REPUBLIC OF TURKEY
BAHÇEŞEHİR UNIVERSITY

# THE EFFECTS OF STATE AIDS TO COMPETITION IN THE AIRLINE INDUSTRY OF EUROPEAN UNION

**Master's Thesis**

**ÖMER FARUK KORKMAZ**

**İSTANBUL, 2017**

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# ABSTRACT

THE EFFECTS OF STATE AIDS TO COMPETITION IN THE AIRLINE INDUSTRY OF EUROPEAN UNION

Ömer Faruk Korkmaz

European Union Relations

Thesis Advisor: Asst. Prof. Dr. EMİN KÖKSAL

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Since ever its creation, more than sixty years, European Union has been carrying on its development in order to have, as one of its aims, better economic conditions within the union borders. Therefore, it has been using several tools for the accomplishment of its goals. It is also obvious to say that European Union has become one of the most powerful political and economic entities of the world. In fact, European Union has a serious potential in economic means. In this sense, state aids and competition policy feed the current power of the union with their protective and supportive structures. In this financial power, civil aviation sector also has an important share. In this thesis, the study focuses on the EU's competition policy and state aid policies on the basis of these applications and the effects of the practices to the financial area of the union. According to that, in the first chapter of the thesis, there are definitions and evaluations about state aids, their usage model, legal dimension of the issue and responsibilities of the EU institutions. In the second chapter, there is the general frame of the competition policy in the EU. Its historical base, practice in the financial system, advantages for the EU's current mechanism and its benefits for the member states and their enterprises are the issues, which are evaluated in this chapter as well. In the last chapter, there is an investigation on the effects of state aids on the competition in the civil aviation sector of European Union.

**Keywords**: European Union, Civil Aviation, Competition Policy, Airline Sector, State Aids

# ÖZET

AVRUPA BİRLİĞİ'NDE DEVLET YARDIMLARININ HAVACILIK SEKTÖRÜNDE REKABETE ETKİSİ

Ömer Faruk Korkmaz

Avrupa Birliği İlişkileri

Tez Danışmanı:Yrd. Doç. Dr. Emin Köksal

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Kuruluşundan bu yana, altmış yıldan fazladır, Avrupa Birliği kendi içerisindeki hedeflerinden biri olan ekonomik alandaki gelişimini sürdürmekte ve ilerletmektedir. Bu sebeple, koymuş olduğu hedeflerine ulaşmak için birçok araç kullanmaktadır. Bu noktada şunu da belirtmek gerekir ki; Avrupa Birliği dünyanın en güçlü siyasal ve ekonomik oluşumlarından biri haline gelmiştir. Özellikle ekonomik anlamda Avrupa Birliği önemli bir potansiyele sahiptir. Bu potansiyelin içerisinde devlet yardımları ve rekabet politikası koruyucu ve destekleyici yapısıyla Avrupa Birliği’nin mevcut gücünü beslemektedir. Söz konusu finansal gücün içerisinde sivil havacılık sektörünün de önemli bir payı bulunmaktadır. Bu tez çalışması, uygulamalar temelinde, devlet yardımları ve rekabet politikasının, birliğin finansal alanı üzerindeki etkilerine odaklanılmaktadır. Buna göre çalışmanın birinci bölümünde, devlet yardımlarının tanımı, kullanım modeli ve konunun Avrupa Birliği içerisinde yasal zemindeki sorumluları incelenmektedir. İkinci bölümde rekabet politikasının genel çerçevesi yer almaktadır. Konunun tarihsel zemini, finansal sistemi, Avrupa Birliği’nin mevcut mekanizması açısından avantajları ve aynı zamanda üye devletler ve onlara bağlı işletmeler açısından yararları ele alınmaktadır. Son bölümde, devlet yardımlarının Avrupa Birliği’nin sivil havacılık sektörü üzerindeki etkilerine dair bir araştırma söz konusudur.

**Anahtar Kelimeler**: Avrupa Birliği, Sivil Havacılık, Rekabet Politikası, Havayolu Sektörü, Devlet Yardımları

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## ABBREVIATIONS

| | |
|---|---|
| **EU** | **: European Union** |
| **ECJ** | **: European Court of Justice** |
| **ECSC** | **: European Coal and Steel Community** |
| **IATA** | **: International Air Transport Association** |
| **ICAO** | **: International Civil Aviation Organization** |
| **US** | **: United States of America** |
| **RPK** | **: Revenue Passenger Kilometer** |
| **ASK** | **: Available Seat Kilometer** |
| **ECN** | **: European Competition Network** |
| **GDP** | **: Gross Domestic Product** |

# 1. INTRODUCTION

As a regional and an international political and economic actor, the EU has become a serious international factor in the decision-making process of world system since its foundation. The EU, which has lived a lot of enlargement waves in time, achieved a great integration process. By these enlargement waves, today, the EU has a serious force to change the processes in the world politics and economics. Surely, this force comes from the solid integration system of the union and the support of member states is a serious addition to political, economic and social identity of the union as well. Also, the support of candidate states is valuable for the stability of the EU's position in the world politics.

Basically, the strength of the union emerges from its well thought and organized managerial bodies, which are its political, economic and legal institutions. These institutions feed the current mechanism of the EU and each and every single institution protects the legal and the bureaucratic basis of the union. At the same time, the union pays attention to protect these institutions to make every actor in the union compatible with the current system of the union. In this process, as much as political institutional body, the EU focuses on protecting the financial system of the union to stay alive in the tough financial conditions of the world economics. Being a union means an economic stability and solidity for the EU and the union's legal base has been built on this mentality, which had been created during the first foundation period of the EU right after the Second World War, which had made pressure on Europe to unite.

In this context, competition policy is one of the most critical issues in the agenda of the EU to create a solid and acceptable economic system in the union borders. Although every member state of the union has different strategy for the economic operations of themselves, since the 1960s, the EU has been trying to create a common policy to feed, to encourage and to protect the common financial interests of the union members. That is why, the competition policy may be evaluated as the basic support of the EU to organize the financial and commercial activities of the member states and the enterprises in the member states. Competition policy covers a wide-range application area in the union and all of the financial actors in the union are responsible with being compatible with the rules of the competition policy.

For the EU, competition policy can be evaluated as a protection mechanism for minor enterprises, investors and entrepreneurs in the EU. Although there are a lot of international and powerful enterprises in the EU region, union's basic strategy in the competition process is about protecting whole commercial actors to encourage them to produce and to earn more. Right in this point, it is possible to say that the competition policy has been developed to strengthen the financial environment of the EU against the intense competition in the international area. For the union authorities and the union institutions, competition policy means an encouragement mechanism for the EU to stay alive in the changing conditions of the world economics.

The competition policy is fed by different sources in the EU system. According to that, the EU authorities and the EU institutions focus on strengthening the competition in the union by different tools. As one of them, state aids have critical importance for EU's competition mechanism. Basically, state aids work for encouragement and protection for the financial and investment operations of private sector's entrepreneurs. At the same time, for the public services, the investments are in the content of state aids. Although the state aids have a complicated structure to provide the various parties of aids, in the end, it works for survival of commercial actors and especially the minor actors in the various sectors. State aids are important support tools for the parties, to grow and to provide their business and the employment level in the EU borders.

On the other hand, state aids are important protection tools for the financial doubts of commercial actors in the EU. As a matter of fact, after the 2008 global financial crisis, a lot of EU enterprises, investors and entrepreneurs had faced the great threat of bankruptcy and financial collapse. In this process, the state aids were evaluated as a serious saver and the most reasonable factor for the preparation of these enterprises, investors and entrepreneurs for the possible threats in future like the 2008 global financial crisis. At the same time, state aids' support is more logical for the parties, which need these aids, than the credits of banks or financial institutions. So, state aids have a common effect as a savior and as a protector.

In this thesis, the study focuses on the EU's competition policy and state aid policies in the basis of these applications and practices' effects to the financial area of the union. According to that, in the first chapter of the thesis, there are definitions and evaluations about state aids, their usage model, legal dimension of the issue and responsibilities of the EU institutions. In the second chapter, there is the general frame of the competition policy in the EU. Its historical base, practice in the financial system, advantages for the EU's current mechanism and its benefits for the member states and their enterprises are the issues, which are evaluated in this chapter as well. In the last chapter, there is an investigation on the effects of state aids on the competition in the civil aviation sector of the EU. Civil Aviation sector is one of the greatest commercial areas in the EU and it has a growing structure annually. At the same time, the civil aviation sector of the EU is one of the greatest employment potential in the EU economy in general. However, the state aids are valid and valuable in the civil aviation sector of the EU. So, these aids' effects on the competition in the civil aviation sector of the EU are discussed in the last chapter with their positive and negative effects on sector's minor and major actors at the same time.

# 2. LITERATURE REVIEW

## 2.1 STATE AIDS IN THE EU

In this chapter of the thesis, there will be some evaluations about the state aid policy of the EU. The topics will be including the general frame of state aids policy and its legal frame.

### 2.1.1 General Frame of State Aids in the EU

The main strategy of the EU has been built on solidarity between the member states, member states' people, member states' establishments etc. after the end of the Second World War. Basic reason of this solidarity after a serious war campaign all around the continent was about building a new system to develop every asset in Europe and reducing the mutual threats between the members of European continent. However, when the basis of the EU is evaluated carefully, the importance of financial solidarity and support can be understood more effectively. The development programs of European countries after the Second World War had a key factor during the founding process of the EU.

Right in this point, financial supports in the basis of aid create the other dimensions of the issue. Both aids for member states, candidate states, establishments, financial actors in the union etc. are in the central mechanism of the EU's aid strategy. According to that state aids create a serious and a solid sphere for EU's financial system. State aids in the EU, mainly, focus on building reliable and sustainable economic system among the member states and protecting their financial connection and solidarity. The system predicts an equal share for every member of financial environment of the union to keep the competition alive and acceptable (Kesmen 2001, p. 87-88). In particular, the EU aims to provide equal financial sources to each and every member and to their establishments against the possible unfair conditions and possible financial crisis, which have potential to come out in nationally, regionally and globally under the current unbalanced global financial conditions (Akdeve & Karagöl 2013, p. 334).

The EU administration and the whole establishment pay a serious attention on competition issue in the borders of the union. State aids have a critical role in this process and supports the durability of the EU’s competition structure. In the current period, the EU places the provisions, which obstructs the state aids that they have potential to disrupt the regional competition rules of the union, in the EU Acquis Paper (Yıldız 2007, p. 10). These provisions work for balancing the financial system between the member states and the states, which are in candidate position to be a permanent member of the union. According to that the EU administration does not want to separate the countries as member or candidate to evaluate them different in the competition structure of the union; in contrast, in the basis of state aids issue, the EU wants to create a stable system, which does not have any privilege to develop the countries or establishments.

In particular, from the EU point of view, the completion of the Single Market, the use of the euro and the deepening of integration are among the more important issues on the EU agenda. Member States are also required to use the state aid mechanism to provide structural changes to accelerate the integration process. In this process, economic planning, national aid and sectoral policies across Europe are increasingly losing popularity and European companies are trying to adapt to the needs of economic globalization in the direction of the EU's Single European Market. However, the negativities in the economies of some member states, especially Germany and France, have brought back the importance of national policies. While the Member States have been studying in what areas, at what scale and in what way to effectively transfer state aid, the European Commission has already begun to observe the existing state aid rules. The EU side has adopted a "state aid with a smaller but better focus on the target" approach in state aids.

In the first paragraph of Lisbon Treaty, which was one of the founder and most important agreements of the EU’s basic rests, there is the solid and compelling expression, which is written below:

> *Save as otherwise provided in the Treaties, through State resources in any form whatsoever which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, in so*

*as it affects trade-in between Member States, be incompatible with the internal market.*[1]

In this expression, it is clear to see that the EU rules do not allow a state aid system, which does not consider the rights and the interests of every single member union in minor or major scale. On the other hand, Lisbon Treaty's this first paragraph about state aids draw a certain and a permanent border for state aids' formation, presentation and sharing. Any personal decision of a member of the union is not evaluated as reasonable and acceptable.

State aids in the EU are explained in the basic and other legal articles due to their sources and the effect on the trading, investment and development process. However, there is not a specific list of banned state aid formation. Basic expectation of the EU authorities from their members is to consider keeping the competition alive and to protect each and every political and financial asset in the union. Besides, the EU legal sources see the state aids as a valuable part of a system, which is completely under the control of the member states' governments and the EU establishments (Ülgen & Dilek 2015, p. 100).

Actually, state aids are critically valuable in the EU because of the EU and its member states' desire to control the financial process of the union on their hand without leaving or sharing their authority in this issue specifically. Basic concern of the EU about its members is about their uncontrolled financial policies in their national economy area. Actually, this may be recognized as a threat for the integrity of the union's general financial policies. To protect this structure, the EU administration use different methods, agreements and rules such as state aids and its control (Friederiszick, Röller & Verouden 2008, p. 625).

This control mechanism is seriously critical for the EU because of sensitive financial balance system in the union. Ongoing effects of global financial crisis, which has been effective since 2008, current financial imbalance between the union members, increasing debt burden on minor member states and political disagreements for the integration of European countries, which are not still the members of the union are

[1] http://ec.europa.eu/competition/state_aid/legislation/compilation/a_01_03_11_en.pdf

directing the EU authorities to keep the member states' economy together and to develop the parallel financial strategies in consensus. State aids have potential to break this balance by strengthening one competitor against the others. So, the most important point is about making state aids principles as generally acceptable and applicable all around the union and about preparing the candidates for these standards in the future.

On the other hand, the EU had decided to reduce the major financial differences between the member states of the union and to bring the member states together to work in coordination in Treaty of Rome, which was signed in 1957 as the main and the founder agreement of European integration. That is why the EU establishment consider the similarities, reciprocity, balance and equality about the state aids issue (Yılmaz & Takkabulan 2016, p. 86).

Surely, state aids accelerate the changes or the development of various sectors, restores their long-term activities and also has a developing effect on the social and economic costs of changes in these sectors (Podsiadło 2015, p. 4). In this context, state aid may increase the potential of a specific sector, enterprise or a member state, while the other have troubles to be compatible with the changing structure of global finance, increasing debt, pressure of taxes etc. in the local area. Although state aids are evaluated as having stabilizer role, if there is not any audit and consensus, it may have a role, which breaks the rules and the balance.

State aid is a matter that is assessed in a common stake in the EU. Accordingly, the issue that is held in the forefront of state aid is not to disrupt the balances and to strengthen public investments and the private sector within the union as much as possible. Especially in order to increase living standards and to be able to be competitive, the EU is trying to create a durable and qualified structure within itself. State aids are trying to create this work fairly. State aid, on the other hand, is an example of the EU's own internal mechanism. Accordingly, there is a stimulating and leading qualification of state aid in terms of the candidates for the EU membership.

The EU Commission developed content of state aids regulations in the last years to explain the details of union's detailed policy about state aids on priority regions, research and development, employment, environmental protection and saving the enterprises, which are in financial crisis and developing them (Emek 2006, p. 5). This detailing became more important and necessary when the numbers of members increased through end of 2013 by the membership of Croatia. Besides this detailing was useful to decide the limitations and chances about state aids' advantageous and disadvantageous sides. This also obstructed illegal and private state aid providing attempts of governments and enterprises.

Within the EU, it is possible to list the general benefits of state aid with the following elements (Mengiler, 2013, p. 139):

i. State aids ensure that projects that businesses grow and are difficult to support continue,

ii. State aids are convincing people that it is a place for everyone in a competitive environment,

iii. State aids have as much stabilizing influence as to have a strong authority to prevent monopolization of production,

iv. State aids have the qualities that encourage everybody to prove that they have the opportunity to progress gradually in trade,

v. State aids not only hold the interests of commercial activities, but also the interests of the interests of the public at the same time,

vi. State aids act in a commercial sense to prevent conflict and thus guarantee the presence of all parties in the system,

vii. All bureaucratic and commercial elements in the EU need to be supported by their state aid within their own capacities,

viii. State aids do not have continuity and are one-time; but when it is deemed necessary, the level of tolerance is extremely high in the union in order to provide the utmost benefit,

ix. State aid does not consider any capacity gap between the needy for assistance,

x. State aids ultimately observe the common interests of the EU and are shaped in this way.

### 2.1.2 Content and Types of State Aids in the EU

In this chapter, the contents and types of state aids in the EU are evaluated. Content of state aids include different modes and qualities of state aids. On the other hand, types of state aids include application styles of states aids.

#### 2.1.2.1 Content of state aids in the EU

The EU establishments prefer general and special detailing about state aid protocol all around the union. Content and types of state aids in the union depend on needs, competition dimension, current financial structure of the union and need sequence of parties for state aids. In this context, the EU authorities try to deliver the aids to the parties, which are definitely needed and that delivery is completely necessary for the continuity of financial sustainability and competition, which depends on mutual winning. That is why the EU establishments try to add more parties into the scope of state aid regulation as much as possible. These establishments also try to create a large scale types of state aids to enlarge the influence area of these aids. Hence, every single party waits for the strong and solid financial support of their governments and the EU establishments.

According to that, generally, the content of the EU's state aids are created with the factors, which are counted below (Özkarabüber 2003, p. 7-8):

i. Including a transfer from government sources: There must be an abandoning for the aids such as from government budget, public banks, public funds or any other kinds of public sources to get a specific state aid.

ii. Economic advantage: It is a proviso that if an enterprise cannot get a financial advantage from its business activities, it can get a state aid; an enterprise cannot get both financial support and advantage at the same time from different sources.

iii. Selectivity: The basic specialty of state aids, which make it different than the other general preventions, is to affect the balance between selected ones and unselected ones by considering the enterprises, sectors, regions, products etc.

iv. Affecting the competition and the trade: To get a state aid in the EU, the parties, which will take advantage of these aids, must be active in business at least in one of the EU member states or between at least two of the EU members. These parties are directly effective on domestic trade area in the union borders.

According to these factors, firstly, the parties, which will get state aid, must deserve those aids with its current financial situation and there must not be any other financial support or benefit from other sources; governments or the EU establishments must be seen as the prior source to get support. On the other hand, these aids must be given to the parties, which are active in the EU as a part of a member state, to provide sustainability to the business system in the union. Otherwise, the EU regulations ban the aids, which provide advantage to a specific side.

#### 2.1.2.2 Types of state aids in the EU

Within the union, there are different needs for different cases to be reached out and resolved. Therefore, the necessity for having multiple aid types has been there. Hence, here, different types of state aids according to their areas, limitations, legal dimensions and applications will be evaluated in detail.

##### 2.1.2.2.1 *Sectorial state aids*

In general, state aids in the EU are separated into five different areas as; sectorial aids, horizontal aids, De Minimis aids, regional aids and financial transfers. Firstly, sectorial aids can be counted such as below (Soylu 2008, p. 10-15):

i. Visual and auditory sectors: In the basis of cultural activities and investments, the EU establishments and member states' governments guarantee to provide state aid to the parties, which need it.

ii. Electric and coal-steel sector: Under the conditions of "European Single Market", the EU establishments and member states' governments provide financial support and monetary incentive to the parties, which need it, to open the EU markets for a union-wide competition between the member states and their entrepreneurs.

iii. Shipbuilding: As one of the most problematic sectors, shipbuilding always needs financial support of governments and the EU establishments. In this area, the EU's basic mentality is about strengthening the shipyards and their owner companies.

iv. Transportation: As one of the most crowded and most intense sectors in the EU, transportation sector gets a great budget from the EU state aids. Besides, according to the 73rd and 76th articles of Treaty of Rome, for the transportation operations and investments such as for public needs are suitable for state aids in the union.

v. Agriculture: The EU pays a great attention on sustainability and development of agriculture activities since the foundation process of the union. The EU Council is always ready to pay a qualified budget for the agricultural operations of individuals or enterprises, but these operations must be in failure after the parties used natural methods to develop agricultural areas.

vi. Fishery: The EU wants every member states, which has seacost, to be in the fishery area with the developed applications and careful operations for environment. That is why the union has a special fund to support the enterprises in the members, which has sea cost.

vii. Synthetic fiber sector: In this sector, state aids mostly focus on operation, which are compatible with the protection of environmental conditions and useful for labor health because of sector has a lot of labor all around the union.

viii. Mail services: Because of its costs are high, mail services continuously need the state aids. However, the EU establishments do not have sharp and tough competition in mail services.

#### 2.1.2.2.2 *Horizontal state aids*

The other, horizontal aids can be counted such as below (Yıldızoğlu 2004, p. 17-19):

i. Research and development aids: Because of research and development investments cost a serious budget share in national financial structures of the EU member states, the union encourages the individual or corporate investments to develop the research and development potential of the union by creating a new competition area.

ii. Environmental state aids: According to the 174th article of Treaty of Rome, the EU is responsible with supporting member states environmental operations to protect the environmental quality, to develop environmental potential, to protect the human health, to encourage the international preventions during the struggle against the environmental threats.

iii. Recovery and reconstruction aids: As one of the most used aids, recovery and reconstruction provides the enterprises opportunity to save themselves from the serious bankruptcies, seizures, forced sale etc. and recovery and reconstruction aid is one of the most focused aid kind of the EU state aids to protect the current competition conditions of the union.

iv. Aids for small and medium-sized enterprises: These enterprises are evaluated as the basis of trading system of the EU and their sustainability in the business life of the union is seen as critical for the competition structure and new job opportunities for people. That is why state aids strongly focus on strengthening the small and medium-sized enterprises.

v. Employment aids: To increase the employment potential, especially in the crisis terms, the EU establishments and member states' governments support the enterprises to protect or to increase their employee potential. The basic aim of this attempt is to protect the current labor source during the financial crisis term, bankruptcy threat and low production level.

vi. Education aids: As another critical and valuable aid type in the EU, education aids are shared for development of educational activities and for preparation of students and individuals for the future. Education aids are also for preparation of future's labor potential in the union.

#### 2.1.2.2.3 *De minimis state aids*

As an exceptional state aid, De Minimis aids reflect the tolerance threshold of the EU establishments for their member states' governments and enterprises in these countries. According to that, De Minimis state aids allow the union's member states' governments to the enterprises in their countries in low level. These aids are just for keeping the business sector up and for encouraging them to refresh their operations and strategies. These aids also cannot be in a high level by affecting the current competition standards negatively. In other words, De Minimis aids must be just for protecting the priority of competition's continuity and there is a proviso for member states' governments to declare it to the EU Commission for De Minimis aid to a specific individual or enterprise (Durnagöl 2006, p. 82).

The tolerance in De Minimis rule is related to making the minor state aids legal and useful for the needs of individuals and enterprises. De Minimis aids are evaluated that they have some accelerating effect on business world and national economies. At the same time, if it is suitable for De Minimis rule, member states' governments can make De Minimis aids as legal in their business law system and they can create new aid models (Özer 2006, p. 76).

De Minimis system is evaluated as a need for the EU states, which have minor political and economic capacity, and their needs are for the interests of their every financial actor in the domestic business area. While the minor individual and corporate initiatives feel the pressure of financial doubts against major initiatives, De Minimis try to reduce the pressure of major actors on minor ones and this can be seen as a "permitted competition violation" (Ateş 2009, p. 72).

In this view, De Minimis state aids are evaluated as legal ignorance for member states' governments to find a balance in the domestic business mechanism and obstruct the minor entrepreneurs to save them from the financial crisis view, tax burden, competition despair, pressure from the major enterprises etc. in the domestic business area in the country and in the union's domestic business area. On the other hand, De Minimis state aids are not just a simple ignorance, thet are also legal permits from the EU establishments; this makes De Minimis as decency and mercy indicator for minor business actors of the EU.

#### 2.1.2.2.4 *Regional aids*

One of the most critical aid mechanism in the EU is regional one. Basically, when the EU's roots were built on solidarity during the hard time, it had been imagined that it would be always valid for every single member of the union. That is why the aids such as regional ones are critically important for the survival of the union members and their struggle for the future in the basis of financial operations.

According to that the general frame of regional aids depend on the circumstances such as counted below (Özkumur 2008, p. 13-15):

i. It is a financial compensation method for the members of the union, which are less developed than the other developed and financially powerful states,
ii. Basic purpose is about reducing the regional development differences between regions of the union,
iii. The union administration wants to see the member states as a competitor against the regional competitors and each and every member of the union must be strengthened financially,
iv. The EU wants to obstruct the great differences and gaps between members practices in economy arena and wants to make them equal as much as possible due to the current conditions of the members,
v. For regional aids, the numbers of unemployment is a valuable criterion to direct the aids on the member states, which face this threat,
vi. The sectors such as agricultural products, fishery, coal, steel, transportation, shipbuilding, synthetic fiber and automotive are out of regional aids' scope; except these sector, every party can get from regional aids share,

vii. Although actors like regional actors, entrepreneurs, investors are being strengthened by regional aids, these aids cannot be useful for one party's development and superiority against the other in the union borders,

viii. In regional aids, there must be surely a fixation about a region's emergency needs for financial aid and it must be guaranteed that a region cannot financially survive on its own sources.

Beside these circumstances, the EU authorities can provide these aids to the candidate states for the union. If the conditions of negotiation process between the EU and the candidate show the necessity of help, the regional aids can be provided due to the level of the needs. This application is a strategy for the EU to strengthen, to develop and to save its future members for their financial needs on their homelands and to prepare them for regional competition between current members and the potential competitors around the EU (Gürkan 2009, p. 2-5).

#### 2.1.2.2.5 *Financial Transfers*

The protection of state aids in the EU is fed by another support system such as financial transfers. Although the financial transfers do not evaluate as a natural and systematic state aid in the EU financial mechanism, during the crisis terms of member states or the companies on their lands, financial transfers create a chance for enterprises and individual entrepreneurs to reconsider the conditions and to rebuild their operational system. According to that, by the financial transfers, EU tries to encourage the continuity of investments and to organize the investment processes in the borders of EU (Mete & Akyazı 2017, p. 86).

Generally, the purpose of financial transfers in the EU can be counted such as below (Yılmaz & Takkabulan 2016, p. 85):

i. Keeping the investment gap reasonable as much as possible between powerful and weak members of the union,

ii. Considering financial and ideological strategies of the union members and the union establishments,

iii. Keeping the national economies, the union economies and investments strong against the regional and global financial crisis,

iv. Developing the trade and the financial solidarity of the member states for their own investment and common investments,

v. Meeting the urgent financial expectations of minor-sized investors specially,

vi. Creating a solid and a permanent investment mechanism between the members of the union and member states' investor, major and minor entrepreneurs.

In this view, the basic purpose of financial transfers seems like creating a sustainable investment mechanism in the EU and keeping the investment level in a reasonable level even for the minor and the weakest member states. In the borders of legal limitations, the EU establishments plan to increase the level of investment and public expenses of member states and the entrepreneurs on their lands due to financial sources of the union and member states.

On the other hand, there are six different financial transfer methods in state aid system of the EU (Durnagöl 2008, 83-93; Ulutürk 2004, p. 345-359):

i. Capital transfer of state, which is the aid and the transfer method of public authorities to their trade partner in the business area to support their investments. Capital transfers are evaluated as one of the state aids in the EU.

ii. State Guarantee, which is the responsibility for the government on the risks of debts of enterprises. In this process, borrowing becomes more secure for enterprises' future operations.

iii. Financial transfers for public enterprises, which are limitless protection and support for public investments in the basis of transparency principle. In this context, governments try to keep alive the public investments in any case such as financial crisis, debts, lost etc.

iv. Public real estate sales, which define the rules for member states during their sales decisions to private sector about public fields and buildings. This sales decision is seriously important to protect the competition between the private sector enterprises.

v. Export credit insurance, which is a protection for member states' export operations out of the union region. In the EU region, state aids for export operation is forbidden between the union members.

vi. Direct taxation and financial aid, which include special financial support and protection for the enterprises in the member states, which are less developed and economically in doubt.

Generally, these financial transfers in state aids policy of the EU are categorized by the EU institutions. The basic purpose of this categorization is about deciding the financial interest value of a sector or an enterprise, which took advantage of the aid. According to that the categories of state aids in the EU are sorted below (Akkaya 2006, p. 42):

i. Group A, which includes cash financial aids and custom discounts,

ii. Group B, which includes share transfers from public accounts to the private sector,

iii. Group C, which includes custom and credit delays,

iv. Group D, which includes guarantees that the government provided to the enterprises and entrepreneurs.

### 2.1.3 Control of State Aids

Although state aids are seriously important for the continuity of trade system and investments, the control of these aids are as important as the presence of aids. In particular, the EU laws have a large-scale control mechanism to control the aid stream all around the union. This control mechanism is seriously critical to find the balance between minor and major states and enterprises in the union. In this context, it is important to touch upon that the EU's control of state aids depends on protection of competition in the union borders. At the same time, control of state aids aims to encourage the member states and their enterprises for a useful competition process for the future of the union. That is why control of state aids is the proof of impartiality of the union's legal establishment for any of the EU members and this situation creates the legitimate basis of state aids mechanism (Muşetescu 2012, p. 179).

The control mechanism on state aids in the EU depends on a preliminary authorization system. According to this system, the member states have to inform the European Commission about a state aid process and its details. Member states cannot act on their own to provide or to get state aid without the legal permission of European Commission, which the only and the last decision-making institution. As mentioned in the 87(1) Article of Treaty of Rome, dimensions, quantity, reasons and effects of aids are investigated by European Commission and the commission decides about the quality of aid according to the 87(2) and 87(2) articles of Treaty of Rome. Member states do not have any autonomy to decide about the quality of aid for their benefits without the investigation's results of European Commission and every decision, which is decided positively about a state aid act, is invalid with the lack of European Commission's last approval. A decision like this one is evaluated as an illegal act and aid contrary to the EU laws. According to the current procedure in the EU, commission has right to obstruct or to revoke an aid from the party, which took the advantage of state aid. Beside the EU courts have appointed the judges in national courts of member states as authorized to decide about obstruction and retrieval (Ecer 2010, p. 24).

The cooperation between the European Commission, ECJ and national courts seems like very important to get the detailed information about state aid actions in the member states' aid policy. European Commission's mission gets easier by the support of these legal institutions in the member states and all around the union. Besides, European Commission needs the legal support in the union, to make a fair decision and to keep the interests of the competition and balance strong in any case due to the founder legal principles of the EU, which decide the whole financial and legal actions of the member states and each and every actor of the union.

European Commission works in coordination with national courts of member states and their common evaluations are determinative on decision-making process of state aids. Although the European Commission is the last institution to make a decision and to act, national courts' investigations, reports and advices are also helpful to get detailed information about state aid process of a member state's government. On the other hand, the factors of general working mechanism of European Commission on state aids control are listed below (Kesmen 2001, p. 94):

i. Treaty of Rome and Single Market principles are the basic support of European Commission’s control mechanism on state aids.
ii. European Commission has monitoring units in the member states to follow the developments all around the union.
iii. These units and national courts provide annual reports to commission to inform about the state aid actions in the member states.
iv. The issue of state aids’ control starts with the candidacy process of a country and its legal basis are built just before the membership decision has made.
v. Before the permanent membership of a country, monitoring units are authorized by European Commission to represent the commission and they have the same authority details with the European Commission.
vi. European Commission is responsible with explaining the details of state aids and the content of approval or denial decision on state aids.
vii. European Commission sees the compatibility of state aid laws between the EU and candidate states as an indispensable necessity.

The other important legal base of European Commission’s role as the only authority is Treaty on the Functioning of the European Union, which is signed in 2007 as one of the founder papers of the EU. According to the 107th, 108th and 109th articles of treaty decides the details of European Commission’s role during the control process of state aids. Generally, treaty, as the other founder agreements of the EU, appoints European Commission as an authority in this process, but the role of European Commission is not just limited with the control of state aids. Treaty on the Functioning of the European Union also gives a role to the commission for the control of domestic market operations. The most important function of European Commission is to make a connection between the domestic market operations and competition process. That is why state aids issue is a key factor in the authorization area to balance the critical financial and bureaucratic facts of the union (Gündüzler 2015, p. 92-95).

On the other hand, ECJ is another authorized institution in the EU to control the state aids process. Actually, the court is a determinative or last determinative point in the EU to finalize the state aids’ situation. According to that ECJ is a mechanism, which decides the applications of states, enterprises and European Commission, about state aid infringements. Besides, the court has these responsibilities about state aids issue such as below (Gündüzler 2015, p. 96-99):

i. The court works according to the 258th and 259 articles of Treaty on the Functioning of the European Union,
ii. Basic support of court is European Commission's practices about state aids and the court investigates the case in the view of commission,
iii. In the first phase, the court suggests a consensus between European Commission and the member states; particularly, the complicated cases and the issues, which are related to the useful state aids for minor states of the EU, are encouraged by ECJ to be solved between the member state and the commission,
iv. Member states of the union have right to carry their matters with commission about state aids to the court and the court, as an independent institution, has to consider the interests of member states at the same time,
v. Court accepts the personal applications from any member of the EU and enterprises or individuals can be the plaintiff against the decisions of European Commission or any member state.

Control of state aids in the EU is very centralized in the basis of European Commission's superior role. According to the Article 92-4 of Treaty of Rome, European Commission is on the decision-making process of state aids issue and this is evaluated as a bureaucratic problem for the independence of member states' national legal structures and the functional ability of other the EU institutions. On the other hand, the actors in the state aid issue has a little suggestion role (except ECJ) and the limitation of role provides a limitless hegemony for the decision-making process of European Commission. Besides, while the ECJ is checking the decisions of European Commission due to its relevance with the Treaty of Rome, mostly, court is on the side of commission and this situation is evaluated as unfair, especially for the issues that state aid has a critical importance to support the needy parties in the member states' public and private sectors (Thielemann 1999, p. 405).

### 2.1.4 Legal Support of State Aids in the EU

The EU laws separate the state aids to the different areas and this division decides the details of an aid in the union borders. However, the frame of legal structure of state aids depends on the basic and the founder agreements of the EU. In every different sector, the EU has its own principles for aid mechanism, but any of these aids cannot be against the legal basis of the union; because the basis of European Union depends on solidarity, competition and development at the same time. That is why the union institutions consider these factors in the legal dimension of the issue. While the development of sectors and enterprises is encouraged, the aid decisions, which are contrary to the legal basis, are refused by the European Commission, ECJ and national courts in the member states (Podsiadło2015, p. 3-4).

On the other hand, one of the most important points about state aids in the EU is related to the transparency rule. During the decision-making process, member states' governments, national courts, monitoring committees, European Commission and ECJ must consider the transparency principle to protect the balance, to support the competition and to consider the EU laws as the basis. Since the first period that Maastricht Treaty signed in 1992, European Union institutions, especially the legal institutions, evaluate the EU laws as the basic support to decide about state aids' validity or invalidity as the only determinative factor. So, state aids have a solid legal base in the EU and member states have necessity to consider this legal base more than their national laws; the national laws of member states cannot already be against or contrary to the EU laws as a principle (Ehlermann 1995, p. 1218-1219).

In this context, it is important to evaluate the Treaty of Rome and its articles, which are directly related to the state aids, as the basic legal support on this issue in the EU (Zemheri 2009, p. 19-23):

i. Article 87-1: As mentioned before in this study, Treaty of Rome considers the protection on competition as the priority in this article. At the same time, Treaty of Rome plans to create a fair-trade environment in the union borders. In this article, treaty pays attention on four important points such as the source of aid, which must be depending on state sources; selectivity principle; advantage form of aid and effect of aid on the trade between the members of the union.

ii. Articles 87-2 and 87-3: These articles include the exemptions for aids. These exemptions are counted as exemptions for individual users, natural disasters, extraordinary situations and political conflict aggrieved such as the people of divided Germany. On the other hand, this article aims to protect the common interests, protection of high life standards and encouragement for investments for the development projects.

iii. Articles 88 and 89: These articles appoint the European Commission and the ECJ as the only control mechanisms on aid processes. Their rules, which depend on the basis of European Union laws, are determinative factors that the member states, enterprises and individual entrepreneurs have to consent. At the same time, these articles are directors of national laws of member states to decide about a state aid according to the basis of the EU laws, which are accepted by every member of the union.

According to the Treaty of Rome, the related articles of state aids just create the basis of the legal structure of the process. However, treaty provides a limitless control authority to European Commission firstly, and then to the ECJ. In particular, the decisions of the court are strongly effective on state aids' practice and punishment on aid decisions. In the articles of 87, 88 and 89 of Treaty of Rome, the general framework of legal borders of state aids are drawn and the practices are left to the decision-making authority of European Commission and ECJ. As an addition to this situation, member states cannot act against the Treaty of Rome's limitations, European Commission's practices and decisions of European court of justice (Özpençe 2006, p. 101).

After Treaty of Rome, in years, European Commission gained a serious importance and authority for decision-making on critical issues for the EU. State aids issue is one of them and the control of European Commission, which is depending of founder agreements of union, is the guarantee of state aids' usefulness for the interests of every party in this process. That is why EU laws give a limitless power to the European Commission also on the issues such as state aids. According to the Treaty of Rome's political and economic support, state aids are determinative factors to rebuild the member states, their public area and business environment. So, European Commission's role is critically valuable to consider the legal process in this issue (Güneş 2016, p. 83-86).

According to the Treaty of Rome, the Article 36 and 73 are another legal support of state aids in the EU. Although these articles do not include the details or suggestions for European Commission directly, they are accepted as valuable during the decision-making process of an aid (Kutlu & Hacıöylü 2007, p. 369):

i. Article 36: In this article, Treaty of Rome allows the aids to the less developed and developing member states and the enterprises in their countries for a protection due to the conditions, which created with structural and natural ways. When the aid decision was not completely contrary to treaty's state aids limitations, aids can be provided in any case.

ii. Article 73: In this article, Treaty of Rome supports the state aid for public expenses especially. If a member state needs a necessary public investment, state aid is evaluated as legal and compatible with the competition laws without considering the investment provided government of private sector.

These two articles are representing the exceptional situations for a state aid. European Commission does not make pressure on the member states for these kind of aids, but the details of aid must be also transparent for the other member states' information. In this situation, if there is not any extreme opposition to the basic rules of EU competition law, aids are released to be delivered. On the other hand, Article 92 of Treaty of Rome touches upon another exceptional situation. During the political instability terms such as Germany had lived during the division years of country, European Commission allows the state aids without considering the level of competition and the general risks. These kinds of aids are provided just for a reconstruction process. At the end of reconstruction process, the aids end and the member state, which had faced political matters, has to adapt the Treaty of Rome's limitations on state aids (Akşahin 2008, p. 15).

## 2.2 EU COMPETITION POLICY

Here, there will be some evaluations about the competition policy of the EU in detail. The subjects will be including the general and the historical background of competition policy, general framework of competition policy, basic principles of the common competition policy and its legal dimension as well. There will also be an evaluation on “Direct Effect”, which is related to the protection of the economic actors.

### 2.2.1 The Historical Background of the EU

The EU had continuous structure in the world economy and this continuous system makes the EU as one of the most important economies in the world. It is sure to be that the EU economy had no potential to race with the US or the Far Eastern economies in the existing time, but, the current structure of the EU economy has a potential for the future. Today, the EURO currency is a general and valid monetary system in the “Eurozone”; on the other hand, the EURO currency is valid for the other part of the world countries’ financial systems. The biggest trump of the EU economy is the market policy; especially the Single Market is the best way to provide new political and economic development gains for each member states. On the other hand, market can help for the good regional policies. Single Markets have four freedoms. In basic, the EU, firstly, started its journey as the process of economic integration with the Marshall Plan in 1950 after the Second World War. The economic attempts of the US authorities had made the Europe as the powerful area and as a partner of the American trading system (Gerven 2005, p. 39).

The establishment of European Coal and Steel Community which founded in 1951 was a major turning point of European Integration. The European Coal and Steel Community was established by Germany, France, Italy, Belgium, The Netherlands and Benelux for emerging European Coal and Steel Community as a common market for iron, steel and coal through the removal of all custom duties, tariffs, quotas and other market restrictions among the six signatory states. For the first time in European History, one single High Authority that totally supra-national body was established for regulating policies of the Coal and steel industry. So, in that point; The European Coal and Steel Community was the first step toward comprehensive integration at the European level (Artis and Nixson 2007, p. 41).

After, Foreign Ministers of European Coal and Steel Community Members came together in June 1955 in Messina, Italy to discuss the broadening and deepening economic integration which for the main basement for the establishment of a general common market based on free market competition. This committee prepared the Spaak Report which created for the creation of a common market with common political institutions and also some of the points of this report can be seen as the first regulators of Common Competition Policy. Afterward, The Six Countries signed the European Economic Community Treaty and also European Atomic Energy Community in Rome on March 25, 1957. This treaty was able to establish a single Council and a single Commission of the European Communities.

Another main Treaty, the Single European Act was signed in February 1986 for the overcome the negative outlook and rekindle the project of European Integration. The Single European Act was important process and identified more than three hundred necessary actions that would remove trade barriers between the member states and allow the creation of the common market. In 1999, the transition to the single currency had made the European financial structure as a unique system (Gerven 2005, p. 54).

The obstacles between the member states were removed and the compilation of the EU's financial integration was provided. In the existing time, the EU's structure works to protect its countries from the global financial matters and the negative effects of the world markets. Although there are ongoing processes of the matters like taxation and social welfare in the countries, the EU's financial and legal protection are in the good form to provide solutions to those problems (Baltalı 2016, p. 110).

### 2.2.2 General Framework of the EU's Competition Policy

In this process, the EU pays attention for the economic development of the Union. But, it is not easy with the current conditions of the Union. On the other hand, the European had drawn roadmap right before the European Community became the EU. According to that the first European formation in the Western part of the continent had aimed to build a successful, qualitative and equal competition area on the European lands. The Treaty of Rome in 1957 had created the basis of the economic policies of the European competition policy. However, the specific rules of the competition policy had been decided in the following years of the European Economic Community and the European Community. But the most important need of the Europe was a great consistency of the members and the candidates of the Union in political and financial mean (Gerven 2005, p. 58).

That is why the EU competition policy concerns whole of the economic actions of the members and the candidates at the same time. The competition policy's basis was a need for the complete development and achievement of the Union in the economic area. In this respect, the EU pays a special attention for the competition issue. It was important for the future targets of the EU as a regional power in the Eurasia region.

However, the competition policy depends on the other facts of the EU policies. In fact, the competition policy is one of the regional policies of the EU. The economy policies of the union include so many different articles and the competition policy is the most valuable issue in the regional economy policies of the EU. At the same time, the competition policy issue is not just a topic of the European agenda; it is also important for the economic consistency of the candidate countries (Özgöker 2008, p. 88).

The EU Competition Policy aims to provide a developed and a balanced economic structure between the members states of the union. At the same time, the union which wants to be developed organization on its own region in political and economic mean use the competition policy to increase the financial sources and to encourage the fair-trading process in the union. On the other hand, the competition policy is not only valid for the member states; it is also valid for the nominee states on the process. The basic aim is about developing the nominee states and about accepting them to the union being a developed and powerful state. So, it means that the competition policy is even an economical fact, its efficiency is felt in the political area and it creates one of the fundamental policies on the political area. According to the European integration theories, the competition policy is a multidimensional issue and its balance on the issues is important for the other policies of the union (Baskoy 2008, p. 33).

The EU's common competition policy is a reflection of the shared values that the union believes. Accordingly, the competition policy can be seen as the legal, physical and spiritual bearing of the EU as a unity. The competition policy, which has had a major precaution since the years when the ECSC has been established, has had an extremely important influence in the name of the financial sustainability of the EU. In general, the competition policy of the EU can be considered as one of the elements of the identity building process. Accordingly, the competition policy reveals the value that the association has given to its members. All members, all commercial and all financial actors within the Union have the opportunity to benefit from equal opportunities offered by the competition policy.

The EU's most important ideas are about being a regional economic power firstly, and then, about being world power with the US. The second one is a hard target to reach in a short time period. However, the EU's order is built on that. That is why the competition policy is one of the most vital parts of the EU's economic plans. With that way, the EU wants every member of the Union is ready and fair for the competition conditions to increase the standards of the Union's members. Every candidate country faces the pressure of the EU authorities about the competition policy's necessity (Çeçen 2014, p. 77).

The other important point to touch upon is that the EU Competition Policy has a powerful legal structure; the EU laws provide a major authority to the competition policy's establishment and the ECJ to manage the competition policy and the same process is valid for the national law systems of the member states in the EU. In basic, the competition policy's power comes from its legal power and authority. That is why the EU authorities hope that competition will help a developed union for the present time and the future (Çeçen 2014, p. 79).

Treaty of Rome is the determinative and priority fact of the EU competition policy system. Treaty of Rome describes the general meaning of the competition policy and draws the general lines of the system. Even the ECJ decides its decisions about the competition issues and matters. With that way, it is right to say that Treaty of Rome is also a legal bill of the competition policy at the same time. While the European political institutions are trying to create the political structure of the Union, they also pay attention for the economic union of the EU; generally, the European authorities believe the power of the economic achievement and union on the Europe since the foundation of European Coal and Steel Community. In the following period of the economic union in the EU, the importance of the competition policy has increased fast. So, the European common competition policy has come out as a serious support of the European economic progress.

According to that, the competition policy had been built on three important purposes in the European economic area (Goyder 1993, p. 77):

i. Enlarging the trade areas between the states, companies, organizations and individuals without borders on the EU lands,
ii. Strengthening, supporting and encouraging the economic enterprises, events and creating an effective economic area for the member states and all of the EU,
iii. Protecting the local economic area all around the EU against the foreign economic effects.

These three points are important and basic supports of the European common competition policy. According to the political and financial authorities of the EU, the competition policy has a role as a guardian of the economic activities of the European companies and individuals. On the other hand, the competition policy is an encouragement for the quality and the success of the economic activities. Directly, it has a good effect on the quality of the European markets during the competition with the global markets (Goyder 1993, p. 79).

Basically, in the EU competition policy, the competition rules are taken into account if trade between member states is affected. If such an effect is not the case, the national competition regulations of the member state concerned shall apply. Even, if an agreement, decision or conduct violates the rules of competition law, the EU competition rules will not be applied unless there is a measurable effect on the competition in the common market. The aim of this regulation is to facilitate the business association between these enterprises and to save the EU competition authorities from unnecessary workload by excluding the small and medium-sized enterprises which do not have the power to influence the market in a sensible way.

There are some important principles of the EU common competition policy and these principles create the legal basis of the competition policy. At the same time, these principles help the ECJ to decide the conditions of the common competition policy. First of all, the competition policy rules try to ban the illegal actions of the institutions and the individuals; in other mean, the EU competition policy aims to create a fair area. On the other hand, the competition policy bans the illegal and disordered economic agreements between the companies and institutions. Despite the presence of the legal courts in the EU member countries and the ECJ, there can be some illegal arrangements between the sides and it can damage the legality and equality of the competition process (Jones and Sufrin 2004, p. 66).

The competition policy of the union follows a definite goal, which is to defend and develop effective competition in the common market. Competition is the basic mechanism of the market economy, including supply (producers, traders) and demand (intermediary customers, consumers). Sellers offer goods or services on the market in an effort to meet requests. Demand calls for the best ratio between quality and price for the products you need. The most effective response occurs at the end of the race among sellers. Thus, competition leads each individual to seek ways to find this balance between quality and price to meet the best possible demand. Competition is therefore a simple and effective way of ensuring the level of excellence in consumer goods and services in terms of quality and price. Competition also makes it difficult for firms to strive for competitiveness and economic efficiency. This strengthens the industrial and commercial fabric of the Group, giving it the ability to confront the competitiveness of its major partners and bring its union companies to a position where they can succeed in world markets.

Another principle is about the illegal, pirate and unfair actions of the minor companies, enterprises and individuals. These actions can cause the unequal and unbalanced market actions between the sides of the European competition area. In the domestic and international economies, the illegal actions of the minor financial actors can create a serious competition gap and unbalanced marketing area. In other mean, it is a resistance to the legal order of the EU’s competition structure (Moussis 2006, p. 21).

On the other side of this situation, the competition policy is against the unbalanced and unequal actions of the major actors of the financial world in the EU. Sometimes, the relations, mergers and agreements between the companies and enterprises can affect the minor actors negatively. That is why, the EU competition tries to find a balance point between the major and minor actors to provide a fair and an equal competition area in the EU. Lastly, the sectors like telecommunication, transportation and energy are the important targets of the EU financial authorities to liberalize. According to that, the competition with fair moves in these sectors will provide a liberal, a quality and a useful market for the institutions and the individuals at the same time (Vives2009, p. 44). With the fair environment in these sectors, the companies and enterprises can compete under the equal conditions and that situation increased the quality of the standards. At the same time, the people or individuals can consume the quality products under the protection of the competition policies criteria.

Although it is stated that the main purpose of the EU competition policy is to provide economic efficiency, it cannot be said that this is the "only" purpose. Competition law and politics are among the most important tools for the realization of the single market of the EU. The reason for the free movement of persons, goods, services and capital in the single market, which consists of the geographical boundaries of the whole of the EU member states, depends on a common competition law and policy that is determined to serve just and rightly. The EU is a project aimed at ensuring the integration of the member states in a way that will create a common market in economic terms. As a matter of fact, the competition policy has been shown as one of the most important tools in the Treaty of Rome, which established the EU, to ensure the formation of the Common Market and further strengthening the integration (Ateş, 2008, p. 51).

The Common Market, all the barriers to trade in the Union are eliminated by the Member States on a reciprocal basis; can be expressed as an economic area in which a common customs tariff is applied to the third countries and free movement of goods, services, capital and labor is provided. The achievement of these benefits through the

Common Market is possible through the equitable distribution of resources and the creation of a coherent Common Market and essentially a competitive environment.

When considered from the EU's point of view, competition policy is important for companies operating in the member states to be able to become acclimatized to the international competitive environment and to provide economic benefit from the capitalist world order. As a result of Competition Policy implemented in the EU, effective and efficient competition is being implemented in the public sector. The public sector is able to compete with the private sector. But while the development of the public sector is being encouraged, it is not allowed to empower the private sector more than it needs. In this respect, efforts are being made to support the development of both sides by providing a balance between competition between the public sector and the private sector.

Within the EU, it is possible to list the general benefits of the common competition policy with the following factors (Kar & Arıkan, 2003, p. 77-78):

i. The common competition policy is convincing people that it is a place for everyone in a competitive environment,

ii. The common competition policy has a balancing effect as strong authority as to prevent monopolization of production,

iii. The common competition policy has an incentive for everyone to prove that they have the opportunity to trade gradually,

iv. The common competition policy ultimately cares for and is shaped by the common interests of the EU,

v. The common competition policy is both decisive and directive in terms of candidate countries as well as member states; this policy prepares them perfectly for EU membership,

vi. The common competition policy reflects the common commercial identity of the EU in the true sense of the word and thus creates a strong commercial space,

vii. The common competition policy is to prepare the EU member countries and the commercial actors of the member countries with strong international competitiveness,

viii. The legal dimension of the common competition policy allows competition to be more qualified and strengthens the system,

ix. The common competition policy removes the hegemony of large-scale enterprises but maintains them as other small-scale enterprises.

### 2.2.3 Basic Principles of the Common Competition Policy

The EU's common competition policy is accepted within certain principles. Accordingly, this policy reflects the seriousness of the issue as well as the commercial viewpoint of the EU. Especially the legal ground of the common competition policy makes it a much more important and qualified system. For this reason, the policy of common competition can in fact be seen as reflecting the basic perception of the entire political and economic system of the EU. In this way, it is possible to evaluate the basic principles of the common EU competition policy with the following elements. (Yeşilada, 2012, p. 71-87):

i. Cartel Prohibitions: Some commercial agreements between companies disrupt common competition. For example, some companies jointly go for price reductions to win more customers, which leads to the loss of customers by other companies. The meaning of this in the economy is the secret cartel agreement. In this way, the market is under the dominance of a few companies and an unfair competition environment is emerging.

ii. Abuse of the dominant position: The definition of the dominant position is specified in Article 82 of the EU Treaty. According to this article, the creation of a dominant position in the Community market of at least one undertaking is sufficient to adversely affect the activities of other undertakings. The reason for this is that the dominant undertaking is likely to abuse this dominant position.

iii. Supervision of Exemption Applications: In terms of competition policy, the term exemption is defined as the absence of certain economic measures and economic laws that some companies are obliged to fulfill in certain sectors, and that economic laws are not applied to certain undertakings. The EU is required to apply for exemption from companies. The community evaluates the company and decides whether the exemption is appropriate. Exemption rights are granted to companies only for a certain period of time.

iv. Company Consolidation: A company merger is a situation in which at least one undertaking incorporates the other in an administrative or economic context. The company is the most advanced form of economic cohesion among corporate unions. The company is witnessing a more efficient and safer economic partnership process than the commercial agreements signed between enterprises. Within the framework of the company merger, it is possible to produce better quality goods in shorter time and sell them at a lower price. Enterprises have the opportunity to compete more effectively in the EU market and in the international market.

v. Takeover of Undertakings: Regulations governing the incorporation of underwriters are a matter of law. When evaluated in this context, Article 82 of the EU Treaty and Regulation No. 4064/1989 deal with the conditions under which the undertakings may be taken and how they can be taken over.

vi. Liberalization of Monopolistic Economic Sectors: Member States do not have the right to grant to the public enterprises and enterprises they grant special rights any privileges other than those laid down by the EU Treaty. As the privileges are accompanied by the risk of monopoly, it is not allowed by the EU except for special circumstances. In the first paragraph of Article 86 of the EU Treaty, the relevant legal arrangements have been made. In order to prevent the monopolization of public services, these enterprises should be liberalized in accordance with the competition principle.

vii. Centralization: It is the highest level of economic concentration and it is called centralization for many capital to be integrated into one capital. At this point, a single general capital is created. In the EU, the involvement of new members in the Union has brought about the problem of centralization.

viii. Anti-Damping for Damping Applications: Damping is the economic definition of an action to be presented in another country at a price lower than the normal value of a product on the market. The damping application has an adverse effect on international competition. The company that imports dumping goods can keep the whole market under its own control as the other companies can not sell goods at that price.

In conclusion, the EU plays a protective and balancing role in terms of competition. A common competitive policy is a necessity for the process of fairly processing the system in the EU as much as possible. This obligation has a great proposition to prove that the EU is fair. This sense of justice also strengthens the beliefs of the EU member states in the system. On the other hand, in terms of commercial actors, it is seen that the common competition policy is a value. Accordingly, the fairness of competition is a proof of the nature of the commercial operation of the EU.

### 2.2.4 The Legal Dimension of the EU Competition Policy

No doubt, the EU pays attention on the protection of the competition policy in every area; because, the achievement and the stability of the competition policy system depends on a strong legal structure in European Union. There is already a developed legal structure in European Union and the justice is one of the basic pieces of the EU political, financial and socio-cultural structure. According to that, the general framework of the legal side of the competition policy depends on the Articles 81 and 89 of European Community Treaty (Goyder 1993, p. 91).

As in all areas of the EU, the Treaty of Rome, which is a founding treaty in terms of competition policy, has a serious impact. Therefore, while the legal basis of the EU's competition policy is examined, it is useful to examine the elements of the Rome Treaty in more detail (Yeşilada, 2012, p. 67-71):

i. Articles 4 and 65: It regulates commercial activities between undertakings that produce goods or services and undertakings that purchase these goods or services and deliver them to end-users. It is never permissible for any manufacturer to offer goods or services to customers that are very different from other manufacturers.

ii. Article 52: It contains sanctions that protect the interests of the Member States and contain the necessary arrangements for the use of atomic energy.

iii. Article 81: It contains rules on anti-trust applications for entrepreneurs in commercial activities. Decisions are taken depending on the Council's statute.

iv. Articles 81 and 89: These materials are generally regarded as two parts. The first part contains the legislation on the regulation of the supervisory mechanism for commercial enterprises. The prohibition of companies in the business activities that cause competition and the causes of unfair competition are prevented by the laws mentioned in the first part.

v. Articles 87 and 89: It sets out the general framework of state aid. These materials need to be applied correctly in all member states. Legislation on state aids is supported by regulations and directives established in the EU.

vi. Article 90: It is emphasized how customization should be done. When privatization of any undertaking is permitted, other undertakings operating in the industry may be adversely affected. If such a situation occurs, the privileged rights granted by privatization can be recovered from the related company.

In particular, 81st Article is the most important support of the legal basis of the EU competition policy. 81st Article tries to decide and to balance the purchase and selling prices. By that way, legal institutions of the EU limits or control production, markets, technical development or investments on the basis of Treaty of Rome. On the other hand, the legal institutions pay attention for the equality between the sides of the financial process. For the EU competition policy’s basis, balance between the sides is the most important part of the reliability and stability in the competition process. So, the EU can apply sanctions for the illegal actions of the sides for the goodness of the competition policy. Lastly, during the contract and agreement process of the companies and enterprises, the EU legal institutions decide and direct the process for the goodness of each member of the financial actors from minor to major. At the same time, European Community Treaty tries to obstruct the state intervention which is able to damage competition area. In other means, by that way, European Union wants to hold the process under its dominance. Although, the EU wants to liberalize the markets and the actions of the companies, enterprises and individuals, the union does not want to loose the leadership of the legal administration of the system to the domestic courts of the member states (Moussis 2006, p. 59-61).

“The definition of the term, however, was enriched with the launch of the modernization package in 2004. In the 2004 notice on the application of the former Article 81(3) European Commission, the Commission presented consumer welfare and allocative efficiency as the goals of Article 101 TFEU. The same proclamations appeared in the Guidelines on the application of the former Article 81 European Commission to technology transfer agreements (2004) and in the Merger Guidelines (2004). These goals were repeated in 2005 Discussion Paper on the former Article 82 European Commission and in the Commission’s submission to 2005 OECD Roundtable on competition on the merits” (ERT 2010, p. 13).

During the legal process of the European competition policy, the role of the ECJ is more effective than the other legal institutions in the competition issue. Generally, the ECJ was built as the most powerful legal structure in European Union to order the rules and laws with the common respect of the EU member states. In the political, economic and socio-cultural issues, the ECJ is the highest authority of the EU during the legal decision-making process. In this perspective, the ECJ is one of the most important organizers of the European competition policy in the European continent. According to that, the role of the ECJ was guaranteed by the general union rules and these rules feed, encourage and support the decisions of the ECJ for the competition policy. So, by that way, the role of the national and domestic legal institutions' decisions is removed off the agenda of the competition process (Yıldızoğlu 2004, p. 13-15).

In general, the union's competition policy is not only related to the national courts’ decisions; because, the EU competition policy belongs to the EU’s own system and all the members of the union had been accepted the certain authority of the ECJ. The most visible example of this is that the ECJ has a major right to check the decisions of member states, European Commission and European Council, except of their ideas and suggestions. At the same time, the ECJ also has an authorization to remove, to decrease and to increase the fines which was given by the European Commission (Jones and Sufrin 2004, p. 72).

Briefly, the ECJ is the last authority on the mergers, agreements, state aids and agreements between the sides. The ECJ guarantees the equality, balance and fair order between the economic actors of the competition process in the EU borders and that situation makes frightened from the power of the law and order of the EU about competition policy. In this respect, the EU aims to create qualitative and stable competition area in Europe against the other markets, other competition areas and the foreign goods in the EU borders (Baskoy 2008, p. 63-64). This is just a protection and encouragement for the domestic areas' economic actors in the EU and it is a legal organization to create a fair competition area.

Care is taken to protect the economic balances in the Union countries while applying a common competition policy within the EU. The common policy of competition is to provide fair competition in the domestic market while at the same time increasing the market share of the member countries in the world economy. The common competitive policy is determined by the economic conditions in the world. However, when implementing this policy, some difficulties are experienced. The Union cannot develop its competition policy towards its members, sometimes in accordance with its own aims. Therefore, there may be a problem of harmonization between the countries of the Union.

Regulation 1/2003, to which reference has already been made, decentralized decision making, regarding competition law, including enforcement, and established a network of competition authorities, called the European Competition Network (ECN), composed of the Commission and the competition authorities of the Member States, based on the principle that the best-placed authority would handle a case which affects the EU as a whole. This arrangement is especially effective to counteract cross-border practices which restrict competition. The ECN also helps ensure that competition law is effectively and consistently applied through the member states (EPRS 2014, p. 14).

In the legal dimension of competition law, consumer welfare is the prior topic in the agenda of the EU. The first references to consumer welfare in the EU competition law appeared in the 1997 Green Paper on Vertical Restraints. The definition given in that document implied an end-user surplus standard, namely a focus on the benefit to final consumers resulting from lower prices (Daskalova 2015, p. 145):

To further the interest of the consumer is at the heart of competition policy. Effective competition is the best guarantee for consumers to be able to buy good quality products at the lowest possible prices. Whenever in this green paper the introduction or protection of effective competition is mentioned, the protection of the consumer's interest by ensuring low prices is implied.

### 2.2.5 As an Important Part of the Competition Policy: Direct Effect

Direct Effect is a valuable part of the EU laws. According to that European individuals have a lot of rights against the national and the EU courts at the same time; in other means, there is not any limitation for European individuals to defend their rights against the national courts or the EU courts. Direct effect principle provides an equal system between two important legal structures in the EU (Jones and Sufrin2004, p. 51); because, there is a complicated legal structure in the EU between the union courts and the national courts of the member states. The first attempt about the direct affect had come with the decision of the ECJ about the Van Gend & Loos case in 1963. At the same time, direct effect has a bridge role between the national courts of the member states and the EU courts during the decision-making process. In other words, direct effect is the first step of the project for bringing the entire national laws of the member states in the EU under the authority of the union courts (Vives 2009, p. 47).

There are two different viewpoints about the direct effect; horizontal and vertical approaches. The vertical direct effect is a result of the relations between the individuals and the states. It means that the individuals can use their rights which come from the union laws in their national law systems against their national courts. The horizontal direct effect is a result of the relations between the individuals. It means that all the union laws are valid for all the individuals all around the legal areas of the union. Generally, the ECJ accepts the partial-direct effect as the basic principle (Köksal 2002, p. 36).

There are basic ten topics as called direct effect material in the founder agreement of the EU; topic which bans the discrimination, topic which bans the duty taxes that they have equal effect, topic which bans the quantitative limitations, topic which is about the free roaming of the labors, topic which is about location, topic which is about free roaming of the services, topic which bans the complete actions, topic which is about the state aids, topic which bans the inequality between the local and the foreign goods about taxation and topic which is about the equality between women and men (Vives 2009, p. 78).

## 2.3 EFFECTS OF STATE AIDS ON COMPETITION OF CIVIL AVIATION SECTOR

In this chapter of the thesis, there will be some evaluations about the effects of state aids on the competition of civil aviation sector of the EU. The chapter will be including the airline sector of the EU, its general financial structure, applications of states and competition process in the sector and their relationship's reflections on the sector as well.

### 2.3.1 Airline Sector in the EU

European Union's mechanism focuses on common policies in every area and the basis of this focus depends on creating a central control mechanism on every plan, project, strategy and rule of the union. In detail, airline sector in the EU is one of the areas that the union focuses on creating common strategy between the members. In particular, civil aviation sector is seriously important for the EU policies in the bureaucratic area and in the financial area. Therefore, European civil aviation sector is one of the most dominant sectors among the whole national, regional and international civil aviation sectors.

The first step of the EU in the airline sector to unite the operations of all the members started with the development project of the EU Single Aviation Market. The basic purpose of this project was about providing better service quality for passengers, airports, airline companies and employees of the sector. European Union Single Aviation Market had aimed to provide equal conditions for each and every single actor of the sector in the EU borders for a good competition mechanism in the system. In other words, the EU removed the barriers, which had been always an obstacle between the members of the union to reduce their passenger and flight potential and to obstruct their growth freely in the market (Servantie 2015, p. 2-3).

The investments and the regulations on the EU airline sector are directly related creating a solid competition area and increasing the service production potential of the sector. However, the most important one is about the EU's legalization purpose on the airline sector to control the mechanism by the support of central legal mechanisms of the EU. That is why European Union pays attention on legal protection of the union's airline operations in the basis of single market strategy that the union did the same on the sectors (Commission of the European Communities 1999, p. 9). The reasons that the EU focused on a strategy like that the destructive effects of airline strategy's liberalization in the 1980s. That process was seriously unsuccessful and most of European airline companies had lost their influence in the markets and some of them bankrupted (Jarach 2004, p. 29).

The Single Aviation Market creation of the EU has been created in two different dimensions. First Single Aviation Market applications included the points such as below (Keskin 2012, p. 91):

i. Published in December 1999 and advised by European Commission to be accepted as the basis of airline sector's supports,
ii. Aimed to create a common airspace for all member states' airline companies by the decisions of a common organization, which would be included civil and military authorities from different points of the union,
iii. Accepted the representatives of airline companies and the other actors of airline sector as the prior shareholder to decide the future of the sector.

However, this system was seen as insufficient to meet the expectations of the EU airline and aviation sector, which grew fast. That is why Single Aviation Market (II) strategy was considered by new factors as sorted below (Keskin 2012, p. 91):

i. There was a need for the management of airspace regime from the center of the EU; it was not a simple process to leave only the member states,
ii. Increasing delays in the EU airspace were serious threats for the continuity and the financial interests of airline companies and generally the sector,
iii. Each and every single member of the union can provide the needs of security; however, these members need the support of the EU's central administration to develop common security policies,
iv. Increasing costs of airline expenses were serious threats especially for the minor airline sector actors; that is why the plan and projects of the EU airline and civil aviation sector had to be organized in a common place.

By the positive effect of Single Aviation Market, the EU achieved to create new aviation regime in the union border. In particular, Single Aviation Market focused on the legal, the financial and the social dimensions of the issue. When the shares of airline companies grew in the sector all around the world, the regression of the EU-based airline companies' financial situation was the most important issue in this process to recover the negative conditions. In other words, the EU had a serious and a high quality mechanism to control the process.

In this process, the foundation of Joint Aviation Authorities of Europe was very important to complete the unifying process of the EU members' civil aviation applications under a central administration mechanism. According to that the basic missions of Joint Aviation Authorities of Europe can be sorted such as below (Karaağaoğlu 2015, p. 20):

i. Licensing the aviation staff due to the needs of international aviation operations, which were decided by the international aviation authorities,
ii. Identifying the needs of aviation sector's actors instantly and providing support for them just in time,
iii. Deciding the special procedure of the EU civil aviation system and support its legal mechanism due to the needs of sector's actors,
iv. Licensing the security procedures and security staff for the aviation operations,

v. Organizing the general regulations about aviation sector's competition operations in details by considering the interests of each and every single actor of the process.

### 2.3.2 Financial Structure of Civil Aviation Sector in the EU

Generally, the greatest airline companies of the world are located on European lands and the US. Although there is a serious potential of Asian and Arabian airline companies, their efforts are not enough to leave the European airline companies behind. In particular, the airline companies, which are in the EU borders, are seriously effective on the global airline sector. However, the power of airline companies in the EU comes from the legal order and regulations of the union's general civil aviation strategy. That strategy, which have a historical depth since the beginning of the EU, feeds the financial potential of the EU aviation sector and makes the EU-based airline companies more powerful against the others this clear view also decides the limits of financial structure of civil aviation sector in the EU.

Generally, the financial indicators of civil aviation sector in the EU show the values such as below with the 2016 numbers (European Commission 2017, p. 7-14):

i. Annual net profit of sector is $7 billion,
ii. Increase rate of sector's financial income is %4,
iii. The EU-based airline companies have the %34 of world market's income,
iv. The EU-based airline companies also have the %34 of world market's passenger traffic,

**Table 2.1: General view of Europe airline industry**

| Airline Industry | 2014 | 2015 | 2016F |
|---|---|---|---|
| Net post-tax profit, $billion | 1.0 | 7.4 | 7.5 |
| Per passenger, $ | 1.15 | 8.03 | 7.83 |
| % revenue | 0.5% | 3.8% | 4.0% |
| RPK growth, % | 5.7% | 6.0% | 4.9% |
| ASK growth, % | 5.1% | 4.8% | 5.8% |
| Load factor, % ATK | 67.2% | 67.4% | 66.6% |
| Breakeven load factor, % ATK | 65.8% | 63.8% | 62.9% |

*Source:* European Commission (2017). Annual Analyses of the EU Air Transport Market 2016. Brussels: European Commission Final Report, p. 97.

i. Net profit per passenger improved from $1.15 to $7,83 between 2014 and 2016,

ii. The three greatest airline groups in the EU area, IAG, Air France-KLM and Lufthansa group achieved a growth in operating revenue between 2014 and 2016 by representing over 60%,

iii. The EU-based airports made $50,80 million income and became the first in the world rankings,

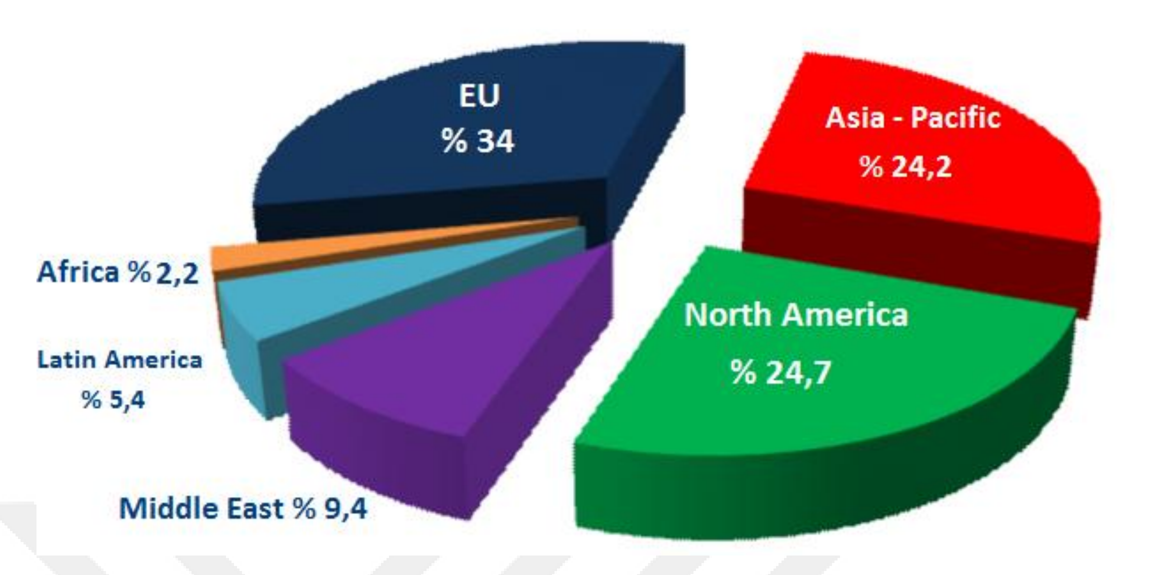
iv. There are two the EU-based airline companies in top 10 groups by revenue (Lufthansa Group $35.4bn and Air France-KLM Group $28.7bn),

v. There are three the EU-based airline companies in top 10 groups by net-profit (Lufthansa Group $1.9bn, Ryanair $1.7bn and IAG $1.7bn),

vi. There are two the EU-based airline companies in top 10 groups by revenue passenger kilometers (Lufthansa Group 162,173m and Air France 141,207m),

vii. There are two the EU-based airline companies in top 10 groups by passengers (Ryanair 106.4m, Lufthansa 79.3m and EasyJet 68.6m),

**Table 2.2: Regional shares in the air transportation for the year of 2016**




*Source:*DilekSarsın Kaya (2017). HavayoluYolcuTaşımacılığıSektörü. İstanbul: İşBankasıRapor, p. 9.

According to these numbers, it is mainly possible to say that the EU-based airline companies and generally the EU-based airline sector have the leadership in the world. Net profit, passenger and increase rates are quietly reasonable to evaluate the EU civil aviation market as a leader in its own system. On the other hand, the EU civil aviation sector seems like the most competitive area all around the world and the current numbers about the sector shows that the EU market is also competitive in it. The places of the EU-based airline companies in the world ranking is the most visible example of this.

**Table 2.3: Airport revenue 2016 ($ millions)**

| Region | Total Revenue in 2016 | Growth vs 2015 | % Aero Revenue | % Non-Aero Revenue | Aero Rev Growth YoY | Non-Aero Growth YoY |
|---|---|---|---|---|---|---|
| Africa | 3,000 | 17.0% | 70% | 30% | 0% | 13% |
| Asia - Pacific | 41,800 | 8.3% | 49% | 51% | 10% | 16% |
| EU | 50,800 | 7.0% | 59% | 41% | 0% | 5% |
| Latin America/Caribbean | 8,100 | 25.9% | 59% | 41% | 9% | 27% |
| Middle East | 10,900 | 13.0% | 48% | 52% | 18% | 33% |
| North America | 27,900 | 4.8% | 52% | 48% | 4% | 16% |
| **World** | **142,500** | **8.2%** | **54%** | **46%** | **5%** | **14%** |

*Source:* European Commission (2017). Annual Analyses of the EU Air Transport Market 2016. Brussels: European Commission Final Report, p. 13.

This positive view in the civil aviation sector of the EU rebounds the national income and the sector turns into a source of employment directly. According to that it is possible to explain financial reflections of civil aviation sector in the EU area by the numbers below:[2]

i. The employment capacity of sector is around 5 million people in the EU region,
ii. The sector contributes €300 billion total salary to the national income of the EU region,
iii. The %22-part of this salary is related the indirect stakeholders of sector in the different areas,
iv. The sector's financial support and employment capacity is 2.1% to European GDP,
v. The sector has an educational identity and annually, the sector trains more than 12,000 employee for the new developments and sectoral operations by developed vocational trainings,
vi. The sector spends the %11-part of its salary on the training operations in the different areas including technical operations, passenger service training and public relations,
vii. The sector is in the first-5 list of most profitable sectors in the financial structure of the EU,
viii. Although some the EU member states are in economic crisis, union's civil aviation sector is expected to grow by around 5% annually until 2030.

[2]https://ec.europa.eu/transport/modes/air_en

**Table 2.4: Top airlines by airline groups and airlines by operating revenue, operating net profit, revenue passenger kilometers and passengers in 2016**

| Top 10 groups by revenue | | Top 10 groups by net profit | | Top 10 Airlines by RPK | | Top 10 airlines by passengers | |
|---|---|---|---|---|---|---|---|
| American Airlines Group | $41.0bn | American Airlines Group | $7.6bn | American Airlines | 358,823m | American Airlines | 201.2m |
| Delta Air Lines | $40.7bn | United Continental Holdings | $7.3bn | Delta Air Lines | 337,264m | Delta Air Lines | 179.4m |
| United Continental Holdings | $37.9bn | Delta Air Lines | $4.5bn | United Airlines | 335,728m | Southwest Airlines | 144.6m |
| **Lufthansa Group** | $35.4bn | Emirates Group | $2.2bn | Emirates Airline | 255,176m | United Airlines | 140.4m |
| **Air France - KLM Group** | $28.7bn | Southwest Airlines | $2.2bn | Southwest Airlines | 189,057m | **Ryanair** | 106.4m |
| FedEx | $26.5bn | **Lufthansa Group** | $1.9bn | **Lufthansa** | 162,173m | China Eastern Airlines | 93.8m |
| Emirates Group | $25.3bn | **Ryanair** | $1.7bn | China Southern Airlines | 153,749m | China Southern Airlines | 84.0m |
| IAG | $25.2bn | **IAG** | $1.7bn | China Eastern Airlines | 146,291m | **Lufthansa** | 79.3m |
| Southwest Airlines | $19.8bn | Japan Airlines | $1.5bn | **British Airways** | 142,016m | **EasyJet** | 68.6m |
| China Southern | $17.8bn | Air China | $1.2bn | **Air France** | 141,207m | Turkish Airlines | 61.2m |

*Source:* European Commission (2017). Annual Analyses of the EU Air Transport Market 2016. Brussels: European Commission Final Report, p. 12.

In this context, it is fairly possible to see the EU's civil aviation sector as one of the most important feeders of the EU economy in the current time. In particular, the employment numbers and financial benefit of sector to the EU society is a serious source of income. That is why the EU authorities and the EU member states' governments try to protect the current potential to keep the production and the income level of the sector high.

Financially, civil aviation sector has a critical situation in the EU's general economy. Dually, the sector feeds the national and regional economy at the same time and it is an important sector for people to find job and to continue their lives. In particular, the civil aviation sector presents serious advantages to its employees to be specialized on a specific sector. The most valuable point for civil aviation sector in the EU is its resistance against the heavy pressure of global financial crisis on the civil aviation sector all around the world. The EU's own civil aviation sector is one of the most successful bodies to stay alive even in the hardest period of global financial crisis and the EU decided a successful strategy on the sector to keep it safe for the continuity of sectoral operations and to save a serious economy from the bankruptcy (European Civil Authority 2015, p. 14).

### 2.3.3 State Aids for the Civil Aviation Sector in the EU

State aids create the basis of European Union's strategy to strength various sectors, enterprises, investors and entrepreneurs for their activities. That is why the EU authorities tried to create a solid base which depends on the EU legal system's main factors for state aids and they achieved to connect the business area to the legal system. This situation is valid for the civil aviation sector. According to that the sector takes the advantage of state aids in the EU borders and the Union's financial mechanism supports the actors of the civil aviation sector within the framework of the union's legal mechanism including airline companies. However, the civil aviation sector has some different details to touch upon as having special state aid applications due to the needs of sector specifically.

Basically, the state aids of the Union in the civil aviation sector comes out in four different formations. Firstly, the sector takes advantage of sectoral aids. This kind of aid depends on the needs of a sector by depending on the 73rd and 76th articles of Treaty of Rome, for the transportation operations and investments such as for public needs which are suitable for state aids in the union. Specifically, for the civil aviation sector, in the state aids process, the EU authorities and European Commission considers the benefits of aids for an enterprise and its indirect effects on the sector. Airline companies are the basic target of this kind of aids and European Commission does not allow any of state aids to strength an airline company unlimitedly against the others (Carlsson 2009, p. 134).

Secondly, some of the horizontal aids are effective on civil aviation sector piece by piece. The reflections of these aids are sorted below (Carlsson 2009, p. 137):

i. Environmental state aids: According to the 174th article of Treaty of Rome, the EU is responsible with supporting civil aviation sector's stakeholders' environmental operations to protect the environmental quality, to develop environmental potential, to protect the human health, to encourage the international preventions during the struggle against the environmental threats. In particular, airports and technical areas are the basic targets of the EU authorities and European Commission to be developed and to be protected due to the needs of nature and human health.

ii. Recovery and reconstruction aids: Recovery and reconstruction provides the civil aviation sector's actors an opportunity to save themselves from the serious bankruptcies, seizures, forced sale etc. and recovery. The reconstruction aid is one of the most focused aid kind of the EU state aids to protect the current competition conditions of the union. As mentioned above, civil aviation sector is one of the most precious industries in the EU borders. That is why the Union needs to protect the stakeholders of the sector without considering their capacity, position or effect level in the sector.

iii. Aids for small and medium-sized enterprises: These enterprises are evaluated as the basis of trading system of the EU and their sustainability in the business life of the union is seen as critical for the competition structure and new job opportunities for people as well as in the civil aviation sector. That is why state aids strongly focus on strengthening the small and medium-sized enterprises. Except airline companies, civil aviation sector in the EU is created by the minor enterprises and the protection on them is seriously important.

Thirdly, the other state aid model is directly related to the airline companies. The aids' content is evaluated below (Carlsson 2009, p. 139):

i. State aids for airline companies are important for the financial crisis terms to protect the minor enterprises specially,

ii. The financial protection of the EU-based enterprises is also important for the prestige of the Union's role and force in the international civil aviation sector,

iii. The state aids for aviation sector in the EU also works for protecting a sector, which presents a wide-range job and career opportunities,

iv. As well as the other sectors, the high competition level in the civil aviation sector is important and state aids provides a continuity for this competition with the new challengers in the various areas of civil aviation sector,

v. As well as the other side of the world in the airline sector, private sector is dominant in the EU and they need the state aids because of different reasons due to their capacity and their strategies in the sector.

Lastly, the state aids for the civil aviation sector in the EU focuses on the airports like; the EU declared a regulation in the year of 2013 to decide the general framework of this kind of aids. According to that this new aid model includes the details below:[3]

i. Airport infrastructure aids: The EU focuses on the development projects of airports. According to that European Commission capacitates the private sector to build or renovate the airports around the EU region and financially encourages every entrepreneurship in this area. However, the European Commission limits the aids with the capacity of an airport and the size of an airport will be determinative factor for the amount of the aid.

ii. Operational aids for airports: Generally, the operational needs of airports are seriously important for aviation activities in any means. That is why every airport needs an operational structure and this kind of aid allows the public authorities to support private sector investments on airports financially with some limitations up until a 10-year period. The limitation mentioned above is related to the capacity of an airport and the investment amount of private sector.

### 2.3.4 Amount of State Aids in the Civil Aviation Sector of the EU

Specifically, the state aids in the EU are organized for some industries, which are directly effective on the EU member states and on the general the EU economy such as nourishment production, agriculture, technology, infrastructure etc. However, in the last years, some sectors such as civil aviation started to take advantage of state aids. Because of the rapid growing potential of general the EU regional economy, each and every

[3] http://ec.europa.eu/competition/consultations/2016_gber_review/replies/registered_organisations/it_assaeroporti_en.pdf

single actor in the business area needs the support of state aids to invest or to protect their activities from the financial crisis threat. As one of the rapid growing sectors in the EU, civil aviation sector is the new party, which is in the bureaucratic agenda of the Union institutions. Although the level of state aids is not high for civil aviation sector, the actors in the airline industry wait for the support of the EU and member states' governments (Union of European Civil Aviation 2015, p. 8).

According to that, the financial value of the state aids in the civil aviation sector is described with the numbers such as below according to the numbers of 2014 (Union of European Civil Aviation 2015, p. 11):

i. Total of state aids for the civil aviation sector was €721 million for different actors,
ii. Airline companies' civil aviation operations had the %33-part of these aids in a year,
iii. The EU institutions and the member states' governments paid more than €220 million for the technology investments of the sector,
iv. Parties of supply chain in the civil aviation sector such as catering, cleaning, security and transportation had the lowest part of aids,
v. Except flag carrier airline companies, minor airline companies most of whom are local companies, grew %2,7 in average,
vi. By the state aids for the civil aviation sector, the employment numbers in the sector increased by %8,9,
vii. The %47-part of aids are distributed by the EU institutions and the %53-part of aids are distributed by the EU member states' governments.

According to these numbers, the aids seem like enough for civil aviation sector's growth and protection from the financial crisis threat. However, when the current growth and the possible growth potential of the sector was considered, the amount of state aids in the sector does not seem enough to support the minor actors of the process sufficiently. While the importance of the minor actors in the sector is considered as valuable for the continuity of sector's current financial potential, in-competition and international competition, these aids seem like just working for the interests of major actors in the sector. In particular, as major actors, flag-carrier airline companies get the greatest part of aid share and this does not work for the development of minor actors in the sector. Minor airline companies and the parties of supply chain do not get the sufficient aid for their development and preparation for in-competition of the EU and for international competition.

The basic criticism for state aids of the EU for civil aviation sector concentrates on unfair dispersion of financial aids. According to that, general belief is about that the EU institutions and the member states' governments mostly focus on protecting the major-scale and flag-carrier airline companies with their supply chain partners. On the other hand, the minor-scale airline companies and the minor entrepreneurs in the sector do not take the share they expected. This causes a serious unbalanced situation for a fair competition in the sector (Messina 2012, p. 81).

Surely, the sector is one of the areas in the EU region that there is a serious and a tough competition. Although there are the world's greatest-scale airline companies, aircraft producers and supply chain partners, there are still chances for minor ones to grow, but the current conditions in the sector do not allow this. Also, insufficiency of state aids for minor actors in the sector affects the process negatively. There is a need for a new-designed state aid policy or a reconsideration for the process to encourage the minor actors of the sector to feed the sector's basis and to create a powerful competition structure (Messina 2012, p. 84).

### 2.3.5 State Aid Policy of the EU on the Civil Aviation Sector

The EU institutions decided a general frame about state aid policy, but the details of state aids in the basis of various sectors are complicated. Generally, this complicated situation is solved by the ECJ. However, state aids policy does not include the specific points for different sector and this uncertainty is a serious problem for the providers of state aids to evaluate the process. On the other hand, the parties which wait for these aids are not sure which aid suitable for the legal structure of union. This problematic situation is also a threat for civil aviation sector because of lack of details about state aids' general framework for this sector. However, it is possible to adapt the general rules of state aids policy to the civil aviation sector.

In this context, the compatible rules of state aids, which are compatible with the definitions in the Treaty of Rome, with the civil aviation sector is sorted below:[4]

i. Airline companies create the basis of state aids for the civil aviation sector and the aid decisions cannot be against the direct interests of airline companies,
ii. State aids for airports must be designed for the direct interests of public during their stay in the airports,
iii. State aids for the development of airports cannot be against the environmental priorities of public authorities and public institutions,
iv. Civil aviation sector needs the aids for minor actors and aids must be designed to consider the competition between the sector actors due to their capacity and their competitiveness,
v. Development strategy for civil aviation sector of a union member state cannot affect the others' sectorial strategy negatively,
vi. State aids for civil aviation sector must consider the financial survival of sectorial enterprises in the union borders; after that the aids must be focused on encouraging the international competitiveness of sector,
vii. State aids for infrastructure and development investments cannot be over the financial limitations that the European Commission decided, to protect the tourism sector's mobility indirectly all around the union,
viii. State aids can be provided just one project or different actors in the sectors annually or a specific time period,
ix. Any of state aids for the civil aviation sector cannot be over the limit of a public infrastructure projects, which is directly or indirectly related the interests of public,
x. State aids for civil aviation sector works for a specific side, but definitely consider the common interests of competition policy in the sector each and every single actor in the airline industry.

[4] http://europeanlawblog.eu/2013/01/18/the-leipzig-halle-judgment-of-the-cjeu-is-the-financing-of-a-transport-infrastructure-an-economic-activity-subject-to-state-aid-rules/

### 2.3.6 Results of State Aids for the Civil Aviation Sector in the Context of Competition Policy of the EU

No doubt, state aids have a triggering effect on various sectors in the EU borders positively and its encouragement mentality creates the basis of financial survival of minor enterprises especially. When issue was evaluated in the basis of civil aviation sector, surely the process will be understood in detail according to the effects of state aids on the airline companies and the other actors in the sector. It is seriously hard to specify the state aids application on the civil aviation sector because of that the state aids were created for a general use in the EU, growing structure of state aids make an investigation necessary to understand what the direct effects of state aids on the competition policy due to the standards of civil aviation sector.

Basically, states aids have potential to give these results on the sector such as sorted below (Tornville 2008, p. 74):

i. Encouragement for the members of supply chain actors in the civil aviation sector of the EU to protect the competition force of sector,
ii. Obstruction against the intense pressure of global financial crisis, which has been active since the year of 2008,
iii. Development for infrastructure investments of public and private sector about the airports and the technical support areas,
iv. Protection on environmental operations to obstruct the harmful projects for the living areas of the EU member states' people,
v. Reduction of carbon emission level of civil aviation sector's technical tools and their harms to the environment,
vi. Protection on the EU-based airline companies and aircraft producers to provide a continuity to their activities in the intense competition process,
vii. Encouragement for sector to employ more people and to support the employment potential in the EU,
viii. Development for the relationships of civil aviation sector with the other sectors, which have cooperation with the civil aviation sector, in the EU.

According to that, basically, it seems like that the EU does not only focus on the protection or on the encouragement of civil aviation sector. The EU authorities are aware of that the civil aviation sector has potential to feed the various sectors in the EU and their potential to employ more people annually is critical for the continuity of the EU economy successfully. Because of rapid growing body of civil aviation sector has locomotive effect on the EU economy and neither the EU authorities nor the EU member states want to lose their leadership in the sector easily after the financial crisis or regression suddenly.

That is why the state aids are important for minor actors more in the civil aviation sector. In this respect, the minor parts of sector's supply chain need the aids to keep their economy alive and to support the major enterprises to for their aviation operations. Directly, the major enterprises care about the financial situation of these minor actors to get more support for their operations in the background. Airline companies' attention on state aids is related to this communication (European Civil Authority 2015, p. 44).

On the other hand, the fact, which makes the EU civil aviation sector's actors strong, is the support of state aids on the competition in the world civil aviation sector. According to that the EU civil aviation actors believe in that they will be stronger with the state aids against their international rivals and they can compete in the EU borders with the fair standards, conditions and aids that the EU authorities will provide due to the needs and the capacity of enterprises in the civil aviation sector (Tornville 2008, p. 91).

However, state aids' results may cause serious distances between the airline companies especially. In a process that there are a lot of mergers between the important and great airline companies, minor airline companies are not happy with the state aids equality for them and the major ones. Their objection is related the uncontrolled growth of already major airline companies and lack of competition in the domestic civil aviation market of the EU (European Civil Authority 2015, p. 46).

According to that, it is possible to evaluate the results of state aids for the competition structure of civil aviation sector in the EU due to the objections of minor actors of sector such as below (Kotten 2005, p. 88):

i. Major airline companies get equal aid with them and the aids become less effective minor airline companies due to their capacity,

ii. Increasing numbers of mergers in the sector threats the competition in the EU borders even the EU institutions try to protect the current legal frame of competition policy,

iii. Minor companies are also under the threat of non-EU-based civil aviation investors' purchase offers and this threat seems like more reasonable than the state aid policy of the EU,

iv. Minor airline companies do not reach the aid just in time; they must wait and the process that they waited as a direct threat for their employees' salary payments basically,

v. The dependency level of companies, which are in the supply chain of civil aviation sector, increases day by day and the current level and the formation of state aids for the sector is not sufficient to reduce this dependency,

vi. The pressure on minor actors of sector is more than the major ones during the inquiry process before the state aids.

These results show that the state aids for civil aviation sector do not provide the certain needs of minor actors of the sector. As a protector mechanism, generally, state aids are seen as a savior for minor enterprises, this situation seems like that it is not valid. Although the amount of state aids is on the high level, sector's needs more than the aid potential of the EU institutions and the EU member states' governments. So, for better results, it seems like that the EU must change the state aid policy on the civil aviation sector to increase the business potential of sector for especially the minor actors.

### 2.3.7 Effects of the EU State Aids on Competition of Civil Aviation Sector

As a matter of fact, there must be some influences of state aids given to different parties within the union as well as the future members. Therefore, now, it is time to talk and elaborate about the positive and the negative effects of the EU state aids on competition of civil aviation sector.

#### 2.3.7.1 Positive effects of the EU state aids on competition of civil aviation sector

In the basis of the EU's development projects, state aids aim to develop each and every single sector and its actors equally. According to that the positive effects of the EU state aids on competition of civil aviation sector can be sorted such as below (Franco 2010, p. 33):

i. Obstructs the uncontrolled investments in the sector,
ii. Decreases the deep spaces between the service quality of airline companies,
iii. Directs the civil aviation sector's actors to work under the same conditions and the same rules; there is not any exceptional situation,
iv. Encourages the minor actors (especially the airline companies) to produce services even in the limited aviation areas and for limited passenger environment,
v. Organizes operational limitations for sectoral actors due to their capacity and obstructs their excessive borrowing for their investments,
vi. Provides financial source mostly for minor actors of sector, which are the pieces of supply chain,
vii. Strengthens the companies, which make technical investment to increase the quality level of technological production in the sector,
viii. Increase the share of minor states of union in the aviation sector's different channels,
ix. Triggers the competition in the low-level production of sector and brings them into the great competition environment of sector,
x. Downgrades the pressure on minor sector actors about taxes and legal limitations for a specific time period,
xi. Facilitates the access of minor entrepreneurs to the sector more than ever in the history of sector,
xii. Improves the capacity of sector's productivity and development efforts under the fair conditions for whole actors of sector,
xiii. Allows the aids for only the enterprises or entrepreneurs, which meet the legal expectations of their own country, sector and the EU rules,

xiv. Organizes the operations and plans of airline companies by the financial support indirectly,

xv. Has indirect authority on sector to decide the rules, the regulations and the capacity of aviation operations.

In this view, it is possible to accept that state aid policy of the EU focuses on complete development of sector and an equal share between the sector's actors. The most important one, in theoretical dimension, state aids of the EU on civil aviation sector are designed to protect the current competition level without considering their potential or capacity; for the state policy in this view, the EU authorities try to keep the sector alive, not just for domestic operations; also, for international operations of the EU-based civil aviation enterprises. Because this is critical as much as the other sectors that the EU institutions support by the state aids. Civil aviation sector seems like more important than most of industries with its financial potential and employment numbers.

#### 2.3.7.2 Negative effects of the EU state aids on competition of civil aviation sector

Although the state aids in the EU are seriously useful for the development of an enterprise or a sector, surely, there are some serious deficiencies and negative effects of process. According to that the negative effects of the EU state aids on competition of civil aviation sector can be sorted such as below (Franco 2010, p. 36):

i. It is limited for a time period; rest of the period is up to the performances of enterprises, but under the tough competition conditions the process does not work easily,

ii. Amount of aids may not be always enough to find a company or to keep a company alive in the process that the costs get higher annually,

iii. Aids may be insufficient for the balance in the sector, while great-scale enterprises grow fast and dominates the operations,

iv. Amounts and conditions of aids are same for whole enterprises, but the effects of them are limited with the capacity of enterprise; this situation does not create a balance for the sector,

v. Aid process works slowly, and this slowness affects the operational plan and projects of minor enterprises more than the major ones,

vi. Although the aids are shared equally, the level of aids are more useful for great enterprises,

vii. Decision-making process for aids takes a long-time period and this affects the plans and the strategies of minor actors of sector negatively,

viii. Aids do not come as completely suitable for the needs of civil aviation sector and there are some serious mismatches between the expectations and aids quality,

ix. Actually, the civil aviation sector is not open to competition between the airline companies; that is why the state aids for airline companies are not effective to change the process in the sector, but the other activities of sectors including technical service, customer services, nourishment, beverage etc. issues,

x. Sector is in struggle with the global financial crisis and especially the oil prices continuously; however, state aids in the EU do not cover the protection against these matters,

xi. State aids are decided due to the general view of the sector; there are not any of specification for enterprises or special aids for enterprises in the sector,

xii. In the state aid process of aviation sector, especially the airline companies have direct relationship with the EU legal authorities; the role of state administrations is limited,

xiii. State aids are just temporary solutions against the rapid changing structure of sector.

According to this view, there are some objections and critics about the content and the practice of state aids for the civil aviation sector in the EU. These objections and critics, which can be accepted as the ideas of minor actors in the civil aviation sector, are reflections of reality in the process. In this context, state aids in the civil aviation sector do not provide the needs that the generally actors expected from the EU institutions and the general belief is on that these aids do not make stronger the parties, which need the state aids to feed the basis of competition in the sector.

### 2.3.8 Cases Related the Effect of State Aids to the Competition in the Civil Aviation Sector of the EU

The decisions about state aids are critical to affect the rest of the process about the distribution of aids for the future. Generally, state aids are evaluated according to the rules of European Commission and ECJ’s decisions on the grounds of the related articles of the treaties. However, there are some exceptions to consider for the benefits of public and these exceptions are designed not to obstruct the commercial activities of the others. In the civil aviation sector, the EU considers the same sensitivity and cares about the common interests of the actors in the sector in detail. In particular, the state aids matter is more sensitive for a sector, which is very active and determinative for the financial structure and regional income of the union.

In the 1990s, governments implemented some policies to strengthen national economies. State Aids are considered as one of these policies. One of the sectors in which Government Assistance is provided is airway transportation. In this context, many of the members of the Community have chosen to strengthen their national airline companies through state aid. The fact that EU member states have adopted this strategy has also stimulated the Italian government. The Italian government has sought to strengthen Alitalia, the country's national airline, through state aid. He reported this request to the European Commission. The European Commission has ruled that this will not lead to unfair competition across the EU, allowing the Italian government to give 1400 million euros in state aid to Alitalia (Yeşilada, 2012, p. 97-98).

Virgin Airways filed a lawsuit against British Airways in 1998 against the European Commission. Virgin Airways has claimed that British Airways caused unfair competition in British Airways. Upon this allegation, the Commission took action and examined the case. Virgin Airways argued that British travel agents would be awarded an extra commission by British Airways if they sold British Airways tickets equal to or more than they sold a year ago. According to Virgin Airways, British Airways's strategy has made it difficult for competing airline companies to sell tickets. In its decision, the Commission recognized this practice, which had affected the airline industry, as an unfair use of the sovereign state and set a penalty for British Airways in July 1999. (Yeşilada, 2012, p. 95-96).

In the issue of state aids' effects on competition in the civil aviation sector, there were two important cases to consider the role of state aids in the sector. One of them was the case of reconstruction and development project of Aéroports de Paris in 2000. When the French government decided to make investment on Aéroports de Paris to develop the capacity of the airport, the amount of investment had become an issue of objection in France and among the EU member states. The general objection was about three different points. Firstly, developing capacity of the airport would allow parking of more aircraft and more airline company would prefer this airport. Secondly and directly, more passenger would prefer Aéroports de Paris for their flights. Lastly, increasing capacity of Aéroports de Paris would affect negatively financial operations and employment level of other airports in France (Bacon 2017, p. 280).

In this case, ECJ made a decision positively for French government's decision and the investor of Aéroports de Paris. According to the decision of the court, the state aids for Aéroports de Paris were compatible with the state aid policy of the union and it was not against the current rules of competition policy. Because the development of Aéroports de Paris was useful for public usage and it would be great example to follow for the other airports' development projects. At the same time, the development investment for Aéroports de Paris was also useful for the aircraft usage that this situation was important for the development of competition in the union's civil aviation sector[5]

The other case was about Leipzig/Halle Airport. For the new runway construction operation in the Leipzig/Halle Airport, Germany, the state aid on this operation is criticized and ECJ started a case to investigate the process in detail in the year of 2006. According to the claims about this runway construction, the operation was evaluated as a commercial activity and it was for the benefit of private sector investment, which was a profitable operation as a threat for general competition policy of the EU.[6]

In 2008, the court made a decision and evaluated the operation of Leipzig/Halle Airport as compatible with the competition policy of the union. The details of the decision was about that even an airport enterprise considers the financial interests, it works for the

[5] http://europeanlawblog.eu/2013/01/18/the-leipzig-halle-judgment-of-the-cjeu-is-the-financing-of-a-transport-infrastructure-an-economic-activity-subject-to-state-aid-rules/
[6] http://europeanlawblog.eu/2013/01/18/the-leipzig-halle-judgment-of-the-cjeu-is-the-financing-of-a-transport-infrastructure-an-economic-activity-subject-to-state-aid-rules/

interests/benefits of public, too. So, an operation, which is related to facilitating the conditions of public can be evaluated in the frame of public welfare. That is why the state aid of German government in this operation can be defined in the content of legal side of state aids and it is not against the competition policy of the union[7].

[7] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XC0404%2801%29

# 3. CONCLUSION

According to the findings of this thesis, state aids and competition policy in the EU are equally important for the continuity of a successful economic system in the union. Each factor feeds each other and their positive relationship in the practice is useful for the development and competitiveness of the EU economy with the other global economic systems and the EU-based enterprises with the other enterprises all around the world. That is why the legal basis of each issue is followed carefully by the EU institutions and their decisions about the process are seriously important to build a solid economic system within the union borders. At the same time, this mechanism is valuable for the international competitiveness of the EU's general system in the world economics.

Basically, the state aids are important in two different points for the Union generally. First, the EU economies are not completely developed systems. There are still the EU member states, which have serious problems to heal their economic mechanisms. On the other hand, these economies do not have sufficient potential to provide financial sources for the investments of public services. Although the private sector works on healing these needs of public in these EU states, their own financial sources cannot be sufficient to meet the public expectations. So, state aids are seriously important from the EU institutions and the EU member states' governments to increase the investment level of general the EU economies. This need extremely came out after the 2008 global financial crisis visibly.

The second point is like the first one. According to that, some of the EU member state's enterprises, investors and entrepreneurs do not have sufficient financial potential to develop their business potential. This is an important threat for the EU's competition policy, which creates the basis of the EU's financial development strategy. That is why, the support of state aids is critically important for the development operations of minor commercial actors in the union. On the other hand, state aids are seriously protectors for the mobility of the EU economy all around the union. Lastly, state aids have encouragement effect on the new entrepreneurs in the union to provide employment support to the national economies and the general economy of the union.

The EU competition policy has four important dimensions in it. Basically, competition is the main strategic point for the EU since the foundation years of the union. The economic activities of the union, mostly, depend on the competition perception and the EU authorities and institutions do not allow the actions, which obstruct the fair competition within the union borders, and ECJ punishes the anti-competitiveness applications. So, the competition policy may be evaluated as the basic support of the EU's operational activities in the market.

Secondly, the competition policy seems like a protection on the minor actors of commercial area in the EU. As mentioned above, there are still difficult economies of the EU member states and their enterprises are still far away from being a sufficient competitor for the domestic business area of the union. That is why, the competition policy obstructs extreme operations of major enterprises and the other business operations which are against the fair trade within the union borders. Generally, this practice is important for every actor in the commercial area of the union to provide a balance between their business activities.

Thirdly, the competition policy is directly related to increase the business potential of the union. Surely, every enterprise cannot reach the top level in the production and employment numbers. However, the competition policy aims to organize the business activities of enterprises without considering the capacity in the market. Therefore, the most important point is that the competition policy tries to provide sufficient opportunities to the enterprises, investors and entrepreneurs to reach the business areas in the union in accordance to their commercial capacity.

Lastly, the EU competition policy is a preparation for the enterprises on their international evolution and for their international competition process. Although the major enterprises have sufficient potential to do this, minor ones do not have any preparation or experience to struggle against the international difficulties. So, the EU competition policy prepares the minor enterprises, investors and entrepreneurs to the next level in the international economic area.

As one of the areas that the competition is tough, the civil aviation sector is open to the state aids in the EU. However, although the civil aviation sector is one of the locomotive sectors in the EU economy, the sector does not take advantage of state aids completely. Generally, the major airline companies have the chance to get these aids and the minor enterprises in different areas of sector cannot get the sufficient state aids. At this point, the basic reason is that the minor actors in the sector cannot make great investments for their operations and this obstructs their chance to get more state aids. This issue is an ongoing debate in the EU and while the sector grows, all of the actors in the sector do not reach to the aids as they expect or as they need. Hence, this may be evaluated as an obstacle for a successful competition structure in the market. At the same time, the limitation on minor actors in the sector to grow has potential to decrease the numbers of investors in the civil aviation sector or to trigger the purchases of the EU-based enterprises by the non-EU enterprises in the short-term period.

Generally, the flag carrier airline companies, their supply chain partners and the airport investors of private sector take the advantage of state aids more. The basic logic of the EU authorities and the EU institutions is to focus on developing these parties' financial and investment potential in the market. So, the minor airline companies just confine themselves to reach the limited passenger markets. When they wanted to reach the state aids in the union, they meet some main obstacles such as delayed and insufficient aids, legal pressure, threats like financial crisis and be purchased by non-EU companies in the civil aviation sector. On the other hand, the legal system of the EU is on the side of protecting the flag carrier airline companies, great-scale airports and technical stuff and tools. That is why, there is a serious problem on sharing the state aids in the civil aviation sector visibly. So, it seems that there is a need for change in the state aid distribution of the EU in the civil aviation sector specifically.

On the other hand, this view does not work for the stability and the solidity of competition in the sector. While the great-scale enterprises grow, the low-level enterprises are still in expectation for the support of the EU institutions and the EU member states' governments. So, there must be a balance to develop both sides equally according to their needs in the civil aviation sector. Unlike the other business areas, the EU does not carefully focus on civil aviation sector and this lack of care and focusing is a threat for the future of the sector while the rest of the civil aviation sector in the World rises as a serious competitor and rival against the EU civil aviation sector.

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