitration award ordering Romania to pay compensation to LSG Building Solutions GmbH and others for regulatory changes to its 2008 measure establishing a green certificates support scheme to encourage the production of renewable energy was published on the OJ on 6 October 2026.

The Commission's preliminary view is that the arbitration award and its implementation constitute State aid within the meaning of Article 107(1) TFEU. Furthermore, the arbitral award was issued by a tribunal that is not part of the EU judicial system and allowing such a tribunal to issue binding decisions affecting the EU legal order would undermine the autonomy of EU law, the allocation of competences established by the Treaties and the system of judicial protection established by the Treaties.

Third parties have one month to present observations. See invitation to submit comments here.

Denmark and Sweden: In-depth investigation into alleged State aid in favour of PostNord Strålfors A/S (SA.56621-56622)

The decision to open the in-depth investigation in the *PostNord Strålfors A/S* case was published in the OJ on 12 October 2026

The Commission will assess whether:

- The capital injections granted in 2017, 2018 and 2019 to PNS may be imputable to the Danish and Swedish States given the limited size of the capital injections and the fact that they could be decided without any involvement of PN AB.
- In case the capital injections granted in 2017, 2018 and 2019 to PNS constitute State aid, they can be considered compatible with the market given the financial result of PNS. Third parties have one month to present observations.

See invitation to submit comments here.

POSITIVE DECISIONS

I. Energy and Decarbonisation

Croatia: EUR 60 million State aid scheme to support energy-intensive companies and reduce carbon leakage (SA.123819)

The aid scheme will be in place until 2030 and supports companies in specific sectors that are energy-intensive and exposed to international competition such as iron, paper, steel or chemicals. The aid will cover up to 80 per cent of beneficiaries' indirect emissions costs incurred between 2025 and 2030. Beneficiaries must either meet at least 30 per cent of their electricity consumption from carbon-free sources or invest at least 50 per cent of the aid amount in projects leading to substantial reductions in greenhouse gas emissions from their facilities or invest at least 50 per cent of the aid amount in new or modernised assets in order to reduce electricity grid costs.

The Commission assessed the measure under article 107(3)(c) and the ETS State Aid Guidelines.

II. Semiconductors

Austria: EUR 319 million State aid for first-of-a-kind semiconductor manufacturing facility (SA.113427)

The aid will take the form of a grant and support the upgrading of Infineon Technologies Austria AG's (IFAT) semiconductor facility.

This upgrading of IFAT's facility will establish high volume manufacturing of power Gallium Nitride semiconductor devices. This type of semiconductors provides superior energy efficiency, greater power density and faster switching, enabling more compact systems compared to traditional silicon-based semiconductor devices. They can be used in several strategic and economic sectors such as AI, energy infrastructure or electric mobility. This facility will be first-of-a-kind in the EU. IFAT has committed to expanding its collaboration with start-ups, SMEs, universities and research institutions.

The Commission assessed the measure under Article 107(3)(c) and the principles settled in the European Chips Act. It considered the support enhances security of supply and a stronger EU position in the semiconductor industry, contributing to the EU's technological autonomy.

III. Transport

Germany: EUR 29.3 million State aid to support construction of new rail-road freight terminal (SA122481)

The German measure will support the construction of the EUREGIO multimodal rail-road freight terminal at Stolberg. The terminal is expected to become operational in 2035 and to reach full capacity in 2037. The aid will take the form of a direct grant to EVS EUREGIO Verkehrsschienennetz GmbH, the future owner of the terminal. The aid will promote the shift in freight transport from road to rail, in line with the objectives of the EU Sustainable and Smart Mobility Strategy.

The Commission assessed the measure under Article 93 TFEU and the Land and Multimodal Transport Guidelines.

IV. Agriculture

Poland: EUR 26.5 million State aid to support the construction of an urban agricultural hub (SA.119773)

The aid will take form of a direct grant of EUR 26.5 million awarded to the municipality Żory to support the construction of a multifunctional hub dedicated to vertical farming, hydroponics, aquaponics and aquaculture in a location that used to be an old hard coal mine.

The project co-financed by the Just Transition Fund aims to regenerate part of the structure of the old mine.

The Commission assessed the measure under Article 107(3)(c) and found it necessary, appropriate and proportionate as it is limited to the minimum necessary.

V. METSAF

France: EUR 212 million State aid for agricultural and aquaculture companies facing increased fuel prices (SA.124997)

Portugal: EUR 3 million State aid for agricultural companies in the Azores facing increased fuel and fertiliser prices (SA.125094)

Slovenia: EUR 500 000 State aid scheme for companies in the agriculture, fishery and marine aquaculture sectors facing increased fuel prices (SA.124890)

Spain: EUR 52 million budget increase for State aid scheme for farmers facing higher fuel prices (SA.124966)

Spain: EUR 750 000 State aid for agricultural companies in the Balearic Islands facing increased fuel prices (SA. 124823)

Bulgaria: EUR 170 million State aid for farmers facing increased fuel and fertiliser prices (SA. 124701)

France: EUR 40.5 million State aid to support agricultural, fishery and transport companies facing increased fuel prices (SA.124159 and SA.124290)

Malta: EUR 8 million State aid for maritime transport companies facing increased fuel prices (SA.124627)

NEWS FROM THE COURTS

CJEU finds essential ship pilotage services fall outside EU State aid rules

The Court of Justice has delivered its judgment in case C-117/25, *Canal Sea Services and Others*, concerning whether the grant of an exclusive right to provide mandatory harbour pilotage services to public port entities constitutes State aid under Article 107(1) TFEU.

The dispute arose after Romania reserved compulsory pilotage services in major maritime ports to state-owned entities, excluding private operators. The referring court asked, in essence, whether such an arrangement constitutes an unlawful state monopoly or State aid.

The Court held that mandatory harbour pilotage in favour of public port entities does not constitute State aid under Article 107(1) TFEU, provided the activity is intrinsically linked to public interest duties such as maritime traffic control, safety, and environmental protection and therefore serves core state responsibilities rather than ordinary market competition.

The Court also clarified that neither the existence of a legal monopoly nor the charging of user fees alters that conclusion where tariffs are approved by public authorities and the service remains inseparable from public safety and environmental functions.

CJEU upholds recovery of unlawful aid under Madeira Free Zone scheme

The Court of Justice has rendered a judgment in case C-173/25 P, *Agropalma Holdings and Others v Commission*, concerning tax advantages granted under the Madeira Free Zone (ZFM) State aid scheme. The appeal challenged the General Court's judgment upholding the Commission decision finding that the Scheme had been implemented in breach of the conditions attached to its approval and ordering recovery of the incompatible aid.

The case focused on the condition requiring the creation or maintenance of jobs in Madeira. The Court confirmed that the employment condition applied to all undertakings registered in the ZFM, including Portuguese holding companies (SGPS). In addition, the Court rejected the argument that SGPS could not qualify as "undertakings" for State aid purposes.

CJEU upholds Commission approval of Iberian electricity price support mechanism

The Court of Justice, in Case C-348/25 P, *PGI Spain and Others v Commission*, ruled on the Commission's approval of the Spanish and Portuguese mechanism introduced to reduce wholesale electricity prices in the Iberian market. The mechanism provided support to fossil-fuel power plants to lower generation costs and was financed through a contribution imposed on certain electricity buyers.

The appellants argued that certain retail electricity buyers with financial power purchase agreements were treated less favourably than wholesale buyers benefiting from an exemption from that contribution and that the Commission should therefore have opened a formal investigation.

The Court dismissed the appeal, finding that the appellants had failed to establish that the Commission when adopting its decision, was or ought to have been aware of the specific situation of those retail electricity buyers concerned. It also confirmed that later developments could not be relied on to challenge the legality of the original approval decision and that it is not for the Commission, on its own initiative and in the absence of any evidence to that effect, to seek all information which might be connected with the case before it, even where such information is in the public domain.

The Court therefore upheld the General Court's judgment and the Commission's decision approving the Iberian electricity price mechanism.

AG Rantos delivers opinion in the C-358/24, *Varo Energy Belgium and Others case*

In Case C-358/24, *Varo Energy Belgium*, AG Rantos delivered his opinion concerning the Belgian contribution imposed on certain petroleum-sector operators in response to the 2022 energy crisis.

The Belgian measure imposed a temporary solidarity contribution on petroleum-sector operators calculated by reference to the physical volumes of petroleum products rather than to exceptional taxable profits.

The State aid question concerned whether limiting the contribution to certain petroleum companies, while excluding other petroleum operators as well as companies active in the gas and coal sectors, conferred a selective advantage within the meaning of Article 107(1) TFEU.

AG Rantos considered that the Belgian measure does not constitute State aid as it does not differentiate between operators that are in a comparable factual and legal situation in light of the objective pursued by the scheme. In his view, the excluded operators were in a different position, notably because of differences in market presence, economic activity and the characteristics of the relevant Belgian energy markets.

AG Rantos delivers opinion in the C-477/25, *Finanzamt X vs Servicekörprerschaft* case

AG Rantos delivered his opinion in Case C-477/25, a preliminary question by the German Federal Finance Court (Bundesfinanzhof). In Germany nonprofit organisations pursuing statutory objectives of public benefit, charitable or religious, benefit from certain tax exemptions. In 2020, a legal reform, extended the tax regime to public service organisations assisting nonprofit organisations in achieving their public benefit objectives, subject to specific conditions.

According to AG Rantos, a national regulation like the measure in question when it grants public utility organizations exemptions from corporate income tax and business tax, does not confer a selective advantage and, therefore, does not constitute State aid. However, when it provides for a reduced rate of sales tax in favour of those entities, it confers a selective advantage and, consequently, may constitute State aid if the other conditions set forth in that provision are met. To the extent that the tax benefits in question constitute State aid, a national regulation that extends eligibility for these benefits to other categories of recipients constitutes "new aid," which is subject to the requirement of prior notification to the European Commission.

OTHER NEWS FROM THE EUROPEAN COMMISSION

I. EU Call for EUR 21.3 billion SAFE Funding for Defence Readiness and Ukraine Support

The Commission invites Member States to participate in the second call of the Security Action for Europe (SAFE) instrument**.** With a budget of EUR 21.3 billion, the SAFE instrument is a key component of the Readiness 2030 plan and aims at accelerating investments in defence capacities and to reinforce Europe's industrial defence base, including strengthened cooperation with Ukraine.

II. Launch of T-MED Investment Platform with up to EUR 4.5 billion in EU guarantees

In the context of Trans-Mediterranean Renewable Energy and Clean Tech Cooperation Initiative (T-MED), the Commission has launched the T-MED Investment Platform with the aim to mobilise large-scale investment in renewable energy and clean technologies across the Mediterranean Sea.

The EU will provide EUR 4,5 billion in guaranteed capacity under the European Fund for Sustainable Development Plus to reduce investment risks and attract private investment. The T-MED aims to mobilise up to EUR 25 billion in investments in renewable energy production, energy grids, interconnection and clean technologies. The overall aim of this initiative is to create employment and economic opportunity, while ensuring stability over the region and the diversification of renewable energy systems and supply chains.

III. Innovation Fund: Commission selects net-zero technology projects

The Commission has selected 77 net-zero technology projects across 23 EEA countries to receive EUR 3.4 billion in support under the 2025 Innovation Fund call. The projects cover energy-intensive industries, renewable energy and innovative energy storage, cleantech manufacturing, net-zero mobility, critical raw materials processing and recycling, alternative fuels and industrial carbon management.

The portfolio includes, for the first time, a small modular nuclear reactor project and a direct air carbon capture and storage project, as well as six critical raw materials projects.

The selected promoters will now enter into grant agreement preparations with the European Climate, Infrastructure and Environment Executive Agency (CINEA).

The Commission plans to launch the next Innovation Fund calls in early December 2026, including a EUR 1 billion clean-tech manufacturing topic.

IV. LIFE programme: over EUR 390 million in 135 new climate and environment projects

The Commission has granted more than EUR 390 million to 135 new projects across Europe under the LIFE programme for environment and climate action. The EU funding will cover more than half of the EUR 579 million total investment needs, playing a significant role in the EU's transition to a clean, circular and resilient economy.

The projects concern nature and biodiversity, clean, circular, energy-efficient and climate-resilient economy as well as clean energy transition.

V. Launch of RAISE aims to boost AI support for researchers across Europe

During the European AI in Science Summit in Dublin the Commission launched the RAISE AI in Science Enabler initiative. This initiative aims to mobilise private-sector and philanthropic support for European researchers working across artificial intelligence and science, beyond what public funding alone can provide reflecting the ambition to strengthen Europe's scientific and technological leadership and reinforce its competitiveness in technology sectors.

The first commitments have been made by the Novo Nordisk Foundation, Nvidia, Elsevier, Sanofi, Frontiers, Mistral and Google DeepMind. As part of the initiative, Mistral AI and CERN have entered a new partnership to develop a foundation model in physics.

VI. European Defence Industry Programme: Allocation of EUR 168.2 million to boost Europe's defence production

The Commission has allocated EUR 168.2 million to support the 8 first defence projects selected through the June 2026 call dedicated to energetic components (IRA-EC) within the Industrial Reinforcement Action program. The projects will leverage EUR 1.26 billion in industrial investment to accelerate and expand production for energetic

components used in missiles, drones and ammunition and help protect these facilities against growing physical and cyber threats.

These projects aim to be operational by 2027 and ensure Europe's strategic independence in terms of supply and critical dependencies.

NEWS FROM THE COURT OF AUDITORS

Chapter 11 of the European Court of Auditors (ECA)' Annual Report for the 2025 financial year is devoted to the RRF. According to its findings, 16 of the 420 milestones and targets examined did not comply with the Recovery and Resilience Facility (RRF) payment or eligibility conditions, affecting payments to 9 Member States.

The findings included milestones and targets that were not satisfactorily fulfilled, breaches of the eligibility period and double funding, potentially affecting its financial leveraging. In addition, the ECA identified weaknesses in the Commission's assessments: in 40 cases the Commission did not carry out sufficient checks of the information provided by the Member States.

The ECA further found persistent shortcomings in Member States' controls, including public procurement and State aid irregularities. In the State aid area, these included artificial splitting of projects to avoid notification thresholds, incorrect calculation of eligible costs, failure to meet exclusion conditions and weaknesses in assessing compliance with the *de minimis* thresholds.

STATE AID CALENDAR

Upcoming

5 November 2026	Judgment Case C-266/24 P *Commission v Ryanair (Aide d'État Covid-19 - KLM)*
5 November 2026	Judgment Case C-505/24 P *Condor Flugdienst v Ryanair*
5 November 2026	Opinion Case C-424/25 *Overgaard Gods*
11 November 2026	Hearing Case T-490/24 *Finnlines v Commission*
17 November 2026	Hearing Case T-678/24 *GMH Gruppe v Commission*
19 November 2026	Opinion Case C-890/24 P *European Food and Others v Commission*
25 November 2026	Judgment Case T-258/24, *Scandlines Danmark and Others v Commission*
26 November 2026	Opinion Case C-309/25 *Enefit Green and Utilitas Wind*
26 November 2026	Hearing Case T-649/24 *Ryanair v Commission (SAS ; aide à la restructuration)*

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