

**ENVIRONMENTAL TAXES FROM THE EU
STATE AID CONTROL SYSTEM PERSPECTIVE
– A LEGAL ANALYSIS OF THE INTEGRATION
OF ENVIRONMENTAL PROTECTION**



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av

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Abstract

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This thesis is a legal analysis of environmental taxes enacted by the Member States of the European Union (EU) as a tool to protect the environment from the perspective of the State aid control system (laws, rulings, and decisions on State aid). The research problem I address has two dimensions. First, the State aid control system adds complexity for lawmakers of the Member States already grappling with various legal, social, political, and economic challenges in environmental tax imposition. Pressures such as the European energy crisis, the Russia-Ukraine conflict, rising inflation, and extreme weather events exemplify these challenges. Furthermore, lawmakers' tax sovereignty is conditional; they must not breach the Treaty on the Functioning of the EU (TFEU). In this thesis, I focus on the rules on State aid, notably the prohibition set out in Article 107(1) TFEU. This rule demands case-by-case interpretation and assessment of a State measure's actual impact. Consequently, disputes arise from the Commission's decisions and the EU courts' rulings on whether State measures constitute State aid. Without expertise in State aid matters, lawmakers are likely to violate the State aid prohibition set out in Article 107(1) TFEU when enacting environmental taxes. Environmental taxes may be general (not breaching Article 107(1) TFEU), compatible aid (breaching Article 107(1) TFEU but allowed under Article 107(3) TFEU), or incompatible aid (breaching Article 107(1) and (3) TFEU), in which case the Member State concerned is not authorized to impose or to keep imposing the tax. Due to the implications of the latter two scenarios (compatible or incompatible aid), the issue of incoherence within the State aid control system concerning environmental protection values of both the EU and the Member States laws and policies is just as crucial as addressing the system's inherent complexity. In theory, Article 11 TFEU establishes an integration principle that mandates the integration of environmental protection requirements (values articulated in Article 191 TFEU and further developed in the environmental laws of the EU and the Member States) into the EU policies, including State aid. This integration is achieved through the interpretation of the rules on State aid in relation to environmental taxes. Any inconsistencies in this regard impact the EU and the Member States' response to environmental issues and pose a problem for everyone, but in particular for the Member States that are trying to deal with the environmental issue. Therefore, it is my thesis purpose to provide clarity on the complexities of the State aid control system for lawmakers, enabling them to legislate on environmental taxes with full awareness of these complexities. Thereby, lawmakers can, from a bottom-up approach, foster the interpretation of the rules on State aid through their choices within the environmental tax design. Additionally, this thesis provides scholarly insights into the State aid control system's inconsistencies concerning the interpretation of the rules on State aid in relation to environmental taxes and the integration principle of Article 11 TFEU.

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