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EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Non-legislative acts)

DECISIONS

COMMISSION DECISION (EU) 2016/788**of 1 October 2014****on the State aid SA.32833 (11/C) (ex 11/NN) implemented by Germany concerning the financing arrangements for Frankfurt Hahn airport put into place in 2009 to 2011**

(notified under document C(2014) 6850)

(Only the English text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) ⁽¹⁾ thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽²⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) By letter dated 17 June 2008, the Commission informed Germany of its decision to initiate the procedure provided for in Article 108(2) of the Treaty with regard to the financing of Flughafen Frankfurt Hahn GmbH ('FFHG'), the operator of Frankfurt Hahn airport, and its financial relations with Ryanair. The formal investigation procedure was registered under the case number SA.21121 (C 29/08).
- (2) By letter of 4 March 2011, Deutsche Lufthansa AG ('Lufthansa') provided further information with regard to the ongoing formal investigation procedure in case SA.21121 (C 29/08), alleging new State aid measures in favour of FFHG.
- (3) By letter dated 18 March 2011 the Commission forwarded this submission of Lufthansa to Germany and requested further information on the alleged new State aid measures. By letter dated 5 April 2011, Germany

⁽¹⁾ With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the Treaty on the Functioning of the European Union ('Treaty'). The two sets of Articles are in substance identical. For the purposes of this Decision references to Articles 107 and 108 of the Treaty should be understood as references to Articles 87 and 88 of the EC Treaty when appropriate. The Treaty also introduced certain changes in terminology, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the Treaty will be used throughout this Decision.

⁽²⁾ OJ C 216, 21.7.2012, p. 1.

requested an extension of the deadline for providing that information until 15 July 2011. By letter dated 11 April 2011 the Commission granted an extension of the deadline until 18 May 2011 for some of the questions and until 31 May 2011 for the remaining questions. Germany replied by letters dated 19 May 2011 and 23 May 2011.

- (4) However, those replies were incomplete. Therefore, by letter dated 6 June 2011 the Commission sent a reminder pursuant to Article 5(2) of the Council Regulation (EC) No 659/1999 ⁽³⁾. Germany responded by letters dated 14 June 2011 and 16 June 2011.
- (5) By letter dated 13 July 2011 the Commission informed Germany of its decision to initiate the procedure provided for in Article 108(2) of the Treaty with respect to the credit line provided to FFHG by the cash-pool of *Land Rhineland-Palatinate*, the loan provided by Investitions- und Strukturbank of *Land Rhineland-Palatinate* ('ISB') to FFHG and the guarantee provided by *Land Rhineland-Palatinate* to FFHG for the ISB loan ('opening decision'). The formal investigation procedure concerning these aspects was registered under the case number SA.32833 (11/C).
- (6) By letter of 22 July 2011, Germany requested an extension of the deadline for its reply to the opening decision, which was accepted by the Commission on 26 July 2011. The Commission received comments on the opening decision from Germany on 31 August 2011.
- (7) By letter dated 22 December 2011 the Commission requested further information from Germany. By letter of 18 January 2012, Germany requested an extension of the deadline for replying, which was granted by the Commission on the same day. Germany responded to the request for further information dated 22 December 2011 by letter dated 22 February 2012.
- (8) The opening decision was published in the *Official Journal of the European Union* ⁽⁴⁾ on 21 July 2012. The Commission invited interested parties to submit their comments on the measures in question within one month of the publication date.
- (9) By letter dated 4 September 2012, the Commission received one submission from a third party, *Land Rhineland-Palatinate*. The Commission transmitted that submission to Germany by letter dated 7 September 2012. Germany was given the opportunity to provide comments on the submission of the third party within one month. Germany did not provide any comments.
- (10) By letter dated 10 April 2013 the Commission requested further information from Germany. Germany responded by letter dated 17 June 2013.
- (11) By a letter dated 25 February 2014, the Commission informed Germany of the adoption of the 2014 Aviation Guidelines ⁽⁵⁾ on 20 February 2014, of the fact that those guidelines would become applicable to the case at hand from the moment of their publication in the *Official Journal of the European Union*, and gave Germany the opportunity to comment on the guidelines and their application within 20 working days of their publication in the *Official Journal*.
- (12) The 2014 Aviation Guidelines were published in the *Official Journal of the European Union* on 4 April 2014. They replaced the 1994 Aviation Guidelines ⁽⁶⁾ as well as the 2005 Aviation Guidelines ⁽⁷⁾.
- (13) On 15 April 2014 a notice was published in the *Official Journal of the European Union* inviting Member States and interested parties to submit comments on the application of the 2014 Aviation Guidelines in this case within one month of their publication date ⁽⁸⁾. Lufthansa and Transport & Environment submitted observations. By letter dated 21 August 2014 the Commission forwarded those observations to Germany. By letter dated 29 August 2014 Germany informed the Commission that it did not have any observations.

⁽³⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the treaty on the functioning of the European Union (OJ L 83, 27.3.1999, p. 1).

⁽⁴⁾ See footnote 2.

⁽⁵⁾ Communication from the Commission — Guidelines on State aid to airports and airlines (OJ C 99, 4.4.2014, p. 3).

⁽⁶⁾ Application of Article 92 and 93 of the EC Treaty and Article 61 of the EEA Agreement to State Aids in the Aviation Sector (OJ C 350, 10.12.1994, p. 5).

⁽⁷⁾ Community guidelines on financing of airports and start-up aid to airlines departing from regional airports (OJ C 312, 9.12.2005, p. 1).

⁽⁸⁾ OJ C 113, 15.4.2014, p. 30.

- (14) By letters dated 23 March 2014 and 4 April 2014 the Commission requested further information from Germany. Germany replied by letters dated 17 April 2014, 24 April 2014 and 9 May 2014.
- (15) On 17 June 2014, Germany informed the Commission that it exceptionally accepts that this Decision is adopted in English only.

2. CONTEXT OF THE INVESTIGATION

2.1. Conversion of the airport and its ownership structure

- (16) Frankfurt Hahn airport is located in *Land* Rhineland-Palatinate, approximately 120 km west of the city of Frankfurt/Main. Frankfurt Hahn airport was a US military airbase until 1992. Subsequently, it was converted into a civil airport. It holds a 24-hour operating licence.
- (17) Holding Unternehmen Hahn GmbH & Co. KG (Holding Hahn), a public-private partnership between Wayss & Freytag and *Land* Rhineland-Palatinate, acquired ownership of the infrastructure of Frankfurt Hahn airport from Germany on 1 April 1995. Between 1995 and 1998, this public-private partnership developed the airport with the goal of making it an industrial and commercial area. According to Germany, when the partnership between Wayss & Freytag and *Land* Rhineland-Palatinate did not turn out to be successful, on 1 January 1998, Flughafen Frankfurt/Main GmbH (Fraport) (*) started getting involved in the project and eventually took over the operation of the airport.
- (18) Fraport purchased 64,90 % of the shares in the operator Flughafen Hahn GmbH & Co. KG Lautzenhausen (FFHG) for the price of [...] ⁽⁹⁾. Payment of part of the purchase price (EUR [...]) was due on 31 December 2007, and was subject to certain conditions ⁽¹⁰⁾. In August 1999, Fraport acquired 73,37 % of the shares of Holding Hahn and 74,90 % of the shares of its general partner Holding Unternehmen Hahn Verwaltungs GmbH for the price of EUR [...]. Thereby Fraport effectively became the new partner of *Land* Rhineland-Palatinate.
- (19) Fraport's focus at Frankfurt Hahn airport was to systematically develop the passenger and cargo business of the airport. In this respect, Fraport was one of the first undertakings to apply a business model which aimed especially at attracting low-cost airlines. On this basis, Fraport undertook to conclude a new profit and loss transfer agreement with Holding Hahn upon conversion of the latter into a German limited liability company (*Gesellschaft mit beschränkter Haftung, GmbH*). The conversion and the conclusion of that agreement took place on 24 November 2000.
- (20) Subsequently, Holding Hahn and FFHG merged to form Flughafen Hahn GmbH. *Land* Rhineland-Palatinate held 26,93 % and Fraport 73,07 % of the shares in the new company. In 2001, the two shareholders, Fraport and *Land* Rhineland-Palatinate, injected fresh capital into FFHG.
- (21) Until 11 June 2001, 100 % of the shares in Fraport were held by public shareholders ⁽¹¹⁾. On 11 June, Fraport was floated on the stock market exchange and 29,71 % of its shares were sold to private shareholders, the remaining 70,29 % of shares remaining with the public shareholders.
- (22) In November 2002, *Land* Rhineland-Palatinate, *Land* Hesse, Fraport and FFHG concluded an agreement on the further development of Frankfurt Hahn airport. That agreement provided for a second increase of the registered capital. On that occasion, *Land* Hesse acceded to FFHG as a third shareholder. Fraport then owned 65 % of the shares and *Land* Hesse and *Land* Rhineland-Palatinate held 17,5 % each. This ownership structure remained unchanged until 2009, when Fraport sold all of its shares to *Land* Rhineland-Palatinate, which has, since then, held a 82,5 % majority share. The remaining 17,5 % are still held by *Land* Hesse.

(*) Confidential information

⁽⁹⁾ Hereafter in this Decision the term 'Fraport' is used to mean both 'FAG' prior to the change of the business name and 'Fraport AG' thereafter.

⁽¹⁰⁾ Pursuant to Section 7(3) of the purchase agreement this figure could be reduced, such as in case the costs of FFHG for noise protection would exceed a certain ceiling.

⁽¹¹⁾ *Land* Hesse held 45,24 % of Fraport's shares, Stadtwerke Frankfurt am Main Holding GmbH (owned for 100 % by the municipality Frankfurt am Main) held 28,89 % and the Federal Republic of Germany held 25,87 %.

2.2. Passenger and freight traffic development and airports in the vicinity

- (23) The passenger traffic at Frankfurt-Hahn airport increased from 29 289 in 1998 to 4 million in 2007 and then decreased to 2,7 million in 2013 (see Table 1). The airport is currently served by Ryanair ⁽¹²⁾, Wizz Air ⁽¹³⁾ and other airlines. Ryanair's passenger share amounts to approximately [80-100 %].

Table 1

Passenger development at Frankfurt Hahn airport from 1998 to 2013

Year	Number of passengers	Number of Ryanair passengers
1998	29 289	0
1999	140 706	89 129
2000	380 284	318 664
2001	447 142	397 593
2002	1 457 527	1 231 790
2003	2 431 783	2 341 784
2004	2 760 379	2 668 713
2005	3 079 528	2 856 109
2006	3 705 088	3 319 772
2007	4 015 155	3 808 062
2008	3 940 585	3 821 850
2009	3 793 958	3 682 050
2010	3 493 629	[2 794 903-3 493 629]
2011	2 894 363	[2 315 490-2 894 363]
2012	2 791 185	[2 232 948-2 791 185]
2013	2 667 529	[2 134 023-2 667 529]

⁽¹²⁾ Ryanair is an Irish airline and Member of the European Low Fares Airlines Association. The business of the airline is linked with secondary, regional airports. The airline operates currently approximately 160 European destinations. Ryanair has a homogenous fleet consisting of Boeing 737-800 aircraft with 189 seats.

⁽¹³⁾ Wizz Air is a Hungarian airline and Member of the European Low Fares Airlines Association. Wizz Air group consists of three operating companies, namely Wizz Air Hungary, Wizz Air Bulgaria and Wizz Air Ukraine. The business model of the airline is linked with secondary, regional airports. The airline operates currently approximately 150 European destinations. Wizz Air has a homogenous fleet, which consists of Airbus A 320 aircraft with 180 seats.

- (24) Frankfurt-Hahn airport has also experienced a significant growth in air cargo traffic. The air freight at the airport increased from 16 020 tonnes in 1998 to 286 416 tonnes in 2011 and decreased again to 152 503 tonnes in 2013 (see Table 2). The total freight, including freight forwarders, handled at the airport amounted to 446 608 tonnes in 2013.

Table 2

Cargo development at Frankfurt Hahn airport from 1998 to 2010

Year	Total air freight in tonnes	Total freight including freight forwarders in tonnes
1998	16 020	134 920
1999	43 676	168 437
2000	75 547	191 001
2001	25 053	133 743
2002	23 736	138 131
2003	37 065	158 873
2004	66 097	191 117
2005	107 305	228 921
2006	123 165	266 174
2007	125 049	289 404
2008	179 375	338 490
2009	174 664	322 170
2010	228 547	466 429
2011	286 416	565 344
2012	207 520	503 995
2013	152 503	446 608

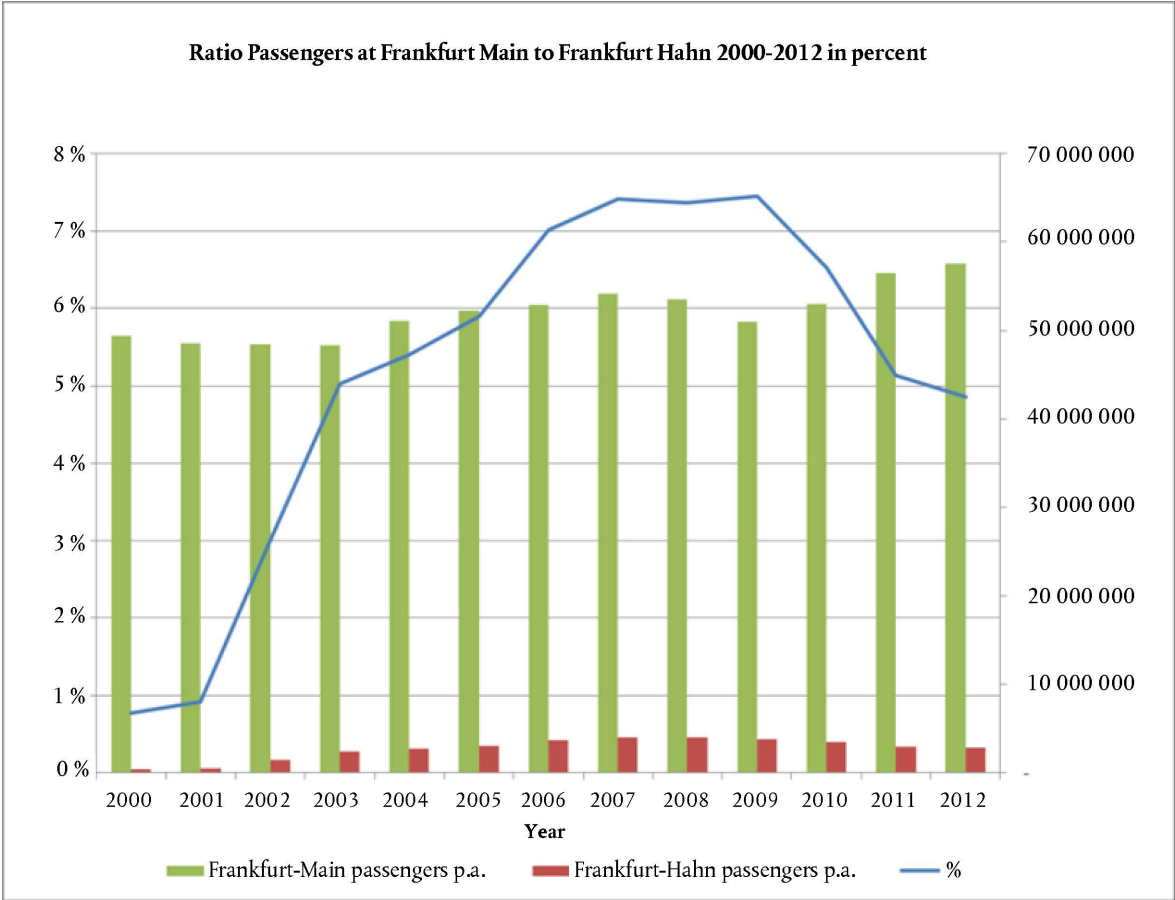
- (25) The following airports are located in the proximity of Frankfurt Hahn airport:

- (i) Frankfurt Main airport (~ 115 kilometres from Frankfurt Hahn airport, ~ 1 hour 15 minutes travelling time by car) is an international hub airport with a wide variety of destinations, ranging from short- to long-haul. It is predominantly served by network carriers offering connecting traffic, although it also provides point-to-point connections and charter flights. Besides passenger traffic (approximately 58 million in 2013), Frankfurt Main airport also handles air freight (approximately 2 million tonnes in 2013). Figure 1 shows the development of traffic at Frankfurt Main and Frankfurt Hahn airports in 2000-2012.

- (ii) Luxembourg airport (~ 111 kilometres from Frankfurt Hahn airport, ~ 1 hour 30 minutes travelling time by car) is an international airport, providing a wide variety of destinations. In addition to passenger traffic (approximately 2,2 million), it also served 673 500 tonnes of air freight in 2013.
- (iii) Zweibrücken airport (~ 128 kilometres from Frankfurt Hahn airport, ~ 1 hour 35 minutes travelling time by car).
- (iv) Saarbrücken airport (~ 128 kilometres from Frankfurt Hahn airport, ~ 1 hour 35 minutes travelling time by car).
- (v) Köln-Bonn airport (~ 175 kilometres from Frankfurt Hahn airport, ~ 1 hour 44 minutes travelling time by car).

Figure 1

Passenger traffic development at Frankfurt Main and Frankfurt Hahn airports in 2000-2012



2.3. Airport's financial results and an overview of investments undertaken

(26) Table 3 provides an overview of investments undertaken by FFHG from 2001 to 2012, amounting in total to approximately EUR 216 million.

Table 3

Overview of investments undertaken from 2001 to 2012

In 1 000 EUR	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total 2001-2012
Investments into infrastructure and equipment													
Anlagenzugänge inkl. Umbuchungen													
Land	3 174,00	6 488		2 994	4 284	3 086	8 613	593		[...]			
Terminal		2 519	3 310					251					
Cargo Hangar			3 850		3 222								
Office building								2 428		[...]			
Other infrastructure investments			10 194	1 152			13 275			[...]	[...]	[...]	
Apron	1 008,30	5 684			3 394		10 224	2 848		[...]	[...]		
Other infrastructure	1 502,20	3 848	2 071	2 692	3 911	1 761	1 558	2 608	384	[...]	[...]	[...]	
Immaterial assets (e.g. IT)	6,1	14,50	28	219	487	45	170	121	20	[...]	[...]	[...]	7 108
Equipment	8 208,89	1 097,09	12 308,42	1 814,00	2 294,54	20 232	7 550	3 823	359	[...]	[...]	[...]	75 550
Total	13 899	19 650	31 761	8 871	17 592	25 123	41 390	12 673	763	17 289	19 346	7 930	216 287

(27) Table 4 provides an overview of the annual financial results of FFHG from 2001 to 2012.

Table 4

Annual financial results of FFHG in 2001 to 2012

In 1 000 EUR	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Profit and loss statement												
Revenues	10 077,61	14 908,11	22 574,22	29 564,18	36 859,08	43 479,85	41 296,34	45 383,60	42 036,70	43 281,58	43 658,38	40 983,45
Other revenues (including compensation for public policy remit)	7 771,31	5 514,63	3 686,87	3 039,35	3 618,93	6 097,29	5 436,58	4 858,16	11 540,36	14 554,55	9 313,99	21 390,92
Total Revenue	17 848,92	20 422,75	26 261,09	32 603,53	40 478,01	49 577,14	46 732,92	50 241,76	53 577,06	57 836,14	52 972,37	62 374,37
Costs of material	- 7 092,39	- 10 211,13	- 12 560,46	- 14 601,17	- 17 895,97	- 24 062,81	- 22 491,85	- 25 133,61	- 24 979,59	- 27 650,17	- 20 017,99	- 21 871,65
Costs of personnel	- 9 185,12	- 9 672,37	- 10 734,62	- 11 217,21	- 12 101,84	- 13 337,28	- 14 433,17	- 15 758,34	- 15 883,08	- 17 893,60	- 18 228,23	- 18 349,10
Other costs (including marketing)	- 5 692,81	- 11 434,31	- 10 521,27	- 11 454,36	- 14 058,15	- 12 885,28	- 9 897,46	- 9 630,21	- 7 796,81	- 8 029,40	- 6 760,92	- 6 643,00
EBITDA	- 4 121,41	- 10 895,06	- 7 555,27	- 4 669,21	- 3 577,94	- 708,22	- 89,56	- 280,39	- 4 917,58	- 4 262,96	- 7 965,23	- 15 510,62
EBITDA (excl other revenues)	- 11 892,72	- 16 409,69	- 11 242,13	- 7 708,56	- 7 196,87	- 6 805,51	- 5 526,13	- 5 138,56	- 6 622,78	- 10 291,59	- 1 348,76	- 5 880,30
Depreciation	- 5 325,63	- 5 674,68	- 6 045,39	- 7 699,33	- 7 973,46	- 10 527,90	- 10 191,89	- 11 855,19	- 12 482,28	- 11 827,19	- 13 297,31	- 12 733,48
Financial results (interest received — interest paid)	- 2 896,64	- 3 013,42	- 4 006,57	- 4 105,53	- 4 548,42	- 4 588,16	- 5 235,30	- 5 693,02	- 4 915,39	- 2 778,06	- 5 063,04	- 8 177,54
Extraordinary revenues and costs	- 431,54	- 206,00	- 10,46	0,00	0,00	0,00	0,00	0,00	0,00	- 272,55	0,00	0,00
Taxes	- 580,13	- 204,74	- 215,18	- 323,82	- 228,44	- 242,33	- 245,00	- 238,66	- 257,45	- 240,85	- 231,03	- 277,52
Coverage of losses by Fraport through the profit and loss transfer	13 355,35	19 993,90	17 832,87	16 797,89	16 328,26	16 066,61	15 761,75	18 067,26	5 621,37	0,00	0,00	0,00
Annual result (profit/loss)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	- 7 114,17	- 10 855,69	- 10 626,14	- 5 677,92

3. DESCRIPTION OF THE FACTS AND GROUNDS FOR INITIATING THE PROCEDURE

- (28) The opening decision covers financing arrangements put into place in 2009 to 2011 and raised the following questions:
- (i) first, whether the credit line provided by the cash-pool of *Land* Rhineland-Palatinate was provided at market conditions and thus did not constitute State aid, or if it did constitute State aid, whether such State aid could be considered compatible with the internal market;
 - (ii) second, whether the loans provided by ISB to FFHG and the underlying guarantee provided by *Land* Rhineland-Palatinate to FFHG were granted at market conditions, and thus did not constitute State aid, or if they did constitute State aid, whether such State aid could be considered compatible with the internal market.

3.1. Credit line provided by the cash-pool of *Land* Rhineland-Palatinate

- (29) Since 19 February 2009 FFHG has been included in the cash-pool of *Land* Rhineland-Palatinate. The aim of the cash-pool is to optimise the use of liquidity within the different holdings, foundations and public undertakings of the *Land*.
- (30) The participation of the different undertakings and foundations in the cash-pool is based on a Memorandum of Understanding between the undertaking/foundation concerned and the Ministry of Finance of *Land* Rhineland-Palatinate. In the event that the liquidity demand exceeds the available funds within the cash-pool, the liquidity gap is financed on short-term basis on the capital market.
- (31) The current credit line for FFHG in the cash-pool of *Land* Rhineland-Palatinate is EUR 45 million. By 25 March 2013, FFHG had used 100 % (EUR 45 million) of its credit line.

3.2. Refinancing of FFHG's loans by the Investitions- und Strukturbank of *Land* Rhineland-Palatinate

- (32) After *Land* Rhineland-Palatinate became the majority shareholder of FFHG, its long-term loans were refinanced in 2009 by ISB. Three of the loans, namely loans numbers 1, 3 and 4 (see Table 5) were granted at a fixed interest rate for the whole duration of the respective loans, while loans numbers 2 and 5 have a variable interest rate. Table 5 summarises the conditions of the loans provided by ISB.

Table 5

FFHG's loans provided by ISB

No	Bank	Loan amount in EUR million	Duration	Interest rate	Interest Swap
1	ISB	18,4	[approx. 8 years]	[> 3 %; < 4,5 %]	
2	ISB	20,0	[approx. 5 years]	[< 12] month EURIBOR plus [< 1 %]	[...]
3	ISB	2,5	[approx. 2 years]	[> 3 %; < 4,5 %]	

No	Bank	Loan amount in EUR million	Duration	Interest rate	Interest Swap
4	ISB	25,9	[approx. 7 years]	[> 3 %; < 4,5 %]	
5	ISB	6,8	[approx. 3 years]	[< 12] month EURIBOR plus [< 1 %]	[...]

- (33) FFHG has also signed two interest rate swap agreements with IKB Corporate Lab. The agreements hedge against fluctuations of the variable part of the interest rate of loans numbers 2 and 5 (see Table 5), namely the 6-month and the 3-month Euribor respectively. The swap agreements were signed in 2004 and 2005 (in relation to the loans provided at that time, which the current financing replaced).
- (34) The repayment conditions of the various loans provided by ISB differ. Loans numbers 1, 3, 4 and 5 are amortising loans, while loan number 2 is a bullet loan repaid at maturity. Table 6 summarises the repayment conditions of those loans.

Table 6

Repayment conditions of the ISB loans

No	Bank	Loan amount in EUR million	Repayment conditions/due date
1	ISB	18,4	Semi-annual repayment on 30 June and 30 December of every year, last repayment rate due on [...]
2	ISB	20,0	Bullet loan due on [...]
3	ISB	2,5	Semi-annual repayment on 30 April and 30 October of every year, last repayment rate due on [...]
4	ISB	25,9	Semi-annual repayment on 30 June and 30 December of every year, last repayment rate due on [...]
5	ISB	6,8	Quarterly repayment of [...], last repayment rate due [...]

- (35) All the loans are 100 % guaranteed by *Land* Rhineland-Palatinate. For the provision of the guarantees FFHG pays a guarantee premium of [0,5 % to 1,5 %] per annum ('p. a.') to the guarantor.

3.3. Compatibility of possible State aid to FFHG

- (36) In the opening decision, the Commission expressed doubts as to whether the credit line provided by the cash-pool of *Land* Rhineland-Palatinate mentioned in Section 3.1 and the loans and guarantee mentioned in Section 3.2 would be compatible with the internal market in the absence of the compatibility conditions for operating aid under the 2005 Aviation Guidelines, if they constituted State aid.

4. COMMENTS FROM GERMANY

- (37) Generally, Germany asserted that neither of the two measures investigated in this procedure constitutes State aid within the meaning of Article 107(1) of the Treaty as there was no economic advantage conferred on FFHG taking into account all relevant circumstances. Alternatively, Germany argued that should the Commission consider that these measures do constitute aid within the meaning of the Treaty, then the aid should be deemed compatible with the internal market.

4.1. The specific situation of Frankfurt-Hahn Airport in 2009

- (38) Germany considered that the specific situation of the airport and background of the financial measures concerned must be taken into account when assessing these financial measures concerned. In this regard Germany referred to the following three circumstances:
- (39) Firstly, concerning the background of the measures, Germany pointed out that FFHG had financed the majority of its investments during and after the transformation from a military airport to a commercial airport through loans. According to Germany, FFHG therefore had a large amount of long-term financial obligations, unlike other airports.
- (40) Secondly, Germany argued that a refinancing of FFHG's loans was inevitable because Fraport had sold its shares to the *Land* Rhineland-Palatinate as of 1 January 2009. Before the sale, the profit-and-loss transfer agreement ('*Beherrschungs- und Gewinnabführungsvertrag*', PLTA) obliged Fraport to ensure the financing of the long-term debts of FFHG and to cover its possible losses. Germany explained further that after *Land* Rhineland-Palatinate had acquired the shares, that PLTA was ended, so a refinancing of FFHG's obligations was necessary. According to Germany, with these measures *Land* Rhineland-Palatinate only aimed at maintaining the financial situation of FFHG.
- (41) Thirdly, Germany emphasised especially the fact that a private undertaking would have financed FFHG under the same conditions as the *Land* Rhineland-Palatinate did and that those conditions are in line with the market economy lender principle. Germany submitted that the Commission has to take into account the commercial transaction as a whole and all the circumstances of the particular case, especially the fact that the *Land* holds the vast majority of the shares.

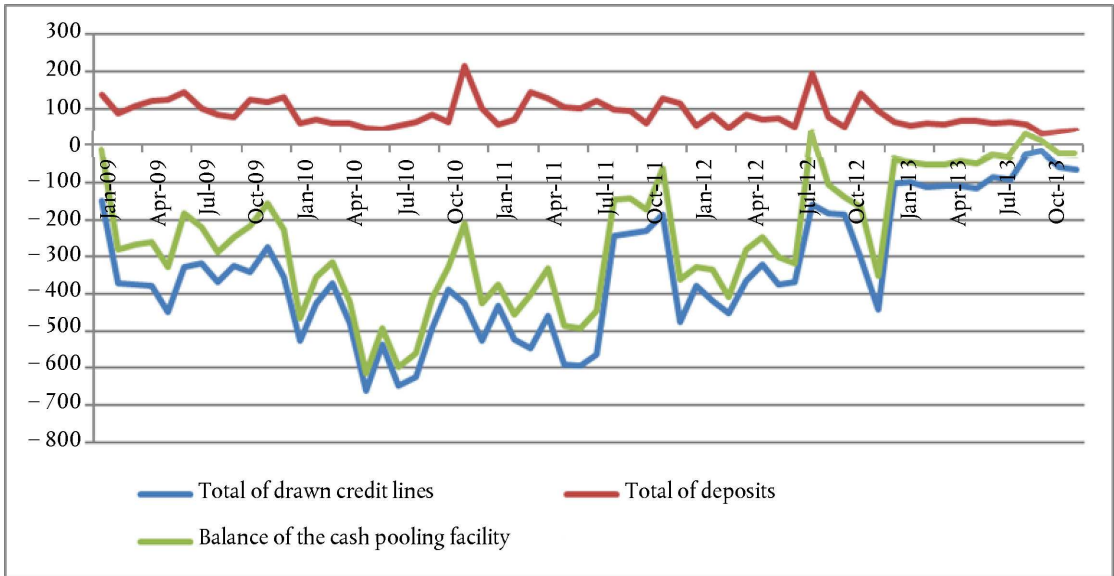
4.2. Aid nature of the credit line provided by the cash-pool of *Land* Rhineland-Palatinate

4.2.1. The funding of the cash-pool

- (42) Germany stated that the cash-pool is a financial instrument established in 2002 by the *Land*. The *Land*'s institutions and foundations and all undertakings governed by private law, of which the *Land* owns more than 50 %, can participate in the cash-pool. Germany explained that the daily account balance of the cash-pool is managed by the '*Landeshauptkasse*' of the *Land*.
- (43) Germany considered that the cash-pool is not financed directly out of the budget of the *Land*, but from the surplus of cash of the participants. It explained further that a surplus of cash in the cash pool was invested on the capital markets; in the same way, a deficit is balanced by funds obtained on the capital market. Thus, Germany asserted that any financial support from the cash-pool would not be granted through state resources, and would also not be imputable to the state.
- (44) Germany also provided data to show the overall balance (deposits of participating undertakings and drawn credit lines) of the cash-pool as summarised in Figure 2.

Figure 2

Overall development of the funding of the cash-pool of the Land 2009-2013 (in EUR million)

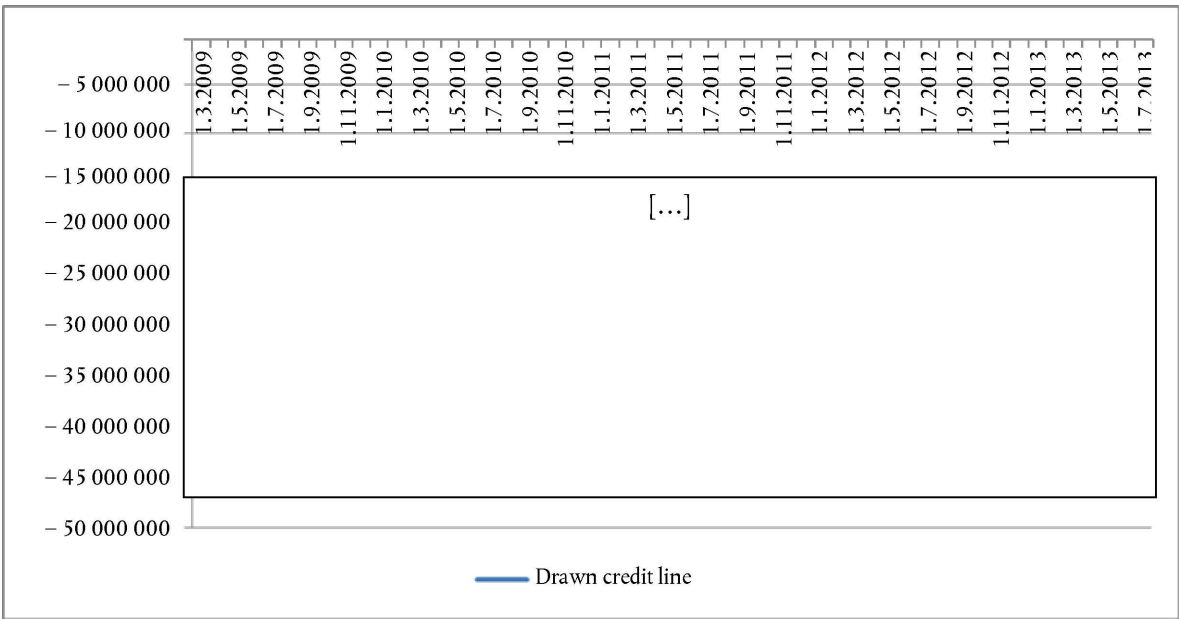


4.2.2. Economic advantage

- (45) Germany argued that FFHG did not obtain an economic advantage within the meaning of Article 107(1) of the Treaty by being included in the cash-pool of the Land. According to Germany, the Reference Rate Communication ⁽¹⁴⁾ should not be applied in a strict manner as it does not take into account that Land Rhineland-Palatinate holds the vast majority of the shares of FFHG.
- (46) Germany explained that even though the credit line was granted for a longer period, in principle the loans are due on a daily basis. Hence Germany argued that the drawn credit line corresponds to a short-term loan. Figure 3 shows the use of the credit line by FFHG.

Figure 3

Overview of the drawing on the credit line of the cash-pool by FFHG between 3/2009 and 8/2013 (in EUR)

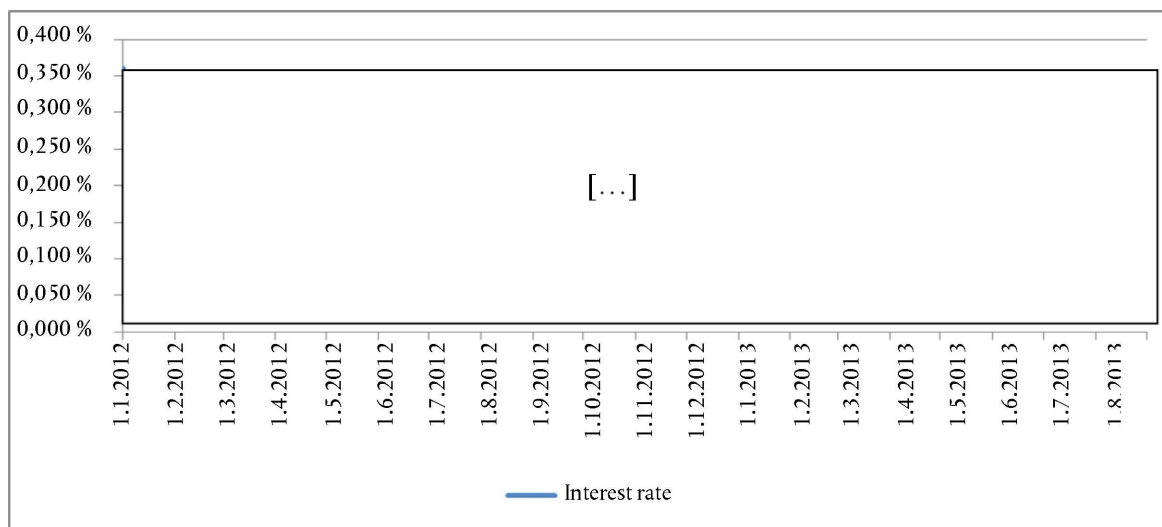


⁽¹⁴⁾ Communication from the Commission on the revision of the method for setting the reference and discount rates of 12 December 2007 (OJ C 14, 19.1.2008, p. 6).

- (47) With regard to the ranking and collateralisation of the cash-pool obligations, Germany stated that the FFHG's cash-pool obligation is ranked at the same level as all its other obligations. Germany pointed out that even though no collaterals are required from the undertakings benefiting from the cash-pool, they are under the *Land*'s supervision and the *Land* could always request as majority shareholder of FFHG to collateralise the drawn loans. Moreover, Germany pointed out that cash-pool facilities were a usual and a very common market practice. In Germany's view, the cash-pool pursues the goal of balancing the liquidity between the companies owned by the *Land*.
- (48) Particularly with regard to the indication in the opening decision that in absence of a rating the risk margin should have been set at 1 000 basis points, Germany argued that in its opinion no private holding would add 1 000 basis points to the base lending rate for a shareholder loan granted to its subsidiary if it pursued the economic and structural interests of a holding. Germany added that the interest rate for FFHG corresponded approximately to the European overnight index average. Figure 4 shows the interest rate charged for FFHG for the use of the credit line in 2012 and 2013.

Figure 4

**Development of the interest rate charged to FFHG for the drawing on the cash-pool
in 1/2012-8/2013**



- (49) As regards the indication in the opening decision that the risk margin would normally be set on the basis of an assessment of the probability of default by FFHG, Germany pointed out that by including FFHG in the cash-pool, the *Land* Rhineland-Palatinate did not grant a loan to a third party, but offered a shareholder loan to its own subsidiary. Germany further stated that, as a shareholder, the *Land* was well aware of the probability of default by FFHG and did not require an external assessment, as it had all the necessary information.
- (50) Germany also provided ratings of FFHG established on the basis of Moody's credit-scoring model ⁽¹⁵⁾ for the period 2009 to 2014, as summarised in Table 7 below. Germany stated that these ratings were established on the basis of the financial statements of FFHG per 31 December of the preceding year and the available business plans.

⁽¹⁵⁾ KMV RiskCalc Germany 3.1; this model is used for estimating the credit rating of non-traded companies based on their financial data. Moody's KMV RiskCalc Germany 3.1 calculates expected default frequency (or probability of default) of undertakings not traded on the stock exchange on the basis of financial statements data.

Table 7

Overview of the credit ratings of FFHG in 2009 to 2014

Period of time	Assumed duration ⁽¹⁾	Stand-alone credit rating of the FFHG (Moody's rating scale)	Adjusted credit rating ⁽²⁾ (Moody's rating scale)
1 January 2009-31 December 2010	2 Years	[Ba1-B3] ⁽³⁾	[Baa3-B2] ⁽⁴⁾
1 January 2011-31 December 2011	1 Year	[Ba1-B3] ⁽³⁾	[Baa3-B2] ⁽⁴⁾
1 January 2012-31 December 2012	1 Year	[Ba1-B3]	[Baa3-B2]
1 January 2013-31 December 2014	2 Years	[Ba1-B3]	[Baa3-B2]

⁽¹⁾ In the light of the explanations in recital 46, a short-term duration of the loans provided under the cash-pool was assumed for the credit ratings.

⁽²⁾ Taking into account the ownership structure.

⁽³⁾ This corresponds to a rating of [BB+ to B-] on the Standard & Poor's rating scale. This rating category means the borrower is [...].

⁽⁴⁾ This corresponds to a rating of [BBB- to B] on the Standard & Poor's rating scale. This rating category means that the borrower is [...].

Source: KPMG Memorandum of 7 June 2013.

- (51) Consequently, Germany submitted that by being included in the cash-pool of the *Land*, FFHG did not obtain any economic advantage, and that therefore the access to the cash-pool did not constitute State aid.

4.3. Aid nature of the loans and the guarantee granted to FFHG

4.3.1. Market conformity of ISB loans

- (52) Germany stated that FFHG did not obtain any advantage from the refinancing of the ISB loans. In Germany's opinion, the ISB loans were comparable to the loans granted by Nassauische Sparkasse in 2005. According to Germany, the collateralisation of the ISB loans was also comparable to the loans of Nassauische Sparkasse.
- (53) Germany stated that, according to the case-law of the Court of Justice ⁽¹⁶⁾, aid is defined as interventions that mitigate the charges which are normally included in the budget of an undertaking. Germany argued that if those charges stay at the same level, there cannot be any aid. Germany highlighted that the interest paid under the loans refinanced by ISB was in total [EUR 80 000 to EUR 130 000] higher than compared to the previous financing arrangements. In addition, Germany pointed out that FFHG had to pay a premium of [300-340] and [340-410] basis points to the base lending rate. Germany stated that, according to the Reference Rate Communication, those rates correspond to an undertaking with a satisfactory rating ([BB+ to BB-] on Standard and Poor's rating scale) and a low level of collateralisation or weak rating ([B+ to B-] on Standard and Poor's rating scale) and a normal level of collateralisation.

⁽¹⁶⁾ In this respect Germany referred to case C-30/59 *De gezamenlijke Steenkolenmijnen in Limburg v High Authority* [1961] ECR 00003, p. 3, 43.

- (54) Germany explained that in 2009, in preparation of the new financing, FFHG commissioned Deutsche Bank to provide a risk margin indication for the refinancing of its existing loans. Germany submitted the assessment of Deutsche Bank ⁽¹⁷⁾, which had been prepared on the basis of the three latest annual reports (2006-2008) of FFHG. Furthermore, Germany explained that that assessment did not take into account the business plan of FFHG as it was reviewed at the time. With regard to the assessment of Deutsche Bank, Germany stated that on the basis of its analysis Deutsche Bank puts FFHG in the [<BBB+] rating category ⁽¹⁸⁾, however it does not specify an exact rating for the company.
- (55) Germany clarified that in the analysis of Deutsche Bank the specific ownership conditions of FFHG (such as that it is owned by public authorities as well as the high importance of the company for the local economy) were taken into account. Germany pointed out that according to Deutsche Bank any lender would take into account these circumstances when providing a loan to FFHG. According to Germany this means that even though the stand-alone rating of FFHG was [<BBB+], its adjusted rating (taking into account the specific ownership conditions) would be higher ⁽¹⁹⁾.
- (56) In this regard, Germany clarified further that Deutsche Bank has provided an indication for the applicable risk margin for two alternative financing structures — one based on the adjusted rating of FFHG (without collateral, that is to say, referring to a situation without an explicit state guarantee provided by the main shareholder of FFHG — the *Land* Rhineland-Palatinate), and one with a 100 % guarantee provided by the *Land* Rhineland-Palatinate. Germany pointed out that the analysis of Deutsche Bank showed that in the first case (without collateral, based on the adjusted credit rating) the applicable risk margin for a 5-year loan would be between [1,3 % and 2,05 %] p.a. According to Germany, in the second case (with a guarantee covering 100 % of the loans) the applicable risk margin would be between [0,25 % and 0,7 %] p.a. ⁽²⁰⁾.
- (57) To support the analyses conducted by Deutsche Bank, Germany also provided the 2010 rating prepared by Volksbank, which assigned FFHG a rating of [...] according to its internal rating scale ⁽²¹⁾. Furthermore, Germany explained that in 2011 Kreissparkasse Birkenfeld assigned FFHG a rating of [...] according to its rating scale ⁽²²⁾.
- (58) Germany also provided ratings of FFHG established on the basis of Moody's credit-scoring model at the time the ISB loans were granted (see Table 8).

Table 8

Overview of the credit ratings of FFHG at the time the ISB loans were granted

Bank	Duration	Duration in years	Stand-alone credit rating of FFHG (Moody's rating scale)	Adjusted credit rating ⁽¹⁾ (Moody's rating scale)
ISB	[approx. 8 years]	[approx. 8 years]	[B2-Baa3]	[B1-Baa2]
ISB	[approx. 5 years]	[approx. 5 years]	[B2-Baa3]	[B1-Baa2]
ISB	[approx. 2 years]	[approx. 2 years]	[B2-Baa3]	[B1-Baa2]

⁽¹⁷⁾ Deutsche Bank, *Margen-Indikation für geplante Refinanzierung bestehender Verschuldung*, 3 September 2009.

⁽¹⁸⁾ Point 3.2.1 of the *Margen-Indikation für geplante Refinanzierung bestehender Verschuldung*: '... gehen wir von einer Einstufung der Gesellschaft im [...].' The [<BBB+] rating category includes all ratings that are below [BBB+] of the Standard and Poor's rating scale.

⁽¹⁹⁾ However, Deutsche Bank has not provided the adjusted rating for FFHG.

⁽²⁰⁾ This rate is calculated as follows: [5 to 25] bps — risk margin paid on 5-year EUR bonds of German *Länder*, [5 to 25] bps — on top of the above margin because of the indirect risk because of a state-owned company, [5 to 25] bps — for the limited tradability of the debt.

⁽²¹⁾ *Rating Ergebnis* FFHG by Volksbank Hunsrück-Nahe eG. This rating corresponds to [B to BB] on the Standard and Poor's rating scale (see *Rating-Broschüre Finanzstandort Deutschland*, 2010, p. 18).

⁽²²⁾ *Ratingunterlagen* Kreissparkasse Birkenfeld. This rating corresponds to [B- to BB-] on the Standard and Poor's rating scale (see *Rating-Broschüre Finanzstandort Deutschland*, 2010, p. 18).

Bank	Duration	Duration in years	Stand-alone credit rating of FFHG (Moody's rating scale)	Adjusted credit rating ⁽¹⁾ (Moody's rating scale)
ISB	[approx. 7 years]	[approx. 7 years]	[B2-Baa3]	[B1-Baa2]
ISB	[approx. 3 years]	[approx. 3 years]	[B2-Baa3]	[B1-Baa2]

⁽¹⁾ Taking into account the ownership structure.
Source: KPMG Memorandum of 7 June 2013.

- (59) Germany argued that FFHG is to be considered as an undertaking with a good rating because it has a high level of collateralisation (all assets of FFHG could be used as collateral) and a good equity-ratio of around 30 % despite the fact that FFHG has been loss-making and because *Land Rhineland-Palatinate* — as shareholder of FFHG — provided a guarantee for the loan.
- (60) In addition, Germany stressed that FFHG and ISB negotiated the conditions of the loans and that those negotiations were not influenced by the *Land Rhineland-Palatinate*.
- (61) Consequently, Germany was of the opinion that the ISB loans granted to FFHG were on market terms, and that, therefore, those loans do not constitute State aid.

4.3.2. Market conformity of the guarantee granted by *Land Rhineland-Palatinate*

- (62) Germany stated that it is very common for holding companies to guarantee financial obligations of their subsidiary. Moreover, Germany argued that the guarantee by *Land Rhineland-Palatinate* meets the requirements of the guarantee notice ⁽²³⁾. Admitting that the guarantee collateralised 100 % instead of 80 % of the loan amount (as the guarantee notice requires), Germany pointed out that this is due to the fact that *Land Rhineland-Palatinate* took over the guarantees of Fraport which also amounted to 100 %. In this regard, Germany stated that as a collateralisation of 100 % existed before, by taking over the collateralisation, *Land Rhineland-Palatinate* only maintained the status quo. Thus, in Germany's opinion, FFHG did not receive any economic advantage.
- (63) In addition to that, Germany submitted that FFHG could have offered other collaterals (such as land property, buildings and other fixed assets), which were not necessary because the *Land* held the vast majority of the shares of FFHG. Therefore, Germany asserted that the conditions of the loan would not necessarily have altered if the *Land* had not granted a guarantee.
- (64) Furthermore, Germany pointed out that FFHG pays a market fee for the guarantee. To support this, Germany referred to the Deutsche Bank study, as mentioned in recital 56. In this context, Germany clarified that Deutsche Bank determined that the guarantee fee would be between [0,5 % and 1,5 %] ⁽²⁴⁾. Germany stated that because FFHG was developing well when the guarantee was issued, the fee was set at [0,5 % to 1,5 %]. Against this background, Germany pointed out that, as this guarantee fee is within the margin determined by the Deutsche Bank expertise, it must be considered as being in line with the market.

⁽²³⁾ Commission Notice on the application of Article 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 155, 20.6.2008, p. 10).

⁽²⁴⁾ Deutsche Bank assesses two alternative scenarios for the financing of FFHG — one without collateralisation and one with a 100 % state guarantee. It estimates that in the first case (without collateral) the applicable risk margin for a 5-year loan would be between [1,30 % and 2,05 %] p.a. In the second case (with a guarantee covering 100 % of the claims) the applicable risk margin would be between [0,25 % and 0,7 %] p.a. The difference in the margins between the two cases would provide an indication for the price of the guarantee. The difference estimated by Deutsche Bank is in the range of [0,6 % to 1,8 %] p.a. ([1,3 % – 0,7 % = 0,6 % and 2,05 % – 0,25 % = 1,8 %]).

- (65) In conclusion, Germany emphasised that FFHG did not receive an economic advantage within the meaning of Article 107(1) of the Treaty either through the cash-pool or through the ISB loans or through the underlying guarantee.

4.4. Compatibility of the measures with the internal market

4.4.1. Assessment of compatibility of the investment aid

- (66) Germany submitted that, even if the financing provided to FFHG constitutes aid, that aid would be compatible with the internal market under the Article 107(3)(c) of the Treaty.

- (67) In particular with regard to the ISB loans and the underlying guarantee, Germany asserted that the ISB loans refinanced existing loan agreements which were concluded with the aim of financing infrastructure measures at Frankfurt Hahn airport. In this regard, Germany submitted that the ISB loan No 1 refinanced a loan that was intended to finance the 2007 and 2008 investments into the equipment of Frankfurt Hahn airport, whereas the ISB loan No 2 was intended to refinance a loan financing investments conducted at the airport in 2002. According to Germany, the ISB loan No 3 also refinanced investments in the transformation of a cargo hangar into a passenger terminal and other infrastructure extension measures. Germany further submitted that the ISB loans Nos 4 and 5 also refinanced loans financing investments in 2004 to 2006. Thus, Germany argued that the loans do not constitute operating aid, but investment aid that complies with the compatibility conditions set out in the 2005 Aviation Guidelines. The following recitals contain the analysis of compliance with each of those conditions.

(a) Contribution to a well-defined objective of common interest

- (68) As regards the condition that the measure must contribute to a well-defined objective of common interest, Germany submitted that the objective of the financing of airport infrastructure at Frankfurt Hahn airport was always to improve the economic structure of the economically underdeveloped and scarcely populated Hunsrück region.

- (69) In this regard, Germany stated that, firstly, the objective of supporting FFHG was to help overcome the weak structural economy of the Hunsrück region. Germany asserted that Frankfurt Hahn airport is surrounded by a number of areas considered as regions in need of support within the framework of *Gemeinschaftsaufgabe 'Verbesserung der regionalen Wirtschaftsstruktur'* ⁽²⁵⁾, a task shared by the federal and local governments. In this regard, Germany submitted that the four regions around the airport, namely *Landkreis Bernkastel-Wittlich*, *Birkenfeld*, *Cochem-Zell* and *Rhein-Hunsrück-Kreis*, are on average only half as densely populated as the rest of *Land Rhineland-Palatinate*. Germany pointed out that for those districts whose economy is shaped by small and medium-sized enterprises, employment is the main anchor against a further decrease of the regional economy and Frankfurt Hahn airport plays an important role as an employer and client.

- (70) Secondly, Germany argued that Frankfurt Hahn airport plays an important role in the strategic development of incoming (~ 33 % of passengers corresponding to approximately 1 million passengers in 2005) and outgoing tourism (~ 67 % of passengers) for the *Land Rhineland-Palatinate*. Germany stated that 88 % of the incoming passengers are staying several nights in the region. Germany submitted that the Frankfurt Hahn airport's incoming tourists generated approximately 5,7 million overnight stays in 2005 ⁽²⁶⁾. According to Germany the

⁽²⁵⁾ *Gemeinschaftsaufgabe 'Verbesserung der regionalen Wirtschaftsstruktur (GRW) Gesetz'* of 6 October 1969 (BGBl. I S. 1861), which was last amended by Article 8 of the Act of 7 September 2007 (BGBl. I, p. 2246).

⁽²⁶⁾ *Flughafen Frankfurt Hahn — Regionalökonomische Effekte*, ZFL Studie, 3/2007.

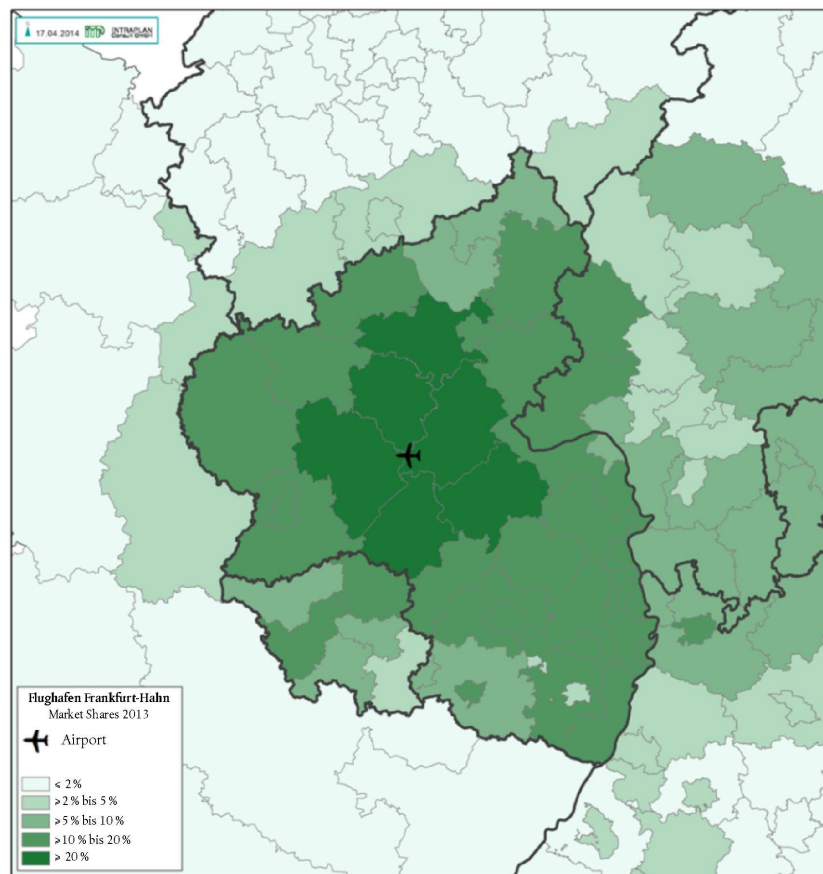
number of overnight stays further increased, *Land* Rhineland-Palatinate welcomed 8,2 million guests in 2011, which generated 21,5 million overnight stays. Germany pointed out that the number of guests from eastern and southern European countries, in particular, has increased and that a large number of flights are operated from those countries to Frankfurt Hahn. This has resulted in about 198 000 jobs being generated by tourism in Rhineland-Palatinate, according to Germany. The catalysed income and employment effects stem especially from incoming tourism, in which Frankfurt Hahn airport plays a central role as the gateway for tourists into the Hunsrück region, but also into Rhineland-Palatinate more generally, as Germany explained. Germany stated that between 1990 and 2001 the number of tourists has increased by 70 % for the Hunsrück region and by 35 % for Rhineland-Palatinate. According to Germany, during the same period, the number of tourists coming from abroad has increased by 163 % in the Hunsrück region. Since 88 % of incoming tourists from Frankfurt Hahn stay at least one night and more than 80 % of those even stay two to 10 days, they generate a total benefit of about EUR 133,7 million per year. Furthermore, Germany argued that outgoing tourism (67 %) also generates income for Frankfurt Hahn airport through non-aeronautical revenues.

- (71) Thirdly, Germany stated that, taking into account all parts of the airport activities, Frankfurt Hahn airport created 3 063 jobs in the Hunsrück region in 2012 out of which 74 % were full-time positions. According to Germany, 90 % of those employees also live in the region. Germany argued that Frankfurt Hahn airport helps to prevent the movement of young, qualified employees towards other regions as well as an economic and social decline of the regional communities and their infrastructure. Furthermore, Germany pointed out that the presence of Frankfurt Hahn airport not only produces the aforementioned direct effects for the labour market, but also has enormous indirect, induced and catalysing effects through an increasing number of economic and touristic activities. In this respect, Germany referred to positive secondary effects for the region, namely less unemployment and more tax payers, thereby providing more money for the municipalities in the regions to support the local economy. In total, the airport generated around 11 000 jobs through incoming tourism for the whole Rhineland-Palatinate.
- (72) Germany argued that the financing of infrastructure at Frankfurt Hahn airport has also helped to achieve the well-defined objective of common interest to combat air traffic congestion at major Union hubs. In this regard Germany pointed to the fact that the capacity limits of Frankfurt Main airport have been constantly exceeded. Germany submitted that especially in the light of its 24-hour operating licence, Frankfurt Hahn airport was therefore serving to provide additional capacity in order to relieve the congestion at Frankfurt Main airport.
- (73) Furthermore, Germany submitted that supporting Frankfurt Hahn airport also serves the objective of common interest of increasing the mobility of Union citizens. In this regard, Germany pointed out that Frankfurt Hahn airport is the only German airport offering direct flights to Kaunas (Latvia), Kerry (Ireland), Kos (Greece), Montpellier (France), Nador (Morocco), Plovdiv (Bulgaria), Pula (Croatia), Rhodes (Greece), Santiago de Compostela (Spain) and Volos (Greece). Also, according to Germany, Frankfurt Hahn airport contributes to the job mobility of young people, who can reach the region Hunsrück and Rhineland-Palatinate region at low prices. Similarly, Germany pointed out that the high-quality universities and institutions of higher education in Koblenz, Mainz, Kaiserslautern, Trier, Wiesbaden, Mannheim, Bonn, etc., where for the most part no tuition fees apply, are now easily accessible to students from all over the Union.
- (74) Germany argued, moreover, that it is also of common interest that the Hunsrück region and the surrounding regions of Rhineland-Palatinate are connected to other peripheral regions, for example Limerick, which has already manifested itself through city partnerships. As the fourth biggest national economy in the world, Germany stated that it is focussing not only on connecting to the major European hubs, but also on connecting the regions with each other. According to Germany, becoming more independent from the major hubs such as Heathrow, Charles de Gaulle, Schiphol or Frankfurt/Main, is important for the Union since it will mean not only more direct connections, but also more reliability especially for the freight business as regional airports are less prone to cancellations due to weather, strikes, terrorism or cancellation due to cancellation risks.
- (75) Lastly, Germany generally emphasised that the proximity Zweibrücken airport does not lead to a duplication of airports for the same catchment area, due to the distance of 127 km between Frankfurt Hahn airport and Zweibrücken airport. According to Germany, this distance translates into a travelling time of 1 hour and 27 minutes by car or of around 4 hours by train. Therefore, Germany argued that no reasonable worker, freight carrier or tourist whose point of departure lies in the Hunsrück region would go to Zweibrücken airport instead of Frankfurt Hahn airport in order to reach his final destination. Furthermore, Germany submitted that, looking

at passenger and air freight traffic between 2005 and 2012, no relationship of substitution between the airports can be deduced. According to Germany, the main market shares of Frankfurt Hahn airport comes from the Hunsrück-Mosel-Nahe region (see Figure 5).

Figure 5

Market shares in passenger air transport of Frankfurt Hahn airport in 2013 (*)



(b) The infrastructure is necessary and proportionate to the objective

- (76) Germany considers that the financed investments are necessary and proportionate to the objective of common interest (see recital 68 and following). According to Germany, the investments were undertaken according to the needs and the constructed infrastructure was necessary for the airport in order to guarantee connectivity, to allow for the development of the region and to decongest Frankfurt Main airport. Germany pointed out that the infrastructure was not disproportionate or too opulent for the needs of users of the airport. Hence, Germany considered that this compatibility condition was met.

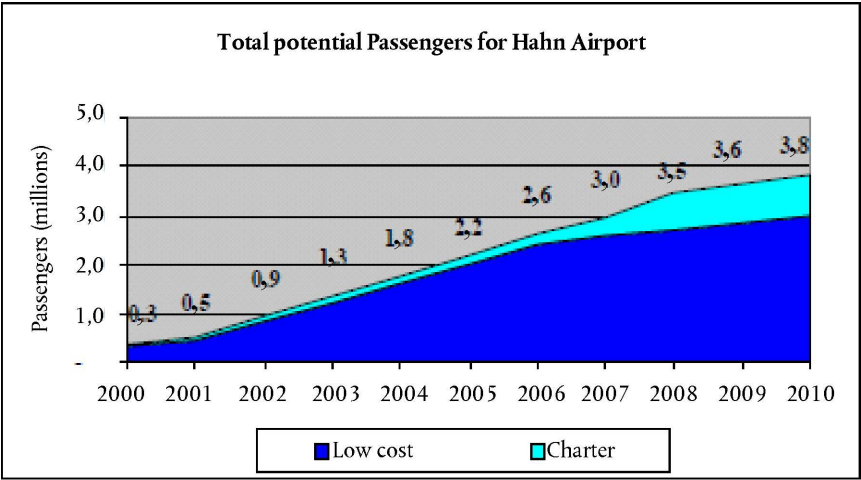
(c) The infrastructure has satisfactory medium-term prospects for use

- (77) Germany submitted that before the decision to extend the airport infrastructure was taken, Fraport commissioned traffic forecast studies in order to identify the traffic potential for Frankfurt Hahn airport. Germany provided those studies which were prepared by aviation experts on behalf of Fraport. Figure 6 and Figure 8 summarise the results of one of those studies regarding the expected passenger and freight traffic development at Frankfurt Hahn airport between 2000 and 2011.

(*) Submission of Germany, September 2014.

Figure 6

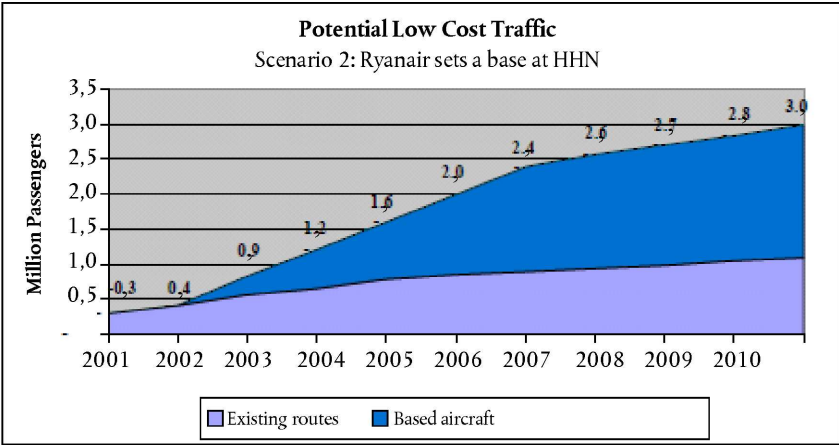
Total potential passengers at Frankfurt Hahn airport in 2000-2010



Source: SH&E

Figure 7

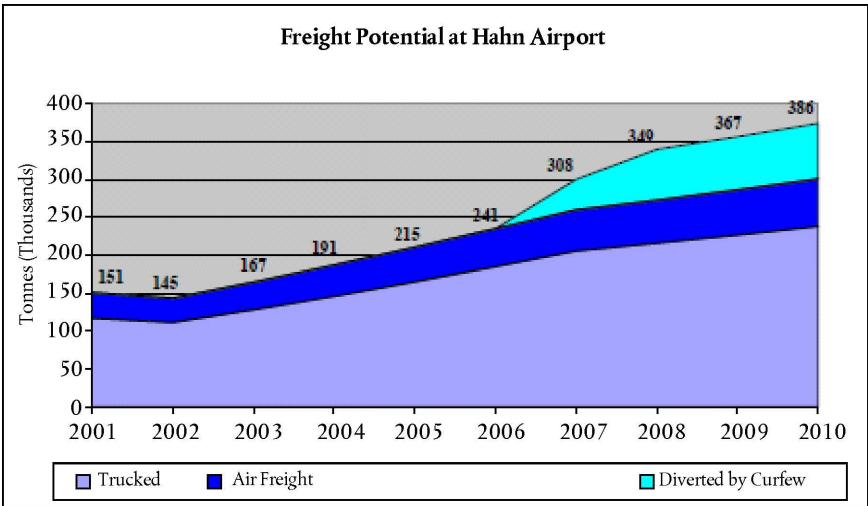
Potential low-cost passenger traffic (under the assumption that Ryanair sets a base that means that it would base/station its aircraft at the airport overnight) at Frankfurt Hahn airport in 2001-2011



Source: SH&E

Figure 8

Total potential freight traffic at Frankfurt Hahn airport in 2001-2010



Source: SH&E

(d) Access to the infrastructure in an equal and non-discriminatory manner

- (78) According to the information provided by Germany, all potential users of the infrastructure have access to the airport on equal and non-discriminatory terms. Germany submitted that the airport charges paid for the use of the infrastructure were based on commercially justified differentiation and that the schedule of airport charges is available to all potential users in a transparent and non-discriminatory manner.

(e) Trade is not affected contrary to common interest

- (79) Firstly, Germany stated that there are no substitution effects between Frankfurt Hahn airport and other airports in the catchment area, such as Zweibrücken airport and Frankfurt Main airport. According to Germany, there are no undue negative effects on competition with those airports as a result of the aid granted to FFHG, either in relation to passenger or to freight traffic. Germany submitted that, on the contrary, for flying with low-cost carriers the passengers would rather use hub airports (such as Köln/Bonn or Frankfurt Main) than regional airports (such as Frankfurt Hahn). Germany argued that in recent years, low-cost carriers have increasingly had to provide more flights to the major hubs since traditional airlines have lowered their prices and started to enter the market of low-cost flights. In this regard, Germany stated that regional airports, such as Frankfurt Hahn, are now under a greater pressure to compete with the hub airports for leisure passengers. Therefore, Germany concluded that the financing has not led to any undue negative effects on competition, but has on the contrary proven appropriate for the transition of the airport towards a stable business model in the future.
- (80) Secondly, Germany argued that the fact that Fraport, before getting constituted in Frankfurt Hahn airport, was already the operator of Frankfurt Main airport, shows that no substitution movements from Frankfurt Main towards Frankfurt Hahn airport were to be expected. Instead, Fraport was investing in the possibility to decongest Frankfurt Main airport and use the additional, complementary function of Frankfurt Hahn airport, as a future capacity overload was foreseeable for the Frankfurt Main hub. According to Germany, the ban on night flights at Frankfurt Main airport was one of the main factors in this reasoning as Frankfurt Hahn airport had a 24-hour operating licence.
- (81) In conclusion, Germany argued that the effects of the financing in favour of FFHG were limited to the positive regional effects for the Hunsrück region as a whole, whilst no undue negative effects were created in relation to other airports as Frankfurt Hahn airport is being used to decongest Frankfurt Main. Furthermore, Germany stated that apart from Luxembourg airport, which is already 1 hour and 30 minutes travelling time (111 km) from Frankfurt Hahn airport, there are no other foreign airports competing in the same catchment area. Even in relation to Luxembourg, the aid granted does not have any negative distortive effect on competition according to Germany.

(f) Incentive effect, necessity and proportionality

- (82) Germany stated that in the absence of investment aid, the level of economic activity of the airport would be significantly reduced. Germany submitted that the aid was necessary as it compensated only the costs of financing and a lower amount would lead to lower levels of investment.

4.4.2. *Assessment of compatibility of the operating aid*

- (83) On 17 April 2014, Germany provided its views on the compatibility of the measures under the 2014 Aviation Guidelines. Germany argued that even if the cash-pool, the loans and underlying guarantee constituted operating aid to FFHG, then that aid was compatible with the internal market pursuant to Article 107(3)(c) of the Treaty and Section 5.1.2 of the 2014 Aviation Guidelines. Germany set out its arguments in more detail with regard to the respective compatibility conditions.

(a) Contribution to a well-defined objective of common interest

- (84) Concerning the requirement that the aid must contribute to the achievement of the well-defined objective of common interest, Germany submitted that the coverage of operating costs of FFHG was always aimed at the objective of improving the economic structure of the economically underdeveloped and scarcely populated Hunsrück region. In this regard the Germany used the same reasoning as for the assessment of the compatibility of the investment aid to finance the airport infrastructure (see Section 4.4.1).

(b) Need for state intervention

- (85) Germany explained why Frankfurt Hahn is making operational losses which have to be covered. Germany stated that it is quite an ambitious objective for an airport such as Frankfurt Hahn airport with 1-3 million passengers to become profitable and be able to cover its operating costs. According to Germany, it was not possible to achieve this ambitious objective in the start-up years (referring to the period between the start of commercial passenger traffic at the airport until today) of Frankfurt Hahn airport since the airport was burdened by very high infrastructure investments which it financed itself on the capital market and for which it had to pay high interest. In addition, Germany stated that since the world economic and financial crisis, there has been a stagnation of passenger and especially freight traffic.
- (86) Germany submitted that in the light of these circumstances, there was a need for state intervention to cover the operating losses since FFHG would otherwise have become insolvent. According to Germany, this would also have resulted in the withdrawal of the 24-hour operating licence, meaning that FFHG would have had to stop operating all flights, resulting in turn in the loss of clients, such as airlines and freight carriers. Germany pointed out that it would then also have become very difficult to find a new operator for the airport.

(c) Appropriateness of the aid measures as policy instruments

- (87) Germany submitted that covering the operating costs was an appropriate measure to achieve the intended objective. Germany argued in this respect that if Frankfurt Hahn airport had had to stop operating and had disappeared from the relevant markets, then the objectives of common interest pursued in developing the Hunsrück region and making conversion investments would not have been achieved. In this regard, Germany emphasised that in contrast to a private investor, a public investor has to take those objectives into account when considering the alternative of closure of the airport.

(d) Existence of an incentive effect

- (88) Germany argued that in order to maintain Frankfurt Hahn airport in operation, it was a necessary to cover its operating costs as FFHG would otherwise have become insolvent. Germany stated that the coverage of operating costs was in turn the basis also for realising the objectives of common interest as stated in recital 84 and following. Furthermore, Germany argued that without this operating aid, the financial consolidation of the airport as foreseen by the operator now would have been unthinkable, since the airport would have accrued more and more debt instead of making it out of its debts. According to Germany, the incentive effect of the measures is already demonstrated by that fact that FFHG is continuously progressing towards profitability.

(e) Proportionality of the aid amount (aid limited to a minimum)

- (89) Germany argued that any aid element contained in the loans was limited to the operating losses and represented the absolute minimum necessary in order to maintain Frankfurt Hahn airport in operation and keep it from becoming insolvent.

(f) Avoidance of undue negative effects on competition and trade between Member States

- (90) Germany considered that there were no undue negative effects on competition and trade between Member States. In this regard Germany used the same reasoning as for the assessment of the compatibility of investment aid to finance airport infrastructure (see Section 4.4.1).

5. COMMENTS FROM THIRD PARTIES

5.1. *Land Rhineland-Palatinate*

- (91) The Commission only received comments on the opening decision from *Land Rhineland-Palatinate*. These comments were in line with the comments from Germany.
- (92) First of all, *Land Rhineland-Palatinate* stated that FFHG did not receive any State aid because it did not obtain an economic advantage. The *Land* argued that the measures taken by it would have been taken by any private investor in the same situation. It strongly emphasised that the Commission's procedure is limiting the potential development of FFHG and its business. *Land Rhineland-Palatinate* underlined the importance of Frankfurt-Hahn airport for incoming-tourism and the economy of the *Land*.
- (93) According to *Land Rhineland-Palatinate*, even if State aid was granted to FFHG, it is compatible with the internal market. In the *Land's* view, the financing was intended to develop the airport infrastructure, which is of outstanding economic interest for the *Land*.
- (94) Therefore, the *Land* is of the opinion that even if the Commission takes the view that State aid was involved, it must be considered as State aid within the meaning of Article 107(3)(c) Treaty and be deemed compatible with the internal market.

5.2. Comments on the implementation of the 2014 Aviation Guidelines to the pending case

5.2.1. *Lufthansa*

- (95) Lufthansa asserted that the Commission should apply the 2004 Rescue and Restructuring Guidelines ⁽²⁷⁾ in this case. According to Lufthansa the measures involve continuous illegal and incompatible rescue aid implemented by *Land Rhineland-Palatinate* in favour of FFHG. Lufthansa stated that the airport has been ever since incurring annual losses and without the public support it would have had to exit the market.

5.2.2. *Transport & Environment*

- (96) This non-governmental organisation made comments criticising the 2014 Aviation Guidelines and decisions of the Commission regarding the aviation industry so far, for their allegedly negative effects on the environment.

6. ASSESSMENT

- (97) By virtue of Article 107(1) of the Treaty 'any aid granted by a Member State or through state resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.'

⁽²⁷⁾ Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2).

- (98) The criteria laid down in Article 107(1) of the Treaty are cumulative. Therefore, in order to determine whether measures constitute State aid within the meaning of Article 107(1) of the Treaty, all of the following conditions need to be fulfilled. Namely, the financial support must:

- (a) be granted by the state or through state resources;
- (b) favour certain undertakings or the production of certain goods;
- (c) distort or threaten to distort competition; and
- (d) affect trade between Member States.

6.1. Aid nature of the credit line provided by the cash-pool of Land Rhineland-Palatinate

6.1.1. *Notion of undertaking and economic activity*

- (99) According to settled case law, the Commission must first establish whether the FFHG is an undertaking within the meaning of Article 107(1) of the Treaty. The concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed ⁽²⁸⁾. Any activity consisting in offering goods or services on a given market is an economic activity ⁽²⁹⁾.
- (100) In its *Leipzig/Halle Airport* judgment the General Court confirmed that the operation of an airport for commercial purpose and the construction of the airport infrastructure constitute an economic activity ⁽³⁰⁾. Once an airport operator engages in economic activities by offering airport services against remuneration, regardless of its legal status or the way in which it is financed, it constitutes an undertaking within the meaning of Article 107(1) of the Treaty, and the Treaty rules on State aid are therefore capable of applying to advantages granted by the state or through state resources to that airport operator ⁽³¹⁾.
- (101) Regarding the moment in time from which the construction and operation of an airport became an economic activity, the gradual development of market forces in the airport sector does not allow for a precise date to be determined. However, the General Court has recognised the evolution in the nature of airport activities and in its judgment in *Leipzig/Halle Airport*, the General Court held that from 2000 onward the application of State aid rules to the financing of airport infrastructure could no longer be excluded. Consequently, from the date of the judgment in *Aéroports de Paris* (12 December 2000) ⁽³²⁾, the operation and construction of airport infrastructure must be considered as an economic activity falling within the ambit of State aid control.
- (102) In this regard, the airport which is the subject of this Decision is operated by FFHG, the airport manager, on a commercial basis. The airport manager, FFHG, charges users for the use of that infrastructure. FFHG is therefore an undertaking for the purposes of Union competition law.

6.1.2. *State resources and imputability to the state*

- (103) In order to constitute State aid, the measure in question has to be financed from state resources and the decision to grant the measure must be imputable to the state.

⁽²⁸⁾ Case C-35/96 *Commission v Italy* [1998] ECR I-3851; Case C-41/90 *Höfner and Elser* [1991] ECR I-1979; Case C-244/94 *Fédération Française des Sociétés d'Assurances v Ministère de l'Agriculture et de la Pêche* [1995] ECR I-4013; Case C-55/96 *Job Centre* [1997] ECR I-7119.

⁽²⁹⁾ Case 118/85 *Commission v Italy* [1987] ECR 2599; Case 35/96 *Commission v Italy* [1998] ECR I-3851.

⁽³⁰⁾ *Leipzig/Halle judgment*, in particular paragraphs 93-94; confirmed by case C-288/11 P *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission* [2012] ECLI:EU:C:2012:821; see also Case T-128/89 *Aéroports de Paris v Commission* [2000] ECR II-3929, confirmed by case C-82/01P *Aéroports de Paris v Commission* [2002] ECR I-9297 and case T-196/04 *Ryanair v Commission* ('Charleroi judgment') [2008] ECR II-3643.

⁽³¹⁾ Cases C-159/91 and C-160/91 *Poucet v AGV and Pistre v Cancave* [1993] ECR I-637.

⁽³²⁾ *Leipzig-Halle judgment*, paragraphs 42-43.

- (104) The concept of State aid applies to any advantage granted through state resources by the state itself or by any intermediary body acting by virtue of powers conferred on it ⁽³³⁾. Resources of local authorities are, for the application of Article 107 of the Treaty, state resources ⁽³⁴⁾.
- (105) Germany first submitted that the cash-pool of the *Land* Rhineland-Palatinate is not financed directly out of the public budget of the *Land*. It claimed that all funds in the cash-pool either stem from the participating undertakings or are obtained in the form of loans on the capital market. In a subsequent submission, Germany stated that the funds drawn from the cash-pool by FFHG are not covered by a guarantee of the *Land*, as the funds are directly provided from the *Land's* resources ⁽³⁵⁾.
- (106) The Commission considers that in the case at hand, at all material times the state exercised direct or indirect control over the resources in the cash-pool, with the consequence that these constituted state resources. First, Germany itself submitted that the credit line provided by the cash-pool was financed directly from the resources of the *Land* Rhineland-Palatinate. Hence, the measure at stake was financed out of state resources.
- (107) Second, only undertakings in majority ownership by *Land* Rhineland-Palatinate (at least 50 % ownership) can participate in the cash-pool. Because of the majority public ownership, the participating undertakings are clearly public undertakings within the meaning of Article 2(b) of Commission Directive 2006/111/EC ⁽³⁶⁾. Since all the participating undertakings are thus public undertakings, their resources constitute state resources. This fact alone signifies that the funds of the cash-pool, to the extent they are made up of the deposits made by the participating undertakings, constitute state resources.
- (108) Third, in the event that the participating undertakings' deposits in the cash-pool are insufficient to satisfy the liquidity needs of a participant, *Land* Rhineland-Palatinate obtains short-term financing on the financial markets in its own name and passes those funds on to the undertakings participating in the cash-pool. As the *Land* takes out the necessary loans in its own name, it must be considered that the funds thus obtained constitute state resources as well. As shown in Figure 2, between 2009 and 2013 (except August 2012 and September 2013) the deposits of the participating undertakings in the cash-pool were insufficient to satisfy the liquidity needs of all participants and the *Land* had to take out the necessary loans in its own name.
- (109) Thus, the Commission considers that the funding provided by the cash-pool is financed by state resources, as both the deposits by participating undertakings and the loans taken out by the *Land* to overcome liquidity gaps in the cash-pool constitute state resources.
- (110) It is furthermore clear that the *Land* had far-reaching control over the operation of the cash-pool, with the consequence that the financing provided to participating undertakings is imputable to the State. The agreement for participation in the cash-pool is concluded between the *Land* and the undertakings involved. The decision to allow an undertaking to participate in the cash-pool is thus taken directly by the *Land*. The *Land* also decides on the maximum amount that a participating undertaking may withdraw from the cash-pool in the form of a credit line. In addition, *Land* Rhineland-Palatinate directly manages the day-to-day operations of the cash-pool through the '*Landeshauptkasse*', which is an institution of the Ministry of Finance of the *Land* Rhineland-Palatinate. The '*Landeshauptkasse*' also officially represents the *Land* when obtaining funds on the market to bridge liquidity gaps in the cash-pool.
- (111) Based on these elements, the Commission considers that the state is capable of directly controlling the activities of the cash-pool, most centrally the question of which undertaking may participate and the individual credit line granted to each participating undertaking. Hence, the decisions concerning the participation in the cash-pool and the extent of that participation are imputable to the state.

⁽³³⁾ Case C-482/99 *France v Commission* ('*Stardust Marine*') [2002] ECR I-4397.

⁽³⁴⁾ Joined Cases T-267/08 and T-279/08, *Nord-Pas-de-Calais* [2011] ECR II-01999, paragraph 108.

⁽³⁵⁾ Submission of Germany dated 24 April 2014, response to question 4, p. 3.

⁽³⁶⁾ Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as financial transparency within certain undertakings (OJ L 318, 17.11.2006, p. 17).

6.1.3. Economic advantage

- (112) An advantage within the meaning of Article 107(1) of the Treaty is any economic benefit which an undertaking would not have obtained under normal market conditions, that is to say, in the absence of state intervention ⁽³⁷⁾. Only the effect of the measure on the undertaking is relevant, not the cause nor the objective of the state intervention ⁽³⁸⁾.
- (113) Whenever the financial situation of the undertaking is improved as a result of State intervention, an advantage is present. Conversely, 'capital placed directly or indirectly at the disposal of an undertaking by the State in circumstances which correspond to normal market conditions cannot be regarded as State aid' ⁽³⁹⁾.
- (114) In order to verify whether an undertaking has benefited from an economic advantage induced by the granting of a loan or any other form of debt financing, the Commission applies the criterion of the market economy lender principle. Accordingly, the Commission has to assess whether the conditions of the cash-pool provided to FFHG confer an economic advantage on it which the recipient undertaking would not have obtained under normal market conditions.
- (115) Germany submitted that the market economy lender principle was fully respected as the cash-pool provides financing at market conditions. With respect to the participation of FFHG in the cash-pool, Germany has explained that the cash-pool functions as follows: FFHG requests funds from the pool to ensure its liquidity, and the *Land* provides those funds from the cash-pool. The interest rates charged to FFHG are market-based call money rates ⁽⁴⁰⁾, at the level available to the *Land* itself, as shown in Figure 4.
- (116) Where the deposits of participating undertakings are insufficient to cover the request, the *Land* replenishes the cash-pool by taking up loans in its own name. Germany further explained that the *Land* essentially passes on the conditions it obtains on the capital market to the participants in the cash-pool, thereby allowing the participants — the *Land*'s undertakings in which the *Land* holds a majority of shares — to refinance themselves under the same conditions as the *Land* itself, without any consideration of their creditworthiness. Moreover, the financing is available to the undertakings for an unlimited period of time.
- (117) In the light of this mechanism, an advantage is granted to FFHG where the conditions on which the *Land* grants loans from the cash-pool are more favourable than those otherwise available to FFHG on the market. The conditions for taking up loans from the cash-pool are the same as those available to the *Land* to refinance itself. Considering that the *Land*, as a public authority, is able to take up loans at very favourable rates (as there is virtually no risk of default and the credit rating of the *Land* corresponds to AAA ⁽⁴¹⁾), the Commission considers that the rate at which FFHG can obtain a loan from the cash-pool is more favourable than that otherwise available to it. This is further supported by the credit ratings of FFHG in 2009 to 2014 provided by Germany and summarised in Table 7, showing that the credit rating of FFHG varies between [...]. Hence, the loans from the cash-pool were available at better conditions than the creditworthiness of FFHG would justify. In addition, FFHG does not have to provide collateral for those loans. Thus, by allowing FFHG to participate in the cash-pool and by handing out the loans under the credit line, the *Land* granted an economic advantage ⁽⁴²⁾.

6.1.4. Selectivity

- (118) Article 107(1) of the Treaty requires that, in order to be defined as State aid, a measure must favour 'certain undertakings or the production of certain goods'.

⁽³⁷⁾ Case C-39/94 *Syndicat français de l'Express international (SFEI) and others v La Poste and others* [1996] ECR I-3547, paragraph 60 and case C-342/96 *Kingdom of Spain v Commission of the European Communities* [1999] ECR I-2459, paragraph 41.

⁽³⁸⁾ Case 173/73 *Italian Republic v Commission of the European Communities* [1974] ECR 709, paragraph 13.

⁽³⁹⁾ Case C-482/99 *France v Commission ('Stardust Marine')* [2002] ECR I-4397, paragraph 69.

⁽⁴⁰⁾ According to Germany the interest rate corresponded approximately to the European overnight index average.

⁽⁴¹⁾ Full rating report of the *Land* Rhineland-Palatinate (including *Land*'s rating history since 1999) by Fitch rating agency, July 2014, available under http://www.fm.rlp.de/fileadmin/fm/downloads/finanzen/kapitalmarkt/FRR_RP_22_07_2014.pdf, shows that the *Land* was constantly rated at AAA on the rating scale.

⁽⁴²⁾ The *Land* bears the risk of FFHG defaulting, without obtaining a compensatory payment in return.

- (119) As the right to participate in the cash-pool was granted only to FFHG (and other undertakings in which the *Land* holds a majority of shares), the measure is selective within the meaning of Article 107(1) of the Treaty.

6.1.5. Distortion of competition and effect on trade

- (120) When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in intra-Union trade, the latter must be regarded as affected by that aid. In accordance with settled case-law⁽⁴³⁾, for a measure to distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (121) As assessed in recital 102 and following, the operation of an airport is an economic activity. Competition takes place, on the one hand, between airports to attract airlines and the corresponding air traffic (passengers and freight), and, on the other hand, between airport managers, which may compete between themselves to be entrusted with the management of a given airport. Moreover, in particular with respect to low-cost carriers and charter operators, airports that are not located in the same catchment areas and even in different Member States can also be in competition with each other to attract those airlines.
- (122) The size of Frankfurt Hahn airport (between 2,7 and 3,8 million passengers during the period under consideration, see Table 1) and its proximity to other Union airports, in particular Frankfurt Main airport, Luxembourg airport, Zweibrücken airport, Saarbrücken airport and Köln-Bonn airport⁽⁴⁴⁾, allows the conclusion that the financing is liable to distort competition and have an effect on trade between Member States. There are international flights from Frankfurt Hahn airport to a number of international destinations as set out in recital 73. The runway at Frankfurt Hahn airport is of sufficient length (3 800 m) to be used by bigger aircraft and allows airlines to serve medium- to even long-haul international destinations.
- (123) In addition, Frankfurt Hahn airport serves as a freight airport, handling around 200 000 tonnes of air freight per year and 500 000 tonnes of freight, including freight trucking, in total (see Table 2). With regard to competition for air freight, the Commission notes that freight is usually more mobile than passenger transport⁽⁴⁵⁾. In general, the catchment area for freight airports is considered to have a radius of at least around 200 kilometres and 2 hours travelling time. Based on the Commission's information, industry players generally consider that the catchment area of a freight airport may be even larger as up to a half a day of trucking time (that is to say, up to 12 hours driving time by trucks) would in general be acceptable for freight forwarders to use the airport in order to transport freight⁽⁴⁶⁾. Hence, since freight airports are more fungible than passenger airports, because it is sufficient for the air freight to be delivered into a certain area and then forwarded by road and rail freight forwarders to its final destination, the Commission considers that there is a higher risk of distortion of competition and effect on trade between Member States.
- (124) On the basis of the arguments presented in recitals 120 to 123, the economic advantage which FFHG receives strengthens its position vis-à-vis its competitors on the Union market for the provision of airport services. Against this background, the advantage provided to FFHG through its participation in the cash-pool of the *Land* must be considered as being liable to distort competition and have an effect on trade between Member States.

6.1.6. Conclusion

- (125) In the light of the considerations in recitals 99 to 124, the Commission considers that the credit line provided by the cash-pool of the *Land* to FFHG constitutes State aid within the meaning of Article 107(1) of the Treaty.

⁽⁴³⁾ Case T-214/95 *Het Vlaamse Gewest v Commission* [1998] ECR II-717.

⁽⁴⁴⁾ See Section 2.1.

⁽⁴⁵⁾ For example Leipzig/Halle airport was in competition with Vatry airport (France) for the establishment of the DHL European hub. See *Leipzig/Halle judgment*, paragraph 93.

⁽⁴⁶⁾ Response of Liège airport to the public consultation on the 2014 Aviation Guidelines.

6.2. Aid nature of the 100 % guarantee for the ISB loans provided by Land Rhineland-Palatinate to FFHG

- (126) The ISB loans assessed in Section 6.3 are guaranteed by *Land Rhineland-Palatinate* (guarantor), which is at the same time the main shareholder (82,5 %) in FFHG. Each of the five ISB loans has been collateralized with a guarantee covering 100 % of the claims of the bank. For the provision of the guarantees FFHG pays a guarantee premium of [0,5 % to 1,5 %] p. a. to the guarantor.

6.2.1. Applicability of State aid rules to the financing of airport infrastructure

- (127) For the reasons outlined in recital 99 and following, FFHG must be considered to constitute an undertaking for the purposes of Article 107(1) of the Treaty.

6.2.2. State resources and imputability

- (128) In order to constitute State aid, the measure in question must be financed from state resources and the decision to grant the measure must be imputable to the state.
- (129) The concept of State aid applies to any advantage granted through state resources by the state itself or by any intermediary body acting by virtue of powers conferred on it ⁽⁴⁷⁾. Resources of local authorities are, for the application of Article 107 of the Treaty, state resources ⁽⁴⁸⁾.
- (130) Any public guarantee involves a potential loss of resources by the state. As the 100 % state guarantee was issued directly by the *Land Rhineland-Palatinate*, it was granted from state resources and is also imputable to the state.

6.2.3. Economic advantage

- (131) According to point 3.2 of the guarantee notice, an individual state guarantee is not aid when the following cumulative conditions are met: '(a) The borrower is not in financial difficulty [...], (b) The extent of the guarantee can be properly measured when it is granted. [...] (c) the guarantee does not cover more than 80 % of the outstanding loan or other financial obligation [...], (d) A market-oriented price is paid for the guarantee [...]'.
- (132) In this case the *Land Rhineland-Palatinate* provided a 100 % guarantee to collateralise the loans granted by ISB in favour of FFHG. The guarantee thus exceeds the threshold of 80 % of the outstanding loan.
- (133) Germany submitted that even though the loans were collateralised through a 100 % state guarantee, FFHG pays a market price for the guarantee, and hence receives no advantage. To support this, Germany provided an assessment conducted by Deutsche Bank. As stated in recital 153, Deutsche Bank assigned FFHG a [<BBB+] rating. This assessment was confirmed by two other banks and the rating assigned by the Moody's credit-scoring model (see recitals 157 and 158). However, Deutsche Bank estimated that the applicable risk margin for a 5-year loan would be between [1,30 % and 2,05 %] p. a. As explained in Section 6.3.2, the applicable risk margin for a loan collateralised by a 100 % state guarantee would be between [0,25 % and 0,7 %] p.a. According to Germany, the difference in the margins between the two situations provides an indication of the price of the 100 % state guarantee. This difference is thus estimated by Deutsche Bank as being in the range of [0,6 % to 1,8 %] p.a. ⁽⁴⁹⁾.
- (134) According to point 4.2, second subparagraph, of the guarantee notice, the advantage can be calculated as the difference between the specific market interest rate FFHG would have borne without the guarantee and the interest rate obtained by means of the state guarantee after any premium paid has been taken into account.

⁽⁴⁷⁾ See footnote 33.

⁽⁴⁸⁾ See footnote 34.

⁽⁴⁹⁾ [1,3 % - 0,7 % = 0,6 % and 2,05 % - 0,25 % = 1,8 %].

- (135) According to the Reference Rate Communication, for a company in the rating category of weak (B) and with normal collateralisation ⁽⁵⁰⁾ a risk margin of 4 % p.a. would apply. The difference between the risk margin applicable according to the Reference Rate Communication and the risk margin charged for the ISB loans together with the guarantee rate actually charged by the *Land* gives an indication of the advantage FFHG received due to the 100 % state guarantee. This difference amounts, for loans numbers 2 and 5, to [1,5 % to 3,5 %] p.a. ⁽⁵¹⁾ and [1,5 % to 3,5 %] p.a. ⁽⁵²⁾ respectively and for loans numbers 1, 3 and 4, to [1,5 % to 3,5 %] p.a. ⁽⁵³⁾ Moreover, FFHG has not paid any bank fee (typically between [5 to 30] basis points ⁽⁵⁴⁾). It is clear that under normal market conditions, FFHG would have had to pay such a guarantee premium (that is [0,5 % to 1,5 %] p.a.) in order to obtain a guarantee on its loans from a third party. Therefore the guarantee clearly involves an advantage.
- (136) As the guarantee issued by the *Land* covers 100 % of the outstanding loan and FFHG pays a premium below the market price, it obtained an economic advantage not otherwise available on the market. The amount of this advantage is equivalent to the difference between the risk margin applicable according to the Reference Rate Communication and the risk margin charged for the ISB loans together with the guarantee rate actually charged by the *Land* and a bank fee.

6.2.4. *Selectivity*

- (137) As the 100 % state guarantee was granted only to FFHG, the measure has to be qualified as being selective in nature.

6.2.5. *Distortion of competition and effect on trade*

- (138) For the same reasons as outlined in recital 120 and following, the Commission considers that any selective economic advantage granted to FFHG is liable to distort competition and affect trade between Member States.

6.2.6. *Conclusion*

- (139) In the light of the considerations in recitals 127 to 138, the Commission considers that the state guarantee issued by *Land* Rhineland-Palatinate securing 100 % of the outstanding ISB loans constitutes State aid within the meaning of Article 107(1) of the Treaty.

6.3. **Aid nature of the loans provided by ISB to FFHG**

6.3.1. *Applicability of State aid rules to financing of airport infrastructure*

- (140) For the reasons outlined in recital 99 and following, FFHG must be considered to constitute an undertaking for the purposes of Article 107(1) of the Treaty.

6.3.2. *State resources and imputability to the state*

- (141) ISB is 100 % owned by *Land* Rhineland-Palatinate. For this reason it constitutes a public undertaking within the meaning of Article 2(b) of Directive 2006/111/EC and loans provided by it may therefore be considered as financed by state resources.

⁽⁵⁰⁾ Loss given default (LGD) between 30 % and 60 %.

⁽⁵¹⁾ [...]

⁽⁵²⁾ [...]

⁽⁵³⁾ [...]

⁽⁵⁴⁾ See e.g. Oxera, Estimating the cost of capital for Dutch water companies, 2011 (p. 3). See also Bloomberg data on underwriting fees for bond issuance.

- (142) It is clear that the *Land* had far-reaching control over the operation of ISB, with the consequence that the loans provided by it are imputable to the state. ISB is the development bank of *Land* Rhineland-Palatinate and plays a fundamental role in regional development policy. According to §3(1) of the statute of the bank, ISB's role is to support the *Land* in its financial, economic, regional, transport, environmental and employment policies. This case, the ISB loans refinanced earlier loans granted to FFHG for financing infrastructure measures at the airport.
- (143) Furthermore, in addition to two representatives of the Chamber of Crafts as well as the Chamber of Industry and Commerce, ISB's supervisory board (*'Verwaltungsrat'*) consists of five representatives of public authorities (including two state secretaries in the Ministry of Finance of the *Land* Rhineland-Palatinate and the Ministry of Economy, Transport, Agriculture and Viticulture of *Land* Rhineland-Palatinate, respectively) which ensures the supervision of ISB's activities by the state. Also, its advisory board (*'Beirat'*) consists of representatives of public authorities.
- (144) Moreover, the ISB loans were secured by a 100 % state guarantee issued by the *Land* (see Section 6.2).
- (145) Based on these elements, the Commission considers that the State was able to control the activities of ISB and it cannot be assumed that it would not have been involved in an important decision concerning the financing of the airport infrastructure. Therefore, the Commission takes the view that the decision to refinance FFHG's prior loans by way of the ISB loans is imputable to the public authorities.

6.3.3. *Economic advantage*

- (146) In order to verify whether an undertaking has benefited from an economic advantage induced by the granting of a loan, the Commission applies the criterion of the market economy lender principle. According to that principle, debt capital put at the disposal of a company by the state, directly or indirectly, in circumstances which correspond to the normal conditions of the market, should not be qualified as State aid ⁽⁵⁵⁾.
- (147) The principle of a lender in a market economy determines what a private company of a comparable size would do in a comparable situation. It aims to identify and separate those financial measures taken by the State that would not have been taken by a private investor from those which are financially reasonable, and would therefore have been taken by a private investor, in order to determine if there is an economic advantage.
- (148) According to its decisional practice ⁽⁵⁶⁾, in order to determine whether the financing under assessment was granted at favourable conditions, the Commission may — in the absence of other proxies — compare the interest rate on the loan in question with those set out in the Reference Rate Communication.
- (149) The Reference Rate Communication establishes a method for setting reference and discount rates that are applied as a proxy for the market rate. However, because the rates in the Reference Rate Communication function as a proxy, where the Commission is in the possession of other indicators in a specific case of the interest rate that the borrower could obtain on the market, it bases its assessment on those indicators.
- (150) In this case, the Commission has to assess whether the conditions of the ISB loans (as summarised in Table 5 collateralised by a 100 % state guarantee confer any additional economic advantage on FFHG, which the recipient undertaking would not have obtained under normal market conditions. The market conformity of the conditions of the 100 % state guarantee provided by the *Land* Rhineland-Palatinate has been assessed in Section 6.2.

⁽⁵⁵⁾ Communication of the Commission to the Member States: application of Articles 92 and 93 of the EEC Treaty and of Article 5 of Commission Directive 80/723/CEE to public undertakings in the manufacturing sector (OJ C 307, 13.11.1993, p. 3), paragraph 11. That communication deals specifically with the manufacturing sector, but is in principle also applicable to other economic sectors. See also Case T-16/96 *Cityflyer* [1998] ECR II-757, paragraph 51.

⁽⁵⁶⁾ Commission Decision 2013/693/EU of 3 October 2012 on the measure SA.23600 — C 38/08 (ex NN 53/07) — Germany — Financing arrangements for Munich Airport Terminal 2 (OJ L 319, 29.11.2013, p. 8); and Commission Decision (EU) 2015/1469 of 23 July 2014 on State aid SA.30743 (2012/C) (ex N 138/10) — Germany — Financing of infrastructure projects at Leipzig/Halle airport (2) (OJ L 232, 4.9.2015, p. 1).

- (151) Germany submitted that the ISB loans were concluded on market terms comparable to those of the loans which they refinanced (see recital 52 and following). In this respect, Germany stated that the conditions of the ISB loans were comparable to the loans granted by Nassauische Sparkasse in 2005, which were collateralised in a way comparable to the ISB loans. Hence, Germany asserted that, as the interest payable on the ISB loans was at the same level as the interest on the loans which the ISB loans refinanced, there cannot be any advantage in favour of FFHG.
- (152) Moreover, Germany explained that in 2009, in preparation for the new financing, FFHG commissioned Deutsche Bank to provide a risk margin indication for the refinancing of its existing loans taking into account the 100 % guarantee provided by *Land* Rhineland-Palatinate.
- (153) In line with the methodology underlying the Reference Rate Communication, the Commission is of the opinion that loan interest rates can be deemed in line with market conditions when the loans are priced at a rate equal to or higher than a benchmark rate defined by the following formula:

Benchmark rate = base rate + risk margin + fee

- (154) The base rate represents the cost for banks of providing liquidity (funding cost). In the case of fixed-rate funding (that is to say, the interest rate is fixed for the duration of the loan), it is appropriate to determine the base rate on the basis of swap rates ⁽⁵⁷⁾ with a maturity and currency corresponding to the maturity and the currency of the debt. The risk margin compensates the lender for the risks associated with the specific debt financing, in particular the credit risk. The risk margin can be derived from an appropriate sample of CDS spreads ⁽⁵⁸⁾ relating to reference entities with a similar rating. Finally, it is appropriate to add 10-20 basis points as an approximation for the bank fees companies usually have to pay ⁽⁵⁹⁾.

Appropriateness of the risk margins depending on the rating

- (155) In order to determine whether an appropriate risk premium has been added to the base rate the rating of the undertaking needs to be determined. FFHG is not rated by a credit rating agency. Germany, however, submitted that, in the risk margin indication of Deutsche Bank, the bank also assessed the credit worthiness of FFHG. On the basis of Deutsche Bank's analysis of FFHG's financial reports of 2006 to 2008, it puts FFHG in the [<BBB+] rating category. However it does not specify an exact rating for the company.
- (156) The Commission notes that the [<BBB+] rating category includes all ratings that are below [BBB+]. Hence, the [<BBB+] rating of FFHG according to Deutsche Bank could accordingly be interpreted as any rating below [BBB+] on the Standard & Poor's rating scale.
- (157) Besides the analysis of Deutsche Bank, Germany submitted rating indications for FFHG conducted by two other banks. The Commission notes that these banks also assigned FFHG a [<BBB+] rating category. In 2010 Volksbank assigned FFHG a rating of [...] according to its internal rating scale (that rating corresponds to [B to BB] on the Standard & Poor's rating scale). In 2011 Kreissparkasse Birkenfeld assigned FFHG a rating of [...] according to its rating scale (that rating corresponds to [B- to BB-] on the Standard & Poor's rating scale).
- (158) Finally, Germany provided ratings of FFHG established according to Moody's credit-scoring model based on the data available at the time the ISB loans were granted (see Table 8). These ratings confirm the [<BBB+] rating assigned by Deutsche Bank and vary between [B2] on the Moody's rating scale (this is [B] on the Standard & Poor's rating scale) and [Baa3] on the Moody's rating scale (this is [BBB-] on the Standard & Poor's rating scale).

⁽⁵⁷⁾ The swap rate is the longer maturity equivalent to the inter-bank offered rate (IBOR rate). It is used in the financial markets as a benchmark rate for establishing the funding rate.

⁽⁵⁸⁾ A credit default swap (CDS) is a (tradable) credit derivative contract between two counterparties, the protection buyer and the protection seller, transferring the credit risk on an underlying reference entity from the protection buyer to the protection seller. The protection buyer pays every period a premium to the protection seller until maturity of the CDS contract or until a predefined credit event occurs on the underlying reference entity (whichever occurs first). The periodic premium paid by the protection buyer (expressed as a percentage or in terms of basis points of the protected amount, the 'notional') is called the CDS spread. CDS spreads can be used as a close proxy for the price of credit risk.

⁽⁵⁹⁾ See footnote 54.

- (159) In the light of the considerations in recitals 153 to 158, the Commission considers that FFHG's rating corresponds to no better than [BBB-] on the Standard & Poor's rating scale.
- (160) However, in order to determine whether, in addition to any possible advantage granted through the 100 % state guarantee (see Section 6.2), the ISB loans conferred any advantage on FFHG, the rating of the issuer of the 100 % state guarantee (that is the rating of the *Land* Rhineland-Palatinate) needs to be taken into account as otherwise the advantage stemming from the state guarantee would be taken into account twice. As stated in recital 117, the *Land* Rhineland-Palatinate has an AAA rating.
- (161) Therefore, given that the ISB loans were granted against the background of a state guarantee, the Commission considers it appropriate to determine the risk margin on the basis of 5-year EUR bonds of the German *Länder* (amounting to [5 to 25] basis points). The Commission further observes that in its analysis Deutsche Bank added a risk premium of [5 to 25] basis points due to the fact that the loans were not granted directly to the *Land*, but were only collateralised by a 100 % state guarantee, as well as an additional premium of [5 to 25] basis points for the limited tradability of the debt. The Commission considers that these are reasonable assumptions and that the resulting risk margin between [20 basis points and 70] basis points is appropriate given the creditworthiness of the issuer of the guarantee.

Market conformity of ISB loans numbers 2 and 5

- (162) With regard to ISB loans numbers 2 and 5 which have variable rates the actual interest rate is Euribor plus a risk margin of [0,35 %-0,55 %] p.a. and [0,25 %-0,45 %] p.a., respectively. The risk margin for ISB loan number 2 was within the bandwidth determined by Deutsche Bank, while the risk margin for ISB loan number 5 was 4 basis points below the risk premium determined by Deutsche Bank. No bank fee was charged on either of the two ISB loans. Hence, the Commission considers that the rate charged for the provision of the two loans provides an (albeit small) element of advantage (the interest rate paid for loan number 2 appears to be between [10-30] basis points below the benchmark rate and for loan number 5 between [5-25] basis points).

Market conformity of ISB loans numbers 1, 3 and 4

- (163) The Commission notes that the interest rate of ISB loans numbers 1, 3 and 4 is fixed. As all three loans are amortising, in order to establish the relevant maturity of the loans in question, the amortisation of the loans has to be taken into account.
- (164) The Commission has for that purpose calculated the weighted average life (WAL) of the loans, which indicates the average number of years that each euro remains outstanding. The WAL of loan number 1 has been calculated at 3,92 years, the WAL of loan number 3 at 1,17 years and the WAL of loan number 4 at 3,29 years.
- (165) To determine the base rate of loan number 1 as its WAL amounts to 3,92 years, the Commission has used the four-year EUR swap rate ⁽⁶⁰⁾ as a proxy. For loan number 3, the one-year EUR swap rate ⁽⁶¹⁾ is used as the closest approximation to its WAL of 1,17 years. For loan number 4, the three-year swap rate ⁽⁶²⁾ is used as an approximation of its WAL of 3,29 years. The relevant swap rates have been obtained from Bloomberg, for the day when the loans were drawn ⁽⁶³⁾. The values of the corresponding swap rates are as follows: [2 %-3 %] for loan number 1, [1 %-1,5 %] for loan number 3, and [1,5 %-2,5 %] for loan number 4 ⁽⁶⁴⁾.
- (166) That approach leads to a benchmark rate for loan number 1 (with a 100 % state guarantee) of [2,5 %-4,5 %] ⁽⁶⁵⁾, for loan number 3 (with a 100 % state guarantee) of [1,5 %-3 %] ⁽⁶⁶⁾ and for loan number 4 (with a 100 % state guarantee) of [2 %-3,5 %] ⁽⁶⁷⁾.

⁽⁶⁰⁾ Bloomberg code EUSA4.

⁽⁶¹⁾ Bloomberg code EUSA1.

⁽⁶²⁾ Bloomberg code EUSA3.

⁽⁶³⁾ Loan number 1 was drawn on 14 July 2009, loan number 3 on 28 August 2009, and loan number 4 on 8 September 2009.

⁽⁶⁴⁾ Source: Bloomberg.

⁽⁶⁵⁾ [...]

⁽⁶⁶⁾ [...]

⁽⁶⁷⁾ [...]

- (167) Loans numbers 1, 3 and 4 were granted at rates well above these calculated benchmark rates (loan number 1 at [$> 3\%$; $< 4,5\%$], loan number 3 at [$> 3\%$; $< 4,5\%$] and loan number 4 at [$> 3\%$; $< 4,5\%$]) and the Commission considers that fact to be an indication that the loans were indeed in line with market conditions, thereby excluding the existence of an advantage.

6.3.4. *Selectivity*

- (168) As ISB loans numbers 2 and 5 were granted at preferential conditions only to FFHG, the measures have to be qualified as being selective in nature.

6.3.5. *Distortion of competition and effect on trade*

- (169) For the same reasons as outlined in recital 120 and the following, the Commission considers that any selective economic advantage granted to FFHG is liable to distort competition and affect trade between Member States.

6.3.6. *Conclusion*

- (170) In view of recitals 140 to 169 above, the Commission concludes that ISB loans numbers 1, 3 and 4 were granted at rates that can be deemed in line with market conditions, thereby excluding the existence of an advantage. Hence, given that the cumulative criteria in Article 107(1) of the Treaty are not fulfilled, the Commission considers that these ISB loans do not constitute State aid within the meaning of Article 107(1) of the Treaty.
- (171) In view of recitals 140 to 169 above, the Commission concludes that ISB loans numbers 2 and 5 were granted below the benchmark rate. Hence, since the other criteria in Article 107(1) of the Treaty are fulfilled, the Commission considers that these ISB loans constitute State aid (albeit in a small amount).

6.4. **Lawfulness of the aid**

- (172) Pursuant to Article 108(3) of the Treaty, Member States must notify any plans to grant or alter aid, and must not put the proposed measures into effect until the notification procedure has resulted in a final decision.
- (173) As the funds provided by the cash-pool at privileged terms, the ISB loans numbers 2 and 5 and the 100 % state guarantee have already been put at the disposal of FFHG, the Commission considers that Germany has not respected the requirements of Article 108(3) of the Treaty ⁽⁶⁸⁾.

6.5. **Compatibility**

6.5.1. *The applicability of the Rescue and Restructuring Guidelines*

- (174) Lufthansa considers that the Commission should apply the Rescue and Restructuring Guidelines when assessing the State aid measures at stake.
- (175) The Aviation Guidelines contain specific and detailed rules for the public funding of airports, including operating aid. As stated in point 117 of the 2014 Aviation Guidelines, smaller airports may have difficulties in ensuring the financing of their operation without public support, due to high fixed costs (funding gap).

⁽⁶⁸⁾ Case T-109/01 *Fleuren Compost v Commission* [2004] ECR II-127.

- (176) Even if one were nevertheless to apply the Rescue and Restructuring Guidelines in the case of aid to an airport, they are not applicable in this case because FFHG was not an undertaking in difficulty.
- (177) According to the 2014 Rescue and Restructuring Guidelines ⁽⁶⁹⁾, the Commission will conduct the examination of the aid measures on the basis of the guidelines applied at the time the aid was granted. As, in this case, the aid was granted between 2009 to 2011 (that is well before the publication of the 2014 Rescue and Restructuring Guidelines in the Official Journal), the Commission will examine whether FFHG could be considered as an undertaking in difficulty on the basis of the 2004 Rescue and Restructuring Guidelines (that is to say, the guidelines which were applied at the time when the aid was granted).
- (178) According to point 10 of the 2004 Rescue and Restructuring Guidelines, an undertaking is considered as being in difficulty where, in the case of a limited liability company, more than half of its registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months, or where the undertaking fulfils the criteria under its domestic law for being the subject of collective insolvency proceedings.
- (179) In this case, neither of the two conditions had been met at the time the aid was granted. The registered capital of FFHG, which is a limited liability company, remained stable at EUR 50 million in the period 2007 to 2010, and showed a slight decrease from EUR 50 million to EUR 44 million in 2011 and EUR 38 million in 2012. Nor has FFHG fulfilled the criteria under its domestic law for being the subject of collective insolvency proceedings.
- (180) The financial results summarised in Table 4 do not suggest that FFHG should be considered as an undertaking in difficulty. In this regard, according to point 11 of the 2004 Rescue and Restructuring Guidelines an undertaking may be considered to be in difficulties even where the conditions of point 10 are not fulfilled, in particular where the usual signs of an undertaking being in difficulty are present, such as increasing losses, diminishing turnover, declining cash flow, mounting debt, rising interest charges, etc. However, in this case, despite the decrease in the number of passengers due to the financial and economic crisis, the financial results of FFHG showed that it made progress towards becoming profitable.
- (181) In view of the considerations in recital 175 and following, the Commission considers that FFHG cannot be considered as an undertaking in difficulty at the time the aid was granted, and the 2004 Rescue and Restructuring Guidelines are thus not applicable.

6.5.2. *The applicability of the 2014 and 2005 Aviation Guidelines*

- (182) Article 107(3) of the Treaty provides for certain exemptions to the general rule set out in Article 107(1) of the Treaty that State aid is not compatible with the internal market. The aid in question can be assessed on the basis of Article 107(3)(c) of the Treaty, which stipulates that: 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest', may be considered to be compatible with the internal market.
- (183) In this regard, the 2014 Aviation Guidelines provide a framework for assessing whether aid to airports may be declared compatible pursuant to Article 107(3)(c) of the Treaty.
- (184) According to the 2014 Aviation Guidelines, the Commission considers that the 'Commission notice on the determination of the applicable rules for the assessment of unlawful State aid' ⁽⁷⁰⁾ applies to unlawful investment aid to airports. In this respect, if the unlawful investment aid was granted before 4 April 2014, the Commission will apply the compatibility rules in force at the time when the unlawful investment aid was granted. Accordingly, the Commission will apply the principles set out in the 2005 Aviation Guidelines in the case of unlawful investment aid to airports granted before 4 April 2014 ⁽⁷¹⁾.

⁽⁶⁹⁾ Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

⁽⁷⁰⁾ OJ C 119, 22.5.2002, p. 22.

⁽⁷¹⁾ Point 173 of the 2014 Aviation Guidelines.

- (185) Conversely, the Commission stated in the 2014 Aviation Guidelines that the ‘Commission notice on the determination of the applicable rules for the assessment of unlawful State aid’ should not apply to pending cases of illegal operating aid to airports granted prior to 4 April 2014. Instead, the Commission will apply the principles set out in the 2014 Aviation Guidelines to all cases concerning operating aid (pending notifications and unlawful non-notified aid) to airports even if the aid was granted before 4 April 2014 and the beginning of the transitional period ⁽⁷²⁾.
- (186) The Commission has already concluded in recital 173 that the measures under assessment constitute unlawful State aid granted before 4 April 2014.

6.5.3. Distinction between investment and operating aid

- (187) In view of the provisions of the 2014 Aviation Guidelines referred to in recitals 184 and 185, the Commission has to determine whether the measures in question constitute unlawful investment or operating aid.
- (188) According to point 25(r) of the 2014 Aviation Guidelines, investment aid is defined as ‘aid to finance fixed capital assets; specifically, to cover the “capital costs funding gap”’. Moreover, according to point 25(r) of the guidelines, investment aid can relate both to an upfront payment (that is to say cover upfront investment costs) and to aid paid out in the form of periodic instalments (to cover capital costs, in terms of annual depreciation and costs of financing).
- (189) Operating aid, on the other hand, means aid covering all or part of the operating costs of an airport, defined as ‘the underlying costs of the provision of airport services, including categories such as costs of personnel, contracted services, communications, waste, energy, maintenance, rent, administration, etc., but excluding the capital costs, marketing support or any other incentives granted to airlines by the airport, and costs falling within a public policy remit’ ⁽⁷³⁾.
- (190) In the light of these definitions, the Commission considers that the 100 % state guarantee for the ISB loans provided at privileged terms and the ISB loans numbers 2 and 5 constitute investment aid in favour of FFHG. These funds were all linked to the refinancing of loans which in turn financed a particular infrastructure investment project (see Table 9). Moreover, the amounts of the ISB loans are equal to or lower than the respective investments carried out.

Table 9

Comparative overview of the amount of the ISB loans and their purpose ⁽¹⁾

ISB loan no	Loan amount in EUR million	Purpose of the loan
1	18,4	[...] infrastructure investments amounting to [...]
2	20,0	[...] infrastructure investments amounting to [...]
3	2,5	[...] infrastructure investments amounting to [...]

⁽⁷²⁾ Point 172 of the 2014 Aviation Guidelines.

⁽⁷³⁾ Point 25(v) of the 2014 Aviation Guidelines.

ISB loan no	Loan amount in EUR million	Purpose of the loan
4	25,9	[...] infrastructure investments amounting to [...]
5	6,8	[...] infrastructure investments amounting to [...]

(¹) The overview is based on the indications in the ISB loan agreements as to the purpose of the respective loans and the investment amounts.

- (191) Therefore, the Commission takes the view that the 100 % state guarantee for the ISB loans and ISB loans numbers 2 and 5 constitute unlawful investment aid granted before 4 April 2014, the compatibility of which has to be assessed under the 2005 Aviation Guidelines.
- (192) With regard to the funds provided at privileged terms by the cash-pool, Germany considers that those funds were also used to finance infrastructure investments in 2009 to 2012.
- (193) In 2009 to 2012 investments amounting to EUR 46 million were carried out at Frankfurt Hahn airport (see Table 3). The amount of those investments is approximately equal to the funds drawn from the cash-pool during the same period. Moreover, during the period 2009 to 2012 the operating results (⁷⁴) (including extraordinary revenues, that is to say revenues other than the airport's aeronautical and non-aeronautical revenues and revenues from the sale of land or of property) were positive (see Table 4). This suggests that the airport was in a position to cover its day-to-day operating costs and the funds provided by the cash-pool were used to finance the investments into airport infrastructure. Hence, the funds provided by the cash-pool constitute unlawful investment aid granted before 4 April 2014, the compatibility of which has to be assessed under the 2005 Aviation Guidelines. In this regard, the considerations set out in Section 6.5.3 also apply. In particular, as the amount of the funds drawn is smaller than the total investments, the aid can be considered to be proportional and necessary.
- (194) However, it should be noted that the funds drawn from the cash-pool were not dedicated for a specific purpose. Furthermore, the operating results (excluding extraordinary revenues, that is to say, revenues other than the airport's aeronautical and non-aeronautical revenues and revenues from the sale of land or of property) were negative in the period under consideration (see Table 4). This could indicate that the revenues from the airport's ordinary activity were not sufficient to cover its operating costs. Moreover, Germany has failed to demonstrate the mechanism by which it was ensured that the cash-pool funds would not be used for financing the airport's daily operations.
- (195) Given these circumstances, it cannot be excluded that the cash-pool funds were used to prevent the FFHG from running short of liquidity, which could have caused the airport operator to cut its investments or turn it into an undertaking in difficulty. Hence, the funds provided by the cash-pool could be considered to constitute unlawful operating aid granted before 4 April 2014 the compatibility of which has to be assessed under the 2014 Aviation Guidelines. This assessment is carried out below in Section 6.5.4.

6.5.4. Compatibility of the investment aid pursuant to the 2005 Aviation Guidelines

- (196) According to point 61 of the 2005 Aviation Guidelines, the Commission must examine whether the following cumulative conditions are met:
- (a) the construction and operation of the infrastructure meets a clearly defined objective of common interest (regional development, accessibility, etc.);
 - (b) the infrastructure is necessary and proportional to the objective which has been set;

(⁷⁴) Expressed in 'Earnings before interest, taxes, depreciation and amortisation' ('Ebitda').

- (c) the infrastructure has satisfactory medium-term prospects for use, in particular as regards the use of existing infrastructure;
 - (d) all potential users of the infrastructure have access to it in an equal and non-discriminatory manner; and
 - (e) the development of trade is not affected to an extent contrary to the Union interest.
- (197) In addition, State aid to airports — as any other State aid measure — must have an incentive effect and be necessary and proportional in relation to the aimed legitimate objective in order to be compatible.
- (198) Germany submitted that the investment aid in favour of FFHG complies with all the compatibility criteria contained in the 2005 Aviation Guidelines.
- (a) The aid contributes to a clearly defined objective of common interest
- (199) The investment aid in favour of FFHG aimed at financing the further conversion of the former US military base into a civilian airport and substantially developing the infrastructure of the airport. Those measures provided a significant contribution to the regional development and connectivity of the Hunsrück region and the creation of new jobs in an area economically hit by the closure of the US military base, as well as the decongestion of Frankfurt Main airport.
- (200) The Hunsrück region, as pointed out by Germany, is surrounded by a number of areas (such as *Landkreis Birkenfeld*), which were marked as regions in need of support in the framework of the '*Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur*'. Indeed, in the period under consideration, *Landkreis Birkenfeld* was at least partly considered to be a region with a gross domestic product (GDP) below the Union average ⁽⁷⁵⁾.
- (201) The Commission considers that the development of Frankfurt Hahn airport also contributed significantly to the creation of new jobs in the Hunsrück region. As shown by Germany, taking into account all parts of the airport activities, Frankfurt Hahn airport created 3 063 jobs in the Hunsrück region in 2012 out of which 74 % were full-time positions and 90 % of those employees also live in this region.
- (202) Moreover, the development of Frankfurt Hahn airport had also positive indirect, induced and catalysing effects on the creation of jobs in the region as well as regional development in general through an increasing number of economic and touristic activities. According to the information provided by Germany, Frankfurt Hahn airport contributes significantly to the development of incoming (~ 33 % of passengers corresponding to approximately 1 million passengers in 2005) and outgoing tourism (~ 67 % of passengers) in the *Land Rheinland-Palatinate*. As pointed out by Germany, 88 % of the incoming passengers stay at least one night in the region and generated approximately 5,7 million overnight stays in 2005. Since 88 % of incoming tourists from Frankfurt Hahn stay at least one night and more than 80 % of those even stay two to 10 days, they generate a total turnover of about EUR 133,7 million per year. Moreover, incoming tourism generated around 11 000 jobs in *Rhineland-Palatinate*.
- (203) The aided investments at issue also helped to improve the accessibility of the area. Nevertheless, the duplication of unprofitable airports (or the creation of additional unused capacity) does not contribute to an objective of common interest. In this case, the Commission takes the view that the investment aid does not lead to such a duplication which would diminish the medium-term prospects for the use of existing infrastructure at other, neighbouring airports. Indeed, there are no other airports within 100 kilometres or 60 minutes travelling time from Frankfurt Hahn airport. The closest airports to Frankfurt Hahn are Frankfurt Main airport, which is located at 115 kilometres distance or 1 hour 15 minutes travelling time by car, and Luxembourg airport, which is located 1 hour and 30 minutes travelling time (111 kilometres) away.
- (204) Frankfurt Main airport is an international hub airport with a wide variety of destinations and is predominantly served by network carriers offering connecting traffic, whereas Frankfurt Hahn airport serves low-cost point-to-point flights. Traffic at Frankfurt Main airport has continuously increased since 2000, from 49,4 million

⁽⁷⁵⁾ Commission decision of 8 November 2006 in State aid case N459/2006 — Germany — German regional aid map 2007-2013 (OJ C 295, 5.12.2006, p. 6).

passengers in 2000 to approximately 58 million in 2012. However, during that period growth has been affected by congestion problems and capacity constraints. As pointed out by Germany, the capacity limits of Frankfurt Main airport were constantly exceeded. Therefore, according to Germany, especially in the light of its 24-hour operating licence, Frankfurt Hahn airport played an important role in providing additional capacity in order to relieve the congestion at Frankfurt Main airport. In fact, until 2009 Fraport was the majority shareholder of FFHG, the operator of Frankfurt Hahn airport (2,7 million passengers in 2013, around 4 million passengers in 2007 at its peak) and the operator of Frankfurt-Main airport (58 million passengers and 2,1 million freight), and was as such pursuing a diversification strategy.

- (205) Luxembourg airport, which is the nearest airport to Frankfurt Hahn but still around 111 kilometres or 1 hour 30 minutes travelling time by car away, had around 1,7 million passengers in 2008 and experienced a rapid growth to 2,2 million in 2013. Even though Luxembourg airport is slightly smaller than Frankfurt Hahn airport in terms of passenger traffic, its freight activity is substantially larger, with 674 000 tonnes in 2013. It offers a variety of scheduled flights to European capitals and charter flights to leisure destinations. This selection of destinations to a large extent meets the needs of the employees of the financial and international institutions located in Luxembourg.
- (206) Saarbrücken airport is located around 128 kilometres away from Frankfurt Hahn airport which amounts to over 2 hours travelling time by car. In addition, Frankfurt Hahn is served mainly by low-cost carriers (Ryanair) and freight constitutes a rather important element in its business model whereas Saarbrücken airport offers mainly scheduled flights to national destinations and has only limited air freight transport.
- (207) With regard to Zweibrücken airport, Germany emphasised that the distance of 127 km to Frankfurt Hahn airport translates into a travelling time of 1 hour and 27 minutes by car or around 4 hours by train. Moreover, Germany submitted that, looking at passenger and air freight traffic between 2005 and 2012, no relationship of substitution between the airports can be deduced.
- (208) The Commission observes that there is a certain overlap in the activities of Frankfurt Hahn and Zweibrücken airports, as Zweibrücken airport is also engaged in handling air freight and the destinations served by Zweibrücken airport are predominantly for charter traffic. In this regard, the Commission notes that freight is usually more mobile than passenger transport ⁽⁷⁶⁾. In general, a catchment area for freight airports is considered to have a radius of at least around 200 kilometres and 2 hours travelling time. Comments from the industry suggest that up to a half-day of trucking time (that is to say, up to 12 hours driving time by trucks) would in general be acceptable for freight forwarders to transport their goods ⁽⁷⁷⁾. Moreover, charter traffic is also, in general, less time-sensitive and may accept travelling times of up to 2 hours by car.
- (209) At the same time it should be noted that, before Zweibrücken entered the market in 2006, Frankfurt Hahn airport was already a well-established airport with more than 3 million passengers and channelling 123 000 tonnes of freight. In view of the historical development of the two airports, their geographical location and the free capacity available at Frankfurt Hahn airport at the time when Zweibrücken airport entered the commercial aviation market in 2006, the Commission concludes that it is rather the opening of Zweibrücken airport which constituted an unnecessary duplication of infrastructure.
- (210) Therefore, the Commission concludes that the investments into Frankfurt Hahn airport do not constitute a duplication of existing non-profitable infrastructure. On the contrary, Frankfurt Hahn airport has played an important role in decongesting Frankfurt Main airport without limiting the latter's plans to expand. Without the investments into Frankfurt Hahn airport there was in fact a risk that the region would be underserved in terms of its transport needs.
- (211) In the light of the considerations in recitals 199 to 210, the Commission therefore concludes that the investment aid directed at the construction and operation of infrastructure at Frankfurt Hahn airport meets a clearly defined objective of common interest, namely regional economic development, creation of jobs and improvement of the accessibility of the region.

⁽⁷⁶⁾ See footnote 45.

⁽⁷⁷⁾ See footnote 46.

(b) The infrastructure is necessary and proportionate to the objective

- (212) According to Germany, the investments were undertaken according to the needs (and were thus proportionate) and the constructed infrastructure was necessary for the airport in order to serve the connectivity and the development of the region and to decongest Frankfurt Main airport.
- (213) Based on the information provided by Germany, the Commission agrees that the financed investments were necessary and proportionate to the objective of common interest (see recital 68 and following). Indeed, without these investments the conversion of the former US base into a fully functioning civil aviation airport could not have been completed. The construction of passenger and freight facilities, aprons and modernisation of taxiways had to be carried out in order to further develop civil flight operations. Hence, the constructed infrastructure was necessary for the airport in order to serve the connectivity and the development of the region.
- (214) Also, the infrastructure project was undertaken only to the extent it was necessary to attain the goals set: while the infrastructure was built for a maximum passenger traffic of around 4 to 5 million passengers and 500 000 tonnes of freight, the traffic statistics displayed in Table 1 and Table 2 show that the passenger traffic steadily increased until 2007 to reach a record of 4 million passengers (following by a decline to 2,7 million in 2013 for the reasons set out in recital 219) and that the freight volume increased to more than 500 000 tonnes of freight in 2011. This means that the expected traffic demand largely corresponded to the actual demand and that the investments were not disproportionately large.
- (215) While it is important to avoid that investment constitutes a duplication of an existing unprofitable infrastructure, this is not the case here. As already explained in recitals 203 to 210, there are no other airports within 100 kilometres distance and 60 minutes travelling time, and even if a wider catchment area was to be considered there are no duplication effects. The closest airport is Frankfurt Main airport, which Frankfurt Hahn airport was intended to decongest.
- (216) In the light of these considerations, the Commission considers that this compatibility condition is met.

(c) The infrastructure has satisfactory medium-term prospects for use

- (217) Germany submitted that before the decision to further develop the airport infrastructure was taken, traffic forecast studies were conducted by external experts in order to identify the traffic potential for Frankfurt Hahn airport.
- (218) The information submitted shows that at that time the external experts forecasted significant growth from 0,3 million passengers in 2000 to up to 3,8 million passengers by 2010 (see Figure 6 and Figure 7). With regard to freight development, the experts projected a development from 151 000 tonnes in 2001 to up to 386 000 tonnes in 2010 (see Figure 8), with the growth in the freight business between 2006 and 2010 coming from the freight flights diverted from Frankfurt Main airport due to curfew. However, these projections could only be fulfilled if the investments were undertaken to the planned extent.
- (219) The Commission notes that these traffic forecasts (see recital 218) were confirmed by the actual traffic development at Frankfurt Hahn airport (see Table 1 and Table 2). In 2007 Frankfurt Hahn airport served around 4 million passengers. Following a period of significant growth, air traffic in Germany and the Union in recent years has been negatively affected by the economic and financial crisis in 2008/2009, which resulted in a decrease in passenger air transport in Germany in 2009. The passenger development at Frankfurt Hahn airport was further impacted by the introduction of an air passenger tax in Germany in 2011. Currently Frankfurt Hahn airport serves around 2,7 million passengers p.a. With regard to freight, Frankfurt Hahn airport handled 565 000 tonnes of freight in 2011. Due to the bankruptcy of one of its clients, the airport processed only 447 000 tonnes in 2013.
- (220) In the light of these considerations, it can therefore be concluded that Frankfurt Hahn airport is already using most of its capacity and that the medium-term prospects for the use of the capacity were satisfactory.

(d) Access to the infrastructure in an equal and non-discriminatory manner

(221) All potential users of the infrastructure have access to the airport on equal and non-discriminatory terms. Indeed, the schedule of airport charges applicable at Frankfurt Hahn airport is publicly available and open to all potential and current users of the airport in a transparent and non-discriminatory manner. Any differences in airport charges actually paid for the use of the infrastructure were based on commercially justified differentiation ⁽⁷⁸⁾.

(222) Hence, the Commission considers that this condition is satisfied.

(e) Trade is not affected contrary to common interest

(223) According to point 39 of the 2005 Aviation Guidelines the category of an airport can provide an indication of the extent to which airports are competing with one another and therefore also the extent to which public funding granted to an airport may distort competition.

(224) Within the standard catchment area of Frankfurt Hahn airport (1 hour travelling time by car or 100 kilometres distance) there are no other commercially exploited airports. Even if one were to extend the catchment area, the Commission considers that the aid does not create undue negative effects on competition and trade between Member States.

(225) As far as Frankfurt Main airport (the closest airport at around 115 kilometres distance and 1 hour 15 minutes travelling time) is concerned, the investments at Frankfurt Hahn airport did not result in negative substitution effects. In fact, before getting involved in Frankfurt Hahn airport, Fraport was already the operator of Frankfurt Main airport, but was nevertheless investing in Frankfurt Hahn airport with a view to decongesting Frankfurt Main airport, as a future capacity overload was foreseeable for that hub. In particular, the ban on night flights at Frankfurt Main airport was one of the main factors to be taken into consideration as Frankfurt Hahn airport had a 24-hour operating licence.

(226) Even though Frankfurt Hahn experienced significant growth in the period from 2000 until 2007, Figure 1 shows that in comparison to Frankfurt Main the traffic share remained very limited. From 2000 to 2003 Frankfurt Main airport experienced steady passenger growth from 48 million in 2000 to 54,2 million in 2007. Due to the economic crisis, Frankfurt Main experienced a slight decrease to 50,9 million in 2009, followed by a rapid increase to 58 million. With regard to the freight activities, Frankfurt Main airport experienced steady growth from 1,6 to 2,2 million tonnes in 2013.

(227) As for other airports, the Commission has already explained that the investments at Frankfurt Hahn airport had no significant impact on competition and trade between Member States ⁽⁷⁹⁾. This also applies to Zweibrücken airport, given that it is rather the latter that constitutes an unnecessary duplication of infrastructure (and would thus be responsible for any distortive effect on competition).

(228) In addition, contrary to Frankfurt Main and Luxembourg airports, Frankfurt Hahn airport is not served by a train connection. Overall, no substitution effect on rail transport can be expected.

(229) In view of the considerations in recitals 223 to 228, the Commission considers that any undue negative effects on competition and trade between Member States are limited to the minimum.

⁽⁷⁸⁾ Commission decision of 1 October 2014 in State aid case SA.21211 — Germany — Frankfurt Hahn airport and Ryanair, not yet published in the Official Journal.

⁽⁷⁹⁾ As regards Frankfurt Main and Luxembourg airports, the Commission further notes that the business travel segment occupies a significant market share at these airports, while it only represents a comparatively limited share at Frankfurt Hahn airport.

(f) Incentive effect, necessity and proportionality

- (230) The Commission must establish whether the State aid granted to Frankfurt Hahn Airport has changed the behaviour of the beneficiary in such a way that it engaged in activity contributing to the achievement of the objective of common interest that (i) it would not have carried out without the aid; or (ii) it would have carried out in a more restricted or different manner. In addition, the aid is considered to be proportionate only if the same result could not be reached with less aid and less distortion. This means that the amount and intensity of the aid must be limited to the minimum needed for the aided activity to take place.
- (231) According to the information submitted by Germany, without the aid the investment could not have been realised. Germany submitted that the aid was necessary as it compensated only the costs of financing and a lower amount would have led to lower levels of investment.
- (232) Indeed, according to the financial results summarised in Table 3 and Table 4 the airport is still loss-making and not able to finance its investment costs. Therefore, it can be concluded that the aid was necessary to make investments in order to decongest the airport infrastructure and to meet the current requirements for modern airport infrastructure. Without the aid, Frankfurt Hahn airport would not have been able to meet the expected demand of airlines, passengers and freight forwarders and the level of the economic activity of the airport would have been reduced.
- (233) It should also be noted that the public support was granted in a period when FFHG realised very significant investments into the infrastructure (more than EUR 220 million in 2001-2012). Of this amount, EUR 46 million were invested during the period under consideration (2009 to 2012). It follows that the investment aid covered only a fraction of the overall investment costs and was limited to the difference between the interest rate paid for the funds and the market rate under which FFHG would have received those funds on the market. Also, the investment aid under consideration was granted in the form of a 100 % state guarantee and funds at preferential terms and not in the form of a direct grant.
- (234) The Commission therefore considers that the aid measure at stake had an incentive effect and that the amount of aid was limited to the minimum necessary for the aided activity to take place, and was thus proportionate.

Conclusion

- (235) On the basis of the above, the Commission concludes that the investment aid granted to Frankfurt Hahn airport is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty as it complies with the compatibility conditions laid down in point 61 of the 2005 Aviation Guidelines.

6.5.5. Compatibility of operating aid pursuant to the 2014 Aviation Guidelines

- (236) Section 5.1 of the 2014 Aviation Guidelines sets out the criteria that the Commission will apply in assessing the compatibility of operating aid with the internal market pursuant to Article 107(3)(c) of the Treaty. According to point 172 of the 2014 Aviation Guidelines, the Commission will apply those criteria to all cases concerning operating aid, including pending notifications and unlawful non-notified aid cases.
- (237) According to point 137 of the 2014 Aviation Guidelines, unlawful operating aid granted before the date of the publication of the 2014 Aviation Guidelines — like the funds granted from the cash-pool insofar as they may have constituted operating aid (see recitals 185 and 186) — may be declared compatible with the internal market to the full extent of uncovered operating costs provided that the following cumulative conditions are met:

- (a) *contribution to a well-defined objective of common interest*: this condition is fulfilled, inter alia, if the aid increases the mobility of citizens of the Union and connectivity of the regions or facilitates regional development ⁽⁸⁰⁾;

⁽⁸⁰⁾ Points 137, 113 and 114 of the 2014 Aviation Guidelines.

- (b) *need for State intervention*: the aid must be targeted towards situations where such aid can bring about a material improvement that the market itself cannot deliver ⁽⁸¹⁾;
- (c) *existence of incentive effect*: this condition is fulfilled if it is likely that, in the absence of operating aid, and taking into account the possible presence of investment aid and the level of traffic, the level of economic activity of the airport concerned would be significantly reduced ⁽⁸²⁾;
- (d) *proportionality of the aid amount (aid limited to the minimum necessary)*: in order to be proportionate, operating aid to airports must be limited to the minimum necessary for the aided activity to take place ⁽⁸³⁾;
- (e) *avoidance of undue negative effects on competition and trade* ⁽⁸⁴⁾.

- (a) Contribution to a well-defined objective of common interest

(238) According to Section 5.1.2(a) of the 2014 Aviation Guidelines, in order to give airports time to adjust to new market realities and to avoid any disruptions in the air traffic and connectivity of the regions, operating aid to airports will be considered to contribute to the achievement of an objective of common interest, if it: (i) increases the mobility of Union citizens and connectivity of regions by establishing access points for intra-Union flights; (ii) combats air traffic congestion at major Union hub airports; or (iii) facilitates regional development.

(239) In the light of the considerations in recitals 199 to 204, the Commission considers that the continued operation of Frankfurt-Hahn airport increased the mobility of Union citizens and connectivity of regions by establishing an access point for intra-Union flights in the Hunsrück region. In addition, the continued operation of the airport facilitated the regional development of the Hunsrück region and the creation of new jobs. Moreover, the operation and development of Frankfurt Hahn airport also served to decongest Frankfurt Main airport.

(240) The Commission therefore concludes that the measure at stake meets a clearly defined objective of common interest.

- (b) Need for State intervention

(241) According to Section 5.1.2(b) of the 2014 Aviation Guidelines, in order to assess whether State aid is effective in achieving an objective of common interest, it is necessary to identify the problem to be addressed. In this respect, any State aid to an airport must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself.

(242) The Commission notes that Frankfurt Hahn airport is a regional airport with approximately 2,7 million passengers p.a. It has high fixed operating costs and under present market conditions it is not able to cover its own operating costs. Therefore, there is a need for State intervention (see point 89 of the 2014 Aviation Guidelines).

- (c) Appropriateness of the aid measures

(243) According to Section 5.1.2(c) of the 2014 Aviation Guidelines, any aid measure to an airport must be an appropriate policy instrument to address the objective of common interest. The Member State must, therefore, demonstrate that no other less distortive policy instruments or aid instruments could have allowed the same objective to be reached.

⁽⁸¹⁾ Points 137 and 116 of the 2014 Aviation Guidelines.

⁽⁸²⁾ Points 137 and 124 of the 2014 Aviation Guidelines.

⁽⁸³⁾ Points 137 and 125 of the 2014 Aviation Guidelines.

⁽⁸⁴⁾ Points 137 and 131 of the 2014 Aviation Guidelines.

- (244) According to Germany, the aid measures at stake are appropriate to address the intended objective of common interest that could not have been achieved by another less distortive policy instrument.
- (245) In this case the aid amount (the difference between the market rate for the funds provided by the cash-pool and the actual rate) stayed below the uncovered operating losses (see Table 4, Ebitda excluding the extraordinary revenue of the airport) actually incurred and was limited to the minimum necessary as it was granted only as a repayable loan and not as a direct grant. No other policy measure would allow the airport to continue its operation. Hence, the compensation of losses is limited to the minimum and does not provide for any profits.
- (246) In view of recitals 244 and 245, the Commission considers that the measures at stake were appropriate to reach the desired objective of common interest.

(d) Existence of incentive effect

- (247) According to Section 5.1.2(d) of the 2014 Aviation Guidelines, operating aid has an incentive effect if it is likely that, in the absence of operating aid, the level of economic activity of the airport would be significantly reduced. This assessment needs to take into account the presence of investment aid and the level of traffic at the airport.
- (248) Without the aid the scale of the operations at Frankfurt Hahn airport would be severely impacted and reduced, leading eventually to the market exit of the airport due to uncovered operating losses.
- (249) In view of the above, the Commission considers that the aid measures at stake had an incentive effect.

(e) Proportionality of the aid amount (aid limited to a minimum)

- (250) According to Section 5.1.2(e) of the 2014 Aviation Guidelines, in order to be proportionate, operating aid to airports must be limited to the minimum necessary for the aided activity to take place.
- (251) In this case, the aid amount was limited to the extent of uncovered operating cost of capital, as it compensated only the costs actually incurred.
- (252) Therefore, the Commission considers that the amount of the operating aid in this case was proportionate and limited to the minimum necessary for the aided activity to take place.

(f) Avoidance of undue negative effects on competition and trade between Member States

- (253) According to Section 5.1.2(f) of the 2014 Aviation Guidelines, when assessing the compatibility of operating aid account will be taken of the distortions of competition and the effects on trade.
- (254) Within the standard catchment area of Frankfurt Hahn airport (1 hour travelling time by car or 100 kilometres distance) there are no commercially exploited airports. Even if this standard catchment area was to be further extended to other airports in the proximity of Frankfurt Hahn airport, as demonstrated in recitals 224 and 228, there are no undue negative effects on competition between the airports located in the proximity of Frankfurt Hahn airport (that is Frankfurt Main, Luxembourg and Saarbrücken airports).
- (255) In view of the above, the Commission considers that any undue negative effects on competition and trade between Member States due to the operating aid granted in favour of FFHG are limited to the minimum.

Conclusion

- (256) In light of the considerations in recitals 238 to 255, the Commission concludes that the measures are compatible with the internal market on the basis of Article 107(3)(c) of the Treaty.

7. CONCLUSION

- (257) In the light of the considerations in recitals 99 to 124, the Commission considers that the credit line provided by the cash-pool to FFGH by *Land* Rhineland-Palatinate constitutes State aid within the meaning of Article 107(1) of the Treaty.
- (258) In the light of the considerations in recitals 127 to 138, the Commission considers that the state guarantee issued by *Land* Rhineland-Palatinate securing 100 % of the outstanding ISB loans constitutes State aid within the meaning of Article 107(1) of the Treaty.
- (259) In the light of the considerations in recitals 140 to 169, the Commission concludes that ISB loans numbers 1, 3 and 4 were granted at rates that can be deemed in line with market conditions. Hence, given that the cumulative criteria in Article 107(1) of the Treaty are not fulfilled, the Commission considers that these loans do not constitute State aid within the meaning of Article 107(1) of the Treaty.
- (260) In light of the considerations in recitals 140 to 169 above, the Commission concludes that ISB loans numbers 2 and 5 were granted below the benchmark rate. Since the other criteria pursuant in Article 107(1) of the Treaty are also fulfilled, those loans constitute State aid.
- (261) As the credit line and the funds provided by the cash-pool, the 100 % state guarantee and ISB loans numbers 2 and 5 have already been put at the disposal of FFGH, the Commission considers that Germany has not respected the prohibition of Article 108(3) of the Treaty.
- (262) In the light of the considerations in recitals 199 to 232, the Commission concludes that the investment aid granted to Frankfurt Hahn airport is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty as it complies with the compatibility conditions laid down in point 61 of the 2005 Aviation Guidelines.
- (263) In the light of the considerations in recitals 238 to 255, the Commission concludes that the funds provided by the cash-pool at privileged terms comply with the compatibility conditions for operating aid laid down in point 137 of the 2014 Aviation Guidelines and are compatible with the internal market on the basis of Article 107(3)(c) of the Treaty.
- (264) The Commission notes that Germany accepts the adoption of the decision in the English language,

HAS ADOPTED THIS DECISION:

Article 1

The State aid, unlawfully put into effect by Germany in breach of Article 108(3) of the Treaty in favour of Flughafen Frankfurt Hahn GmbH between 2009 and 2012 by means of the grant of a 100 % guarantee on loans provided by Investitions- und Strukturbank of Rhineland-Palatinate, loans provided by Investitions- und Strukturbank of Rhineland-Palatinate on 31 August 2009 amounting to EUR 20,0 million and on 30 September 2009 amounting to EUR 6,8 million as well as allowing Flughafen Frankfurt Hahn GmbH to participate in *Land* Rhineland-Pfalz's cash-pool and draw loans up to EUR 45 million at privileged terms from that cash-pool, is compatible with the internal market.

Article 2

The loans granted by Investitions- und Strukturbank of Rhineland-Palatinate to Flughafen Frankfurt Hahn GmbH between 15 July 2007 and 30 September 2009 amounting to a total of EUR 46,8 million do not constitute State aid within the meaning of Article 107(1) of the Treaty.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 October 2014.

For the Commission

Joaquín ALMUNIA

Vice-President

COMMISSION DECISION (EU) 2016/789**of 1 October 2014****on the State aid SA.21121 (C29/08) (ex NN 54/07) implemented by Germany concerning the financing of Frankfurt Hahn airport and the financial relations between the airport and Ryanair***(notified under document C(2014) 6853)***(Only the English text is authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) ⁽¹⁾ thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽²⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) Between 2003 and 2006, the Commission received complaints from various parties alleging that *Ryanair plc* ('Ryanair' ⁽³⁾) as well as the Frankfurt Hahn airport operator *Flughafen Frankfurt-Hahn GmbH* (hereinafter: 'FFHG') had been granted unlawful State aid by the company *Fraport AG* and the *Länder* (Federal States) of Rhineland-Palatinate and Hesse. The complainant provided further information on 22 September 2003 and 1 June 2006.
- (2) By letters dated 25 September 2006 and 9 February 2007, the Commission requested information from Germany. Germany responded by letters dated 20 December 2006 and 29 June 2007 respectively.
- (3) By letter dated 17 June 2008, the Commission informed Germany of its decision to initiate the procedure provided for in Article 108(2) of the Treaty with regard to the financing of FFHG and its financial relations with Ryanair (the '2008 opening decision'). Germany transmitted its comments on 27 October 2008.
- (4) The 2008 opening decision was registered under case number SA.21121 (C29/08). The 2008 opening decision was published in the *Official Journal of the European Union* ⁽⁴⁾ on 17 January 2009. The Commission invited interested parties to submit their comments on the measures in question within 1 month of the date of publication.
- (5) The Commission received comments from Deutsche Lufthansa AG ('Lufthansa'), the Federal Association of German Air Carriers (Bundesverband der Deutschen Fluggesellschaften, 'BDF'), Ryanair, Société Air France SA ('Air France') and the Association of European Airlines ('AEA'). It forwarded the comments to Germany by letter dated 16 April 2009. Germany was given the opportunity to respond to them within 1 month and transmitted its comments and more information on 1 July 2009.

⁽¹⁾ With effect from 1 December 2009, Articles 87, and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the Treaty on the Functioning of the European Union (hereinafter: the Treaty). The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the Treaty should be understood as references to Articles 87 and 88, respectively, of the EC Treaty when appropriate. The Treaty also introduced certain changes in terminology, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the Treaty will be used throughout this Decision.

⁽²⁾ OJ C 12, 17.1.2009, p. 6.

⁽³⁾ Ryanair is an Irish airline and Member of the European Low Fares Airlines Association. The business of the airline is linked with secondary, regional airports. The airline operates currently approximately 160 European destinations. Ryanair has a homogenous fleet consisting of 272 Boeing 737-800 aircraft with 189 seats.

⁽⁴⁾ See footnote 2.

- (6) By letter of 4 March 2011, Lufthansa provided further information with regard to the 2008 opening decision addressing new alleged State aid measures.
- (7) By letter dated 18 March 2011 the Commission forwarded the complaint to Germany and requested further information on the new allegations concerning State aid measures. Germany replied by letters dated 19 May 2011 and 23 May 2011.
- (8) However, those replies were incomplete. Therefore, by letter dated 6 June 2011 the Commission sent a reminder pursuant to Article 10(3) of Council Regulation (EC) No 659/1999 ⁽⁵⁾. Germany responded by letters dated 14 June 2011 and 16 June 2011.
- (9) By letter dated 13 July 2011 the Commission informed Germany of its decision to initiate the procedure provided for in Article 108(2) of the Treaty with respect to the credit line provided to FFHG by the cash pooling facility of *Land* Rhineland-Palatinate, the loan provided to FFHG by Investitions-und Strukturbank of *Land* Rhineland-Palatinate ('ISB') and the guarantee for the ISB loan provided to FFHG by *Land* Rhineland-Palatinate (the '2011 opening decision'). The 2011 opening decision was registered under case number SA.32833 (2011/C). The 2011 opening decision was published in the *Official Journal of the European Union* on 21 July 2012 ⁽⁶⁾.
- (10) By letter dated 20 February 2012 the Commission requested further information regarding the 2008 opening decision. Germany responded by letter dated 16 April 2012. By letter of 27 July 2012, the Commission again requested further information. Germany replied by letter dated 4 September 2012.
- (11) By a letter dated 25 February 2014 the Commission informed Germany of the adoption of the Commission guidelines on State aid to airports and airlines ⁽⁷⁾ (the '2014 Aviation Guidelines') on 20 February 2014. The Commission informed Germany that those guidelines would become applicable from the date of their publication in the *Official Journal of the European Union*. It gave Germany the opportunity to comment on those guidelines and their possible application to the present case within 20 working days. By letter dated 17 March 2014 the Commission reminded Germany that, in case it would not receive any comments within the deadline of 20 working days, the Commission would consider that Germany had no comments.
- (12) By letters dated 23 March 2014 and 4 April 2014 the Commission requested further information from Germany. Germany replied by letters dated 17 April 2014, 24 April 2014 and 9 May 2014.
- (13) The 2014 Aviation Guidelines were published in the *Official Journal of the European Union* on 4 April 2014. They replaced the 1994 Aviation Guidelines ⁽⁸⁾ as well as the 2005 Aviation Guidelines ⁽⁹⁾.
- (14) On 15 April 2014 a notice was published in the *Official Journal of the European Union* inviting Member States and interested parties to submit comments on the application of the 2014 Aviation Guidelines in this case within 1 month of their publication date ⁽¹⁰⁾. Lufthansa and Transport & Environment submitted observations. By letter dated 26 August 2014, the Commission forwarded those observations to Germany. By letter dated 3 September 2014, Germany informed the Commission that it had no observations.
- (15) By letter dated 17 June 2014, Germany agreed exceptionally to have this decision adopted and notified in English only.

⁽⁵⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the treaty on the functioning of the European Union (OJ L 83, 27.3.1999, p. 1).

⁽⁶⁾ OJ C 216, 21.7.2012, p. 1.

⁽⁷⁾ Communication from the Commission — Guidelines on State aid to airports and airlines (C(2014) 963) (OJ C 99, 4.4.2014, p. 3).

⁽⁸⁾ Application of Article 92 and 93 of the EC Treaty and Article 61 of the EEA Agreement to State aids in the Aviation Sector (OJ C 350, 10.12.1994, p. 5).

⁽⁹⁾ Community guidelines on financing of airports and start-up aid to airlines departing from regional airports (OJ C 312, 9.12.2005, p. 1).

⁽¹⁰⁾ OJ C 113, 15.4.2014, p. 30.

2. CONTEXT OF THE MEASURES

2.1. CONVERSION OF THE AIRPORT AND ITS OWNERSHIP STRUCTURE

- (16) Frankfurt Hahn airport is located in *Land* Rhineland-Palatinate, approximately 120 km west of the city of Frankfurt/Main. Frankfurt Hahn airport was a US military airbase until 1992. Subsequently, it was converted into a civil airport. It holds a 24-hour operating licence.
- (17) *Holding Unternehmen Hahn GmbH & Co. KG* ('Holding Hahn'), a public private partnership between Wayss & Freytag and *Land* Rhineland-Palatinate, acquired ownership of the infrastructure of Frankfurt Hahn airport from Germany on 1 April 1995. Between 1995 and 1998, this public private partnership developed the airport with the goal of developing there an industrial and commercial area. According to Germany, when the partnership between Wayss & Freytag and *Land* Rhineland-Palatinate did not turn out to be successful, on 1 January 1998, *Flughafen Frankfurt/Main GmbH* ('Fraport') ⁽¹⁾ started getting involved in the project and eventually took over the operation of the airport.
- (18) According to Germany, Fraport, who was already operating and managing the international Frankfurt Main airport, located approximately 115 km from Frankfurt Hahn airport, got involved for several strategic reasons. Firstly, Germany stated that Frankfurt Hahn airport was the only airport in the proximity of Frankfurt Main airport which had the potential of becoming a fully-fledged international airport. As Frankfurt Main airport was already at its full capacity at that moment, there was the potential for a second profitable airport in the region. Secondly, Frankfurt Hahn airport was then the only German airport with a 24 hour operation licence, especially useful for cargo and freight flights. Thirdly, the runway was fully equipped and could be used in all weather conditions. Furthermore, Germany submitted that the owners of Schiphol airport were also thinking about acquiring Frankfurt Hahn airport, and hence by taking over the operation of Frankfurt Hahn airport it was possible for Fraport to keep out an unwanted competitor.
- (19) Fraport purchased 64,90 % of the shares in the operator *Flughafen Hahn GmbH & Co. KG Lautzenhausen* ('FFHG & Co KG') for the price of [...] (*). Payment of part of the purchase price (EUR [...]) was due on 31 December 2007, under certain conditions ⁽²⁾. In August 1999, Fraport acquired 73,37 % of the shares of Holding Hahn and 74,90 % of the shares of its general partner *Holding Unternehmen Hahn Verwaltungs GmbH* for the price of EUR [...]. Thereby Fraport effectively became the new partner of *Land* Rhineland-Palatinate.
- (20) Fraport's focus at Frankfurt Hahn airport was to systematically develop the airport's passenger and cargo business. In that respect, Fraport was one of the first undertakings to apply a business model which aimed especially at attracting low-cost airlines. On that basis, Fraport concluded a new profit and loss transfer agreement with Holding Hahn upon conversion of the latter into a German limited liability company (*Gesellschaft mit beschränkter Haftung*, 'GmbH'). The conversion and the conclusion of that agreement took place on 24 November 2000.
- (21) Subsequently, Holding Hahn and FFHG & Co KG merged to form *Flughafen Hahn GmbH*. *Land* Rhineland-Palatinate held 26,93 % and Fraport 73,07 % of the shares in the new company. Later, the business name of the company was again changed to *Flughafen Frankfurt-Hahn GmbH* ('FFHG'). In 2001, the two shareholders, Fraport and *Land* Rhineland-Palatinate, injected fresh capital into FFHG (see detailed description in Section 3).
- (22) Until 11 June 2001, 100 % of the shares in Fraport were held by public shareholders ⁽³⁾. On 11 June, Fraport was floated on the stock exchange and 29,71 % of its shares were sold to private shareholders, with 70,29 % of shares remaining with the public shareholders.
- (23) In November 2002, *Land* Rhineland-Palatinate, *Land* Hesse, Fraport and FFHG concluded an agreement on the further development of Frankfurt Hahn airport. That agreement provided for a second increase of the authorised

⁽¹⁾ Hereafter in this decision the term 'Fraport' is used to mean both 'FAG' prior to the change of the business name and 'Fraport AG' thereafter.

(*) Confidential information

⁽²⁾ Pursuant to Section 7(3) of the purchase agreement part of the purchase price can be reduced for instance if the costs incurred by FFHG for noise protection were to exceed a certain ceiling.

⁽³⁾ Land Hesse held 45,24 % of Fraport's shares, Stadtwerke Frankfurt am Main Holding GmbH (owned for 100 % by the municipality Frankfurt am Main) held 28,89 % and the Federal Republic of Germany held 25,87 %.

capital. On that occasion, and *Land Hesse* acceded to FFHG as a third shareholder. Fraport then owned 65 % of the shares, *Land Hesse* and *Land Rhineland-Palatinate* held 17,5 % each. That ownership structure remained unchanged until 2009, when Fraport sold all of its shares to *Land Rhineland-Palatinate*, which has, since then, held a 82,5 % majority share. The remaining 17,5 % are still held by *Land Hesse*.

2.2. PASSENGER AND FREIGHT TRAFFIC DEVELOPMENT AND AIRPORTS IN THE VICINITY

- (24) The passenger traffic at the airport increased from 29 289 in 1998 to 4 million in 2007 and decreased to approximately 2,7 million in 2013 (see Table 1). The airport is currently served by Ryanair, Wizz Air ⁽¹⁴⁾ and other airlines. Ryanair's passenger share amounted to approximately [80-100 %] in 2013.

Table 1

Passenger development at Frankfurt Hahn airport in 1998 to 2013

Year	Number of passengers	Number of Ryanair passengers
1998	29 289	0
1999	140 706	89 129
2000	380 284	318 664
2001	447 142	397 593
2002	1 457 527	1 231 790
2003	2 431 783	2 341 784
2004	2 760 379	2 668 713
2005	3 079 528	2 856 109
2006	3 705 088	3 319 772
2007	4 015 155	3 808 062
2008	3 940 585	3 821 850
2009	3 793 958	3 682 050
2010	3 457 540	[2 766 032-3 457 540]
2011	2 894 363	[2 315 490-2 894 363]
2012	2 791 185	[2 232 948-2 791 185]
2013	2 667 529	[2 134 023-2 667 529]

⁽¹⁴⁾ Wizz Air is a Hungarian airline and Member of the European Low Fares Airlines Association. Wizz Air group consists of three operating companies, namely Wizz Air Hungary, Wizz Air Bulgaria and Wizz Air Ukraine. The business model of the airlines is linked with secondary, regional airports. The airline operates currently approximately 150 European destinations. Wizz Air has a homogenous fleet with an average age of less than 3 years, which consist of 34 Airbus A 320 aircrafts with 180 seats.

- (25) Frankfurt Hahn airport has also experienced growth in air freight. The air freight at the airport increased from approximately 16 000 tonnes in 1998 to approximately 286 000 tonnes at its peak in 2011, with a subsequent decrease to approximately 151 000 tonnes in 2013 (see Table 2). The total freight, including freight forwarders, handled at the airport amounted to approximately 447 000 tonnes in 2013.

Table 2

Cargo development at Frankfurt Hahn airport in 1998 to 2013

Year	Total air freight in tonnes	Total freight including freight forwarder in tonnes
1998	16 020	134 920
1999	43 676	168 437
2000	75 547	191 001
2001	25 053	133 743
2002	23 736	138 131
2003	37 065	158 873
2004	66 097	191 117
2005	107 305	228 921
2006	123 165	266 174
2007	125 049	289 404
2008	179 375	338 490
2009	174 664	322 170
2010	228 547	466 429
2011	286 416	565 344
2012	207 520	503 995
2013	152 503	446 608

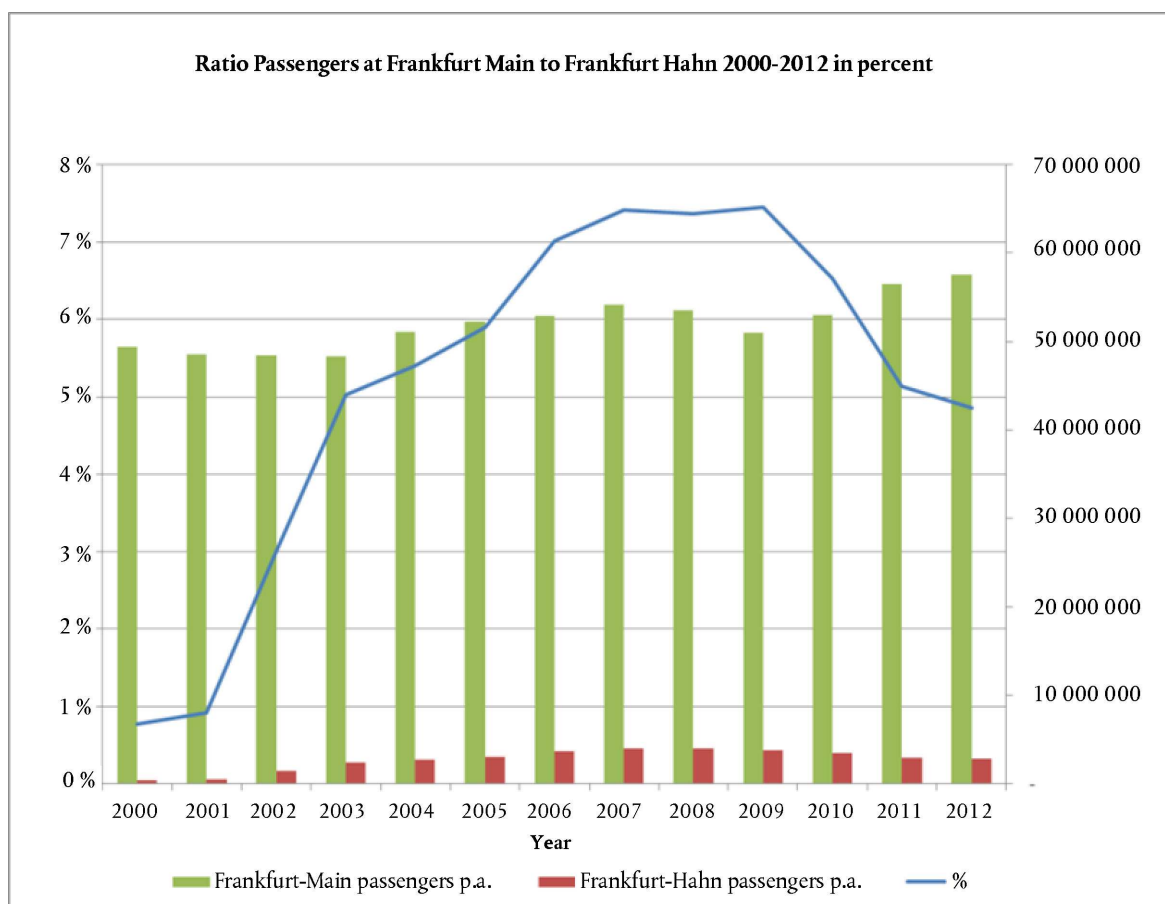
- (26) The following airports are located in the proximity of Frankfurt Hahn airport:

- (i) Frankfurt Main airport (~ 115 kilometres from Frankfurt Hahn airport, ~ 1 hour 15 minutes travelling time by car) is an international hub airport with a wide variety of destinations, ranging from short to long-haul. It is predominantly served by network carriers offering connecting traffic, although it also provides point-to-point connections and charter flights. Besides passenger traffic (approximately 58 million in 2013), Frankfurt Main airport also handles air freight (approximately 2 million tonnes in 2013). Figure 1 shows the development of traffic at Frankfurt Main and Frankfurt Hahn airports in 2000-2012.

- (ii) Luxembourg airport (~ 111 kilometres from Frankfurt Hahn airport, ~ 1 hour 30 minutes travelling time by car) is an international airport providing a wide variety of destinations. In addition to passenger traffic (approximately 2,2 million in 2013), it also served 673 500 tonnes of air freight.
- (iii) Zweibrücken airport (~ 128 kilometres from Frankfurt Hahn airport, ~ 1 hour 35 minutes travelling time by car).
- (iv) Saarbrücken airport (~ 128 kilometres from Frankfurt Hahn airport, ~ 1 hour 35 minutes travelling time by car).
- (v) Köln-Bonn airport (~ 175 kilometres from Frankfurt Hahn airport, ~ 1 hour 44 minutes travelling time by car).

Figure 1

Passenger traffic development at Frankfurt Main and Frankfurt Hahn airports in 2000-2012



(27) Table 3 provides an overview of investments undertaken by FFHG from 2001 to 2012, amounting in total to approximately EUR 216 million.

Table 3

Overview of investments undertaken from 2001 to 2012

In 1 000 EUR	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total 2001-2012
Investments into infrastructure and equipment													
Anlagenzugänge inkl. Umbuchungen													
Land	3 174,00	6 488		2 994	4 284	3 086	8 613	593		[...]			
Terminal		2 519	3 310					251					
Cargo Hangar			3 850		3 222								
Office building								2 428		[...]			
Other infrastructure investments			10 194	1 152			13 275			[...]	[...]	[...]	
Apron	1 008,30	5 684			3 394		10 224	2 848		[...]	[...]		
Other infrastructure	1 502,20	3 848	2 071	2 692	3 911	1 761	1 558	2 608	384	[...]	[...]	[...]	
Immaterial assets (e.g. IT)	6,1	14,50	28	219	487	45	170	121	20	[...]	[...]	[...]	7 108
Equipment	8 208,89	1 097,09	12 308,42	1 814,00	2 294,54	20 232	7 550	3 823	359	[...]	[...]	[...]	75 550
Total	13 899	19 650	31 761	8 871	17 592	25 123	41 390	12 673	763	17 289	19 346	7 930	216 287

(28) Table 4 provides an overview of the annual financial results of FFHG from 2001 to 2012.

Table 4

Annual financial results of FFHG in 2001 to 2012

In 1 000 EUR	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Profit and loss statement												
Revenues	10 077,61	14 908,11	22 574,22	29 564,18	36 859,08	43 479,85	41 296,34	45 383,60	42 036,70	43 281,58	43 658,38	40 983,45
Other revenues (including compensation for public policy remit)	7 771,31	5 514,63	3 686,87	3 039,35	3 618,93	6 097,29	5 436,58	4 858,16	11 540,36	14 554,55	9 313,99	21 390,92
Total Revenue	17 848,92	20 422,75	26 261,09	32 603,53	40 478,01	49 577,14	46 732,92	50 241,76	53 577,06	57 836,14	52 972,37	62 374,37
Costs of material	- 7 092,39	- 10 211,13	- 12 560,46	- 14 601,17	- 17 895,97	- 24 062,81	- 22 491,85	- 25 133,61	- 24 979,59	- 27 650,17	- 20 017,99	- 21 871,65
Costs of personnel	- 9 185,12	- 9 672,37	- 10 734,62	- 11 217,21	- 12 101,84	- 13 337,28	- 14 433,17	- 15 758,34	- 15 883,08	- 17 893,60	- 18 228,23	- 18 349,10
Other costs (including marketing)	- 5 692,81	- 11 434,31	- 10 521,27	- 11 454,36	- 14 058,15	- 12 885,28	- 9 897,46	- 9 630,21	- 7 796,81	- 8 029,40	- 6 760,92	- 6 643,00
EBITDA	- 4 121,41	- 10 895,06	- 7 555,27	- 4 669,21	- 3 577,94	- 708,22	- 89,56	- 280,39	- 4 917,58	- 4 262,96	- 7 965,23	- 15 510,62
EBITDA (excl other revenues)	- 11 892,72	- 16 409,69	- 11 242,13	- 7 708,56	- 7 196,87	- 6 805,51	- 5 526,13	- 5 138,56	- 6 622,78	- 10 291,59	- 1 348,76	- 5 880,30
Depreciation	- 5 325,63	- 5 674,68	- 6 045,39	- 7 699,33	- 7 973,46	- 10 527,90	- 10 191,89	- 11 855,19	- 12 482,28	- 11 827,19	- 13 297,31	- 12 733,48
Financial results (interest received — interest paid)	- 2 896,64	- 3 013,42	- 4 006,57	- 4 105,53	- 4 548,42	- 4 588,16	- 5 235,30	- 5 693,02	- 4 915,39	- 2 778,06	- 5 063,04	- 8 177,54
Extraordinary revenues and costs	- 431,54	- 206,00	- 10,46	0,00	0,00	0,00	0,00	0,00	0,00	- 272,55	0,00	0,00
Taxes	- 580,13	- 204,74	- 215,18	- 323,82	- 228,44	- 242,33	- 245,00	- 238,66	- 257,45	- 240,85	- 231,03	- 277,52
Coverage of losses by Fraport through the profit and loss transfer	13 355,35	19 993,90	17 832,87	16 797,89	16 328,26	16 066,61	15 761,75	18 067,26	5 621,37	0,00	0,00	0,00
Annual result (profit/loss)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	- 7 114,17	- 10 855,69	- 10 626,14	- 5 677,92

3. DESCRIPTION OF THE MEASURES

3.1. POSSIBLE STATE AID GRANTED TO FFHG

3.1.1. MEASURE 1: 2001 PROFIT AND LOSS TRANSFER AGREEMENT

- (29) FFHG and Fraport concluded an agreement according to which Fraport was entitled to all profits generated by FFHG. In return, Fraport was obliged to assume all the losses of FFHG. *Land* Rhineland-Palatinate and Fraport concluded an agreement on 31 August 1999 in which Fraport committed to conclude a Profit and Loss Transfer Agreement ('PLTA'). The corresponding notarial agreement was concluded on 24 November 2000 and the 2001 PLTA took effect on 1 January 2001 ('2001 PLTA') ⁽¹⁵⁾.
- (30) Fraport had the right to terminate the 2001 PLTA by giving six months' notice, but only from 31 December 2005. If not terminated, the agreement was tacitly prolonged at the end of each calendar year for another year, but no longer than until 31 December 2010.
- (31) The conclusion of the 2001 PLTA was approved by Fraport's supervisory board and shareholders ⁽¹⁶⁾. The duration of the 2001 PLTA was later extended until 2014 by an agreement of 5 April 2004 ('PLTA 2004'). By the time the 2001 PLTA was replaced by the 2004 PLTA ('2004 PLTA', see recital 45), Fraport had assumed losses of EUR [...] million.

3.1.2. MEASURE 2: 2001 CAPITAL INCREASE

- (32) A report for the holding committee of Fraport ⁽¹⁷⁾ noted on 19 January 2001 that the losses accumulated by FFHG between 1998 and 2005 would presumably amount to EUR [...] million, and therefore be more than twice as high as forecasted in 1997. In addition, two of FFHG's major freight clients shifted or reduced their business from Frankfurt Hahn airport at the same time, which resulted in a substantial decrease of freight traffic volume, namely by 45 % in the first semester of 2001.
- (33) Following that report, Fraport mandated a consultant, the Boston Consulting Group ('BCG'), as well as its own Strategic Department Acquisitions and Holdings ('SD') in the beginning of 2001 to develop a strategy for FFHG. Both BCG and SD concluded that a positive long-term development of FFHG was only possible with a substantial improvement of the infrastructure, as a prerequisite to further increase traffic volume. SD also pointed out that such a substantial extension of FFHG would be financially risky, and that even in case of the most positive scenario, a positive annual result (net annual profit after tax) would presumably be reached at the earliest in 2013.
- (34) Based on the BCG study and its own analysis, SD drafted a development programme for FFHG, which envisaged investments of EUR 172 million until 2007. Those investments consisted of an 'emergency' programme, valued at EUR 27 million, covering the extension of the runway to 3 400 meters and the planning costs for the plan approval procedure ('Planfeststellungsverfahren') to extend the runway to 3 800 meters, as well as the additional costs of the commenced construction of the new passenger terminal.
- (35) However, in 2001 FFHG had an equity-to-debt ratio of only 4 % ⁽¹⁸⁾. In addition, as of 31 December 2005 Fraport had a right to terminate the 2001 PLTA. Under those conditions, FFHG could not finance the 'emergency' programme through further debt, but needed fresh capital.
- (36) The capital increase was decided by a resolution of Fraport's supervisory board on 14 December 2001 and subsequently by a resolution of FFHG's shareholders on 9 January 2002. Any increase of the authorised capital of a limited liability company, such as FFHG, requires the approval of all participating shareholders.

⁽¹⁵⁾ Notarial deed of notary Jürgen Scherzer (Roll of deeds No 268/2000) dated 24 November 2000.

⁽¹⁶⁾ Resolution by the meeting of shareholders of 3 May 2000.

⁽¹⁷⁾ The holding committee of Fraport is a committee created by the supervisory board which follows the economic development of Fraport's holdings.

⁽¹⁸⁾ Or, in other words, a debt-to-equity ratio of 96 %.

- (37) Following that approval, Fraport and *Land Rhineland-Palatinate* increased the authorised capital by EUR 27 million from EUR 3,5 million to EUR 30,5 million. On 9 January 2002 Fraport contributed EUR 19,7 million and *Land Rhineland-Palatinate* EUR 7,3 million. The capital increase was intended to finance the extension of the runway and investments into other infrastructure to increase the profitability of the airport.

3.1.3. MEASURE 3: 2004 CAPITAL INCREASE

- (38) On 27 November 2002, it was agreed by Fraport, *Land Rhineland-Palatinate*, *Land Hesse* and FFHG that *Land Hesse* would become the third shareholder of FFHG and would as such contribute EUR [...] million at the time when additional capital will be required to finance the investments. It was also agreed to create a close cooperation between Frankfurt Main airport and Frankfurt Hahn airport.
- (39) It was agreed that further investments were necessary to increase the profitability of Frankfurt Hahn airport. Those investments concern for example the extension of the runway to 3 800 meters. A draft shareholder agreement between Fraport, *Land Rhineland-Palatinate*, and *Land Hesse* was prepared on 22 March 2004. The final shareholder agreement regarding the decision to realise this 2004 capital increase was signed by Fraport, *Land Rhineland-Palatinate*, and *Land Hesse* on 30 March 2005 and registered in the commercial registry on 19 May 2005
- (40) The three parties agreed on a capital increase of EUR 19,5 million for FFHG's authorised capital, thereby continuing the investment programme proposed in 2001 by SD (see recitals 33-34). *Land Rhineland-Palatinate* and *Land Hesse* agreed to this capital increase subject to the condition that a new PLTA between FFHG and Fraport would be concluded, covering the period until 31 December 2014. The shareholders also agreed that any further debt FFHG was going to incur had to be secured by Fraport, *Land Rhineland-Palatinate* and *Land Hesse* at a ratio corresponding to the distribution of capital in FFHG. On that basis Fraport, *Land Rhineland-Palatinate* and *Land Hesse* committed to re-finance the infrastructure investments of FFHG.
- (41) Between 2004 and 2009, fresh capital of EUR 19,5 million was injected into FFHG in several instalments. Fraport's share in the capital increase amounted to EUR 10,21 million, *Land Rhineland-Palatinate's* to EUR 0,54 million, and *Land Hesse* contributed EUR 8,75 million.
- (42) In addition, both *Land Hesse* and *Land Rhineland-Palatinate* committed and injected according to the payment schedule (see Table 5 below) another EUR 11,25 million as capital reserve, to be paid by the former between 2007 and 2009, and by the latter between 2005 and 2009.
- (43) Therefore, the total amount of capital increase decided in 2005 was EUR 42 million.
- (44) The payments were due according to the following schedule in Table 5 (in thousand EUR):

Table 5

Payment schedule of capital injections

Fraport						
	2005	2006	2007	2008	2009	Total
Payments on capital contributions	2 554	1 915	1 915	1 915	1 915	10 214
Capital reserve	0	0	0	0	0	0
<i>Total equity</i>						10 214

Land Hesse

	2005	2006	2007	2008	2009	Total
Payments on capital contributions	4 000	4 000	750	0	0	8 750
Capital reserve	0	0	3 250	4 000	4 000	11 250
<i>Total equity</i>						20 000

Land Rhineland-Palatinate

	2005	2006	2007	2008	2009	Total
Payments on capital contributions	537	0	0	0	0	537
Capital reserve	1 821	2 357	2 357	2 357	2 357	11 249
<i>Total equity</i>						11 786

3.1.4. MEASURE 4: 2004 PLTA

- (45) As it had been a condition for approval of the capital increase, FFHG and Fraport extended the duration of the 2001 PLTA until 2014 by an agreement of 5 April 2004. The new PLTA agreement became however only effective after the approval of Fraport's shareholder assembly. As agreed by the shareholders of FFHG with respect to the capital increase, it was laid down in this 2004 PLTA stated that any further debt accrued by FFHG had to be compensated by Fraport, *Land Rhineland-Palatinate* and *Land Hesse* at a ratio which corresponded to their equity.
- (46) Under the 2004 PLTA, Fraport took over approximately EUR [...] million worth of losses until 2009. Therefore, under the two successive PLTA's together, a total of EUR [...] million of losses, accrued between 2001 and 2009, were compensated by Fraport. Out of this sum, EUR [...] million concern depreciation of assets and EUR [...] million the interest payments on loans to finance infrastructure.
- (47) In 2009, Fraport sold its entire share in FFHG to *Land Rhineland-Palatinate* and thereby also terminated the PLTA.

3.1.5. MEASURE 5: COMPENSATION OF FFHG FOR SECURITY CHECKS

- (48) *Land Rhineland-Palatinate* collects an airport security tax from all departing passengers at Frankfurt Hahn airport. The *Land* does not carry out the security checks itself, but has subcontracted that task to the airport, which in turn has subcontracted that task by agreement on to a security company. As consideration for carrying out the security checks, the *Land* transfers the entire revenue from the security tax to the airport.

3.1.6. MEASURE 6: DIRECT GRANTS BY LAND RHINELAND-PALATINATE

- (49) According to the financial reports for *Land Rhineland-Palatinate* holding companies ⁽¹⁹⁾, the *Land* subsidised FFHG in the following amounts as summarised in Table 6.

⁽¹⁹⁾ *Land Rhineland-Palatinate* Holding companies annual reports of 1999, 2001, 2003, 2004.

Table 6

Direct grants by Land Rhineland-Palatinate

Year	Direct Grants (EUR)
1997	[...]
1998	[...]
1999	[...]
2000	[...]
Total 1997-2000	[...]
2001	[...]
2002	[...]
2003	[...]
2004	[...]
Total 2001-2004	[...]

- (50) The direct grants before 12 December 2000 by Land Rhineland-Palatinate to FFHG amount to [...] million, whereas the direct grants by Land Rhineland-Palatinate to FFHG between 2001 and 2004 amount to EUR [...] million.

3.2. POSSIBLE STATE AID GRANTED BY FFHG TO RYANAIR AND ALL OTHER AIRLINES TRANSPORTING PASSENGERS

- (51) In 1999, FFHG attracted its first low-cost carrier, Ryanair. FFHG concluded three agreements with Ryanair in 1999, 2002 and 2005. Furthermore, FFHG introduced new airport charges in 2001 and 2006.

3.2.1. MEASURE 7: 1999 RYANAIR AGREEMENT

- (52) The first agreement with Ryanair entered into force with retroactive effect as of 1 April 1999, and had a duration of 5 years (the '1999 Ryanair agreement'). Ryanair commenced operating from Frankfurt Hahn airport into London Stansted on 22 April 1999, when all essential conditions of the agreements had already been agreed upon.
- (53) A *Deckungsbeitragsrechnung* (break-even analysis) for the 1999 Ryanair agreement had been submitted by the management board of FFHG to the Supervisory Board in its meeting of 5 May 1999. According to Germany, FFHG's Supervisory Board did not vote on the 1999 Ryanair agreement or the break-even analysis, since the conclusion of the agreement was deemed to be operational day-to-day business being within the sole competence of FFHG's Management Board.
- (54) Table 7 summarises the charges to be paid by Ryanair under Annex 1 of the 1999 Ryanair agreement.

Table 7

Charges to be paid by Ryanair under Annex 1 of the 1999 Ryanair agreement

Charge/fee/tax type	EUR
Turnaround fee (per flight comprising landing charge, ramp handling and passenger clearance) ⁽¹⁾	[...]
Passenger fee (per arriving passenger)	[...]
Air security tax (per departing passenger)	[...]
De-icing fluid including hot water (per litre)	[...]

⁽¹⁾ The annual turnaround fee to be paid by Ryanair in case of up to 6 flight frequencies per day was capped at a ceiling of EUR [...].

- (55) Under Annex 3 of the 1999 Ryanair agreement, FFHG additionally received a [...] % commission on each ticket sold (cash or credit card) or issued by FFHG's ticket counters, a [...] % commission on excess baggage charges collected by FFHG, EUR [...] for each prepaid ticket processed by Ryanair and a [...] % commission for each car rental booked through FFHG.
- (56) Ryanair was entitled to marketing support amounting to an annual maximum of EUR [...], which was to be paid by FFHG in quarterly instalments and only for the first 3 years of operation. The marketing support had to be used exclusively for advertisements concerning routes departing from Frankfurt Hahn airport. Ryanair had to provide supporting invoices and detailed proof of how the money was spent.

3.2.2. MEASURE 8: 2001 SCHEDULE OF AIRPORT CHARGES

- (57) On 16 October 2001, Frankfurt Hahn airport's 2001 schedule of airport charges was approved and published by the Land Rhineland-Palatinate's Transport Department. It entered retroactively into force on 1 October 2001 ⁽²⁰⁾.
- (58) As Frankfurt Hahn airport's business strategy was focused on low cost carriers, which typically operate Boeing 737 or Airbus A 319/320 aircraft with a maximum take-off weight ('MTOW') of approximately 50 to 80 tonnes, it introduced a zero landing and take-off charge for aircraft between 5,7 and 90 tonnes MTOW.
- (59) Table 8 summarises the charges per aircraft for central ground handling infrastructure services to be paid by airlines under the 2001 schedule of airport charges.

Table 8

Charges for central ground handling infrastructure services to be paid by airlines under the 2001 schedule of airport charges

	Charge per aircraft in EUR
MTOW up to 90 tonnes	included in the take-off and landing charge
MTOW of more than 90 tonnes	50,00

⁽²⁰⁾ File No V/21-1011/1.

- (60) The passenger charge was set at EUR 4,35 per arriving passenger. The passenger security fee based on the number of passengers aboard the aircraft when departing is EUR 4,35 per passenger, payable to *Land Rhineland-Palatinate's* Highways and Transport Department — Air Transport Section.
- (61) For each approach of an aircraft under Instrument Flight Rules, an Air Traffic Control approach charge has to be paid to the airport operator. That charge for commercial or non-commercial flights is included in the landing and take-off charge if the flight is operated for purposes other than training and instruction. It hence is zero for aircraft to which the zero landing and take-off charge applies.

3.2.3. MEASURE 9: 2002 RYANAIR AGREEMENT

- (62) The second agreement with Ryanair is dated 14 February 2002 (the '2002 Ryanair agreement') and was submitted to FFHG's Supervisory Board held on 16 November 2001. The minutes of that meeting report that the majority of the members of the Supervisory Board approved it.
- (63) The copy of the 2002 Ryanair agreement that was transmitted to the Commission is not signed. According to Germany, although that agreement was never signed, it has nevertheless been applied by the parties since 14 February 2002.
- (64) According to Germany, the 2002 Ryanair agreement replaced the 1999 Ryanair agreement, and it was concluded for a period of [...] years (until [...]). The passenger fee however remained identical as in the initial agreement of 1999. Ryanair has the option to prolong the agreement on similar terms and conditions until [...].
- (65) The 2002 Ryanair agreement is based upon the Standard Ground Handling Agreement of the International Air Transport Association, which has been adapted to the needs of the parties. It consists of the following elements:
- (i) The Main Agreement
 - (ii) Annex A — Description of Ground Handling Services;
 - (iii) Annex B — 1.0 Location, agreed services and charges for Frankfurt Hahn airport;
 - (iv) Second Annex B — 1.0 Location, agreed services and charges for Frankfurt Hahn airport;
 - (v) Annex 3 and Appendixes 1-3 ⁽²¹⁾ to the second Annex B — 1.0;
 - (vi) Annex C — Airport charges;
 - (vii) Annex D — Description of the ground handling service package 'Hahn-Smart'
 - (viii) Third Annex B — Location, agreed services and charges for Frankfurt Hahn airport — 'Hub Agreement'
 - (ix) Annex E — Marketing Agreement
- (66) The Main agreement, Annex A and Annex B — 1.0 are simply copies of the standard form. The parties have not filled in any of the fields, as this part of the standard form was not considered applicable.
- (67) The second Annex B — 1.0 has been filled in by the parties, in so far as names of the parties, bank accounts and the price for de-icing fluid (EUR [...] per litre) and hot water (EUR [...] per litre) are concerned.
- (68) Annex 3 and its Annexes 1-3 concern 'further strategic agreements' between the parties. They relate to the technical arrangements for ground handling, ticketing and branding space at the airport.

⁽²¹⁾ Annex 3: FFHG received a [...] % commission on each ticket sold (cash or credit card) or issued by FFHG's ticket counters, a [...] % commission on excess baggage issued by FFHG, EUR [...] for each prepaid ticket processed by Ryanair and a [...] % commission to FFHG for each car rental booked through FFHG.

- (69) Annex D stipulates that for ground-handling the charges summarised in Table 9 apply, under the condition of a turnaround-time not exceeding 30 minutes.

Table 9

Charges for ground-handling if maximal 30 minutes turnaround

Aircraft with a MTOW	Unit	EUR
Up to 5,7 tonnes	Handling	[...]
Up to 14 tonnes	Handling	[...]
Up to 20 tonnes	Handling	[...]
Up to 90 tonnes	Handling	[...]
More than 90 tonnes	Handling	[...]

- (70) The blank fields for aircraft of 'up to' and 'more than' [...] tonnes appear to indicate that [...] charged for aircrafts between [...] and [...] tonnes ⁽²²⁾.
- (71) Annex E (i.e. Hahn Smart Agreement) confirms that analysis. It stipulates in point 1:
- '[...]
- (72) The airport fee level was frozen until 30 April 2004 and thereafter was to be adjusted corresponding to the German Consumer Price Index, if the latter increased by more than [...] % compared to the previous year.
- (73) Annex E also foresees the payment of marketing support. Ryanair is entitled to the following marketing support:
- (i) one-off payments of EUR [...] for each new route departing from Frankfurt Hahn airport and established after 13 February 2002, and
 - (ii) rebates on the airport charges dependent on the number of aircrafts based at Frankfurt Hahn airport and on the number of landing passengers as summarised in Table 10.

Table 10

Rebates on airport charges

Number of aircraft based at Frankfurt Hahn airport	Marketing support per passenger (EUR)
Up to 2	[...]
3 to 4	[...]
5-8	[...] ⁽¹⁾
⁽¹⁾ [...].	

⁽²²⁾ This also results from point 68 of the market economy operator test submitted by PwC on behalf of Land Rhineland-Palatinate.

- (81) Table 13 provides an overview of the rebate system on airport charges introduced by the 2005 Ryanair agreement.

Table 13

Amended airport rebates introduced by the 2005 Ryanair agreement

In EUR		Total average rebate per passenger	Average passenger fee
Rebate on all inbound passengers	[...]	[...]	[...]
Additional rebate on all departing passengers above [...] Mio and up to [...] Mio per year	[...]	[...]	[...]
Additional rebate on all departing passengers above [...] Mio per year	[...]	[...]	[...]

- (82) [...].

3.2.5. MEASURE 11: 2006 SCHEDULE OF AIRPORT CHARGES

- (83) The 2006 schedule of airport charges was approved for Frankfurt Hahn airport by the *Land* Rhineland-Palatinate's Transport Department on 26 April 2006 ⁽²³⁾ and entered into force on 1 June 2006. It follows the same basic principles as the 2001 schedule of airport charges (see above recital 57 and following).
- (84) The changes compared to the previous schedule concern the take-off and landing charges, the passenger fee and the marketing support. The 2006 schedule of airport charges maintains the two fundamental principles of the 2001 schedule of airport charges:
- (i) Air traffic control charges and ground handling charges are included in the take-off and landing charges;
 - (ii) Aircraft with a MTOW of more than 5,7 tonnes do not have to pay take-off and landing charges (or air traffic control charges or ground handling charges) at all.
- (85) The 2006 schedule introduces, however, two limitations to those principles. First of all, only passenger aircraft can claim those advantages. Secondly, the advantages are limited to aircraft with a turn-around time of less than 30 minutes.
- (86) Furthermore, the passenger charges are set per departing passenger, and as a function of the total number of passengers transported by the airline (departing and arriving) to which the airplane belongs. Table 14 provides an overview of the passenger charges to be paid under the 2006 schedule of airport charges depending on the total number of departing and arriving passengers.

Table 14

Passenger charges under the 2006 schedule of airport charges

Total number of departing and arriving passengers	Passenger charge per departing passenger in EUR	Minimum amount of overall airport charges to be paid in EUR
Less than 100 000	5,35	
100 001-250 000	4,40	267 500,00

⁽²³⁾ File number V/20-1011/1.

Total number of departing and arriving passengers	Passenger charge per departing passenger in EUR	Minimum amount of overall airport charges to be paid in EUR
250 001-500 000	3,85	550 000,00
500 001-750 000	3,45	962 500,00
750 001-1 000 000	3,15	1 293 750,00
1 000 001-1 500 000	2,90	1 575 000,00
1 500 001-2 000 000	2,68	2 175 000,00
2 000 001-3 000 000	2,48	2 680 000,00
3 000 001-5 400 000	2,48 per passenger 1 to 3 000 000 2,24 per passenger 3 000 001 to 5 400 000	Not applicable.
5 400 001-10 000 000	2,48 per passenger 1 to 3 000 000 2,24 per passenger 3 000 001 to 5 400 000 2,21 per passenger 5 400 001 to 10 000 000	Not applicable.
More than 10 000 000	2,48 per passenger 1 to 3 000 000 2,24 per passenger 3 000 001 to 5 400 000 2,21 per passenger 5 400 001 to 10 000 000 2,19 per passenger	Not applicable

(87) Table 15 shows the amount of marketing support that can be granted to airlines using the airport.

Table 15

Marketing support

Total number of departing passengers	Minimum number of destinations and frequency from Frankfurt Hahn airport	Marketing support in EUR
5 000-100 000	[...]	[...]
100 001-250 000	[...]	[...]
250 001-500 000	[...]	[...]
500 001-750 000	[...]	[...]
750 001-1 000 000	[...]	[...]

- (88) Moreover, marketing support is regulated in a separate document available on the web site of Frankfurt Hahn airport. One-time marketing support is granted under the following conditions:
- (i) eligible are flights to destinations which have not been served from Frankfurt Hahn airport in the last 24 months;
 - (ii) the maximum support is 33,3 % of the proven marketing costs for a new destination;
 - (iii) the airline has to demonstrate the medium-term profitability of the new destination through appropriate supporting documents;
 - (iv) FFHG can request the reimbursement of the marketing support in the event that the airline does not fulfil its obligations with respect to the new destination.

3.3. MEASURES OUTSIDE THE SCOPE OF THE 2008 OPENING DECISION (MEASURE 12)

- (89) Germany committed to inject into FFHG's equity EUR [...] million to refinance FFHG's loans.
- (90) Those funds refinance infrastructure measures irrevocably decided by the public authorities prior to 31 December 2012, but which were not covered through the PLTAs, capital increases or other grants.

4. GROUNDS FOR OPENING THE PROCEDURE AND INITIAL ASSESSMENT

4.1. POSSIBLE STATE AID GRANTED TO FFHG

4.1.1. MEASURE 1: 2001 PLTA

- (91) With regard to the 2001 PLTA, the Commission found in the 2008 opening decision that the annual losses were assumed by Fraport, a company which is predominantly publicly owned. The Commission therefore established that it needed to examine whether Germany could be regarded as having been involved in the conclusion of the 2001 PLTA.
- (92) The Court of Justice held in *Stardust Marine* ⁽²⁴⁾ that the resources of an undertaking incorporated under private law, whose shares are in majority publicly owned, constitute State resources. The Commission considered that the conclusion of the agreement was also to be considered as imputable to the State as it would have been impossible to do so without taking into account the requirements of the public authorities.
- (93) Furthermore, in contrast to the arguments raised by Germany, the Commission expressed doubts that a market economy investor would have concluded such an agreement as the agreement clearly seemed to constitute an advantage for FFHG in relieving it from a financial burden which otherwise it would have had to shoulder.
- (94) The Commission also considered that the measure was selective as only FFHG's losses were covered and that the measure concerned distorted or threatened to distort competition within the market of airport operators and affected trade between Member States.
- (95) The Commission thus took the preliminary view that the measure at issue might constitute State aid in the form of operating aid.
- (96) Since Germany did not provide any evidence or argue that such operating aid could be considered compatible with the internal market pursuant to Article 107(3)(c) of the Treaty, and in the light of the 2005 Aviation Guidelines, the Commission raised serious doubts that that aid could be deemed compatible.

⁽²⁴⁾ Case C-482/99 *France v Commission* ('*Stardust Marine*') [2002] ECR I-4397, paragraph 51 and following.

4.1.2. MEASURE 2: 2001 CAPITAL INCREASE

- (97) In the 2008 opening decision, the Commission found that Fraport and *Land* Rhineland-Palatinate had increased FFHG's capital by EUR 27 million, contributing EUR 19,7 million and EUR 7,3 million respectively. Concerning the existence of aid, the Commission pointed out that Fraport's as well as *Land* Rhineland-Palatinate's resources constitute State resources, according to the criteria established in the case *Stardust Marine* ⁽²⁵⁾. Furthermore, the Commission took the preliminary view that Fraport's decisions are also likely to be imputable to the State.
- (98) Moreover, the Commission indicated that it was not convinced that the market economy operator test (MEOT) for the capital increase was fulfilled. The Commission has accepted in principle that an assessment carried out by one or more independent audit companies can serve as proof that a transaction has taken place at market value ⁽²⁶⁾. However, the Commission had doubts whether the report handed in by PwC on account of Fraport sufficed to exclude the presence of an advantage.
- (99) The doubts were due to the content of the MEOT carried out by PwC as it was purely qualitative and did not assess the cost of disengagement by Fraport. The report also did not quantify or explain in detail the 'high risks' identified by BCG and Fraport's SD, and generally limited the assessment to Fraport, without considering whether *Land* Rhineland-Palatinate acted like a market economy investor. For those reasons, the Commission could not exclude that the capital increase provided an advantage to FFHG.
- (100) The Commission also concluded that the measure was selective as only FFHG was granted the 2001 capital increase and that it distorted or threatened to distort competition within the market of airport operators and affected trade between Member States.
- (101) The Commission therefore took the preliminary view that the measure at issue might constitute State aid in the form of investment aid and raised doubts as to its compatibility with the internal market, notably in view of Article 107(3)(c) of the Treaty and the 2005 Aviation Guidelines.

4.1.3. MEASURE 3: 2004 CAPITAL INCREASE

- (102) With regard to the second capital increase, the Commission noted that in 2004, FFHG's existing shareholders increased its authorised capital by EUR 10,75 million, Fraport contributing a share of EUR 10,21 million and *Land* Rhineland-Palatinate a share of EUR 0,54 million. In addition, *Land* Hesse entered as new shareholder, contributing another EUR 8,75 million. Furthermore, both *Land* Rhineland-Palatinate and *Land* Hesse committed to contribute each EUR 11,25 million as capital reserve.
- (103) The Commission adopted *mutatis mutandis* the same reasoning for this capital increase as for the one in 2001 (see Section 4.1.2) for the existence of aid and raised the same doubts as to its compatibility with the internal market.

4.1.4. MEASURE 4: 2004 PLTA

- (104) According to the 2008 opening decision, Fraport took over losses of FFHG amounting to at least EUR [...] million under the 2004 PLTA. The Commission applied *mutatis mutandis* the same reasoning as the one advanced in relation to the 2001 PLTA, see recital 91 and following. In relation to the MEOT submitted by PwC, the Commission doubted its reliability given that the assessment was largely qualitative. Hence, the Commission considered that the 2004 PLTA constitutes operating aid and expressed doubts as regards its compatibility with the internal market, in particular in light of the 2005 Aviation Guidelines.

⁽²⁵⁾ *Stardust Marine* judgment, paragraph 51 and following.

⁽²⁶⁾ See Commission Communication on State aid elements in sales of land and buildings by public authorities, point II.2.

4.1.5. MEASURE 5: COMPENSATION OF FFHG FOR SECURITY CHECKS

- (105) The Commission indicated in the 2008 opening decision that airport security services are not of an economic nature and do not fall within the scope of the rules on State aid ⁽²⁷⁾.
- (106) The Commission then observed that the economic analysis of PwC seemed to indicate that *Land* Rhineland-Palatinate over-compensated FFHG for carrying out security checks. In that regard the Commission pointed out that that advantage was financed through State resources and had the potential to distort competition and affect trade between Member States. Hence, the Commission considered that the overcompensation constituted State aid within the meaning of Article 107(1) of the Treaty.
- (107) With regard to the compatibility assessment of that operating aid, the Commission applied *mutatis mutandis* the same reasoning as the one advanced in relation to the 2001 PLTA, see recital 95 and following. Another possible legal basis assessed for compatibility with the internal market was Article 106(2) of the Treaty. However, Germany did not provide any indication that a public service obligation had been imposed on FFHG. Therefore, the Commission did not find a legal basis to declare the overcompensation arising from the security charge compatible with the internal market.

4.1.6. MEASURE 6: DIRECT GRANTS BY LAND RHINELAND-PALATINATE

- (108) The Commission noted in its 2008 opening decision that the direct grants granted in the years 2001 to 2004 appear to have been granted without consideration, from State resources (namely the general budget of *Land* Rhineland-Palatinate) and in a selective manner (only to FFHG). The Commission considered that those grants have the potential to distort competition and affect trade between Member States. Hence, the Commission took the preliminary view that they constituted State aid within the meaning of Article 107(1) of the Treaty in the form of investment aid.
- (109) The Commission also raised doubts as to the compatibility of the aid with the internal market, notably in view of Article 107(3)(c) of the Treaty and the 2005 Aviation Guidelines.

4.2. POSSIBLE STATE AID GRANTED BY FFHG TO RYANAIR AND ALL OTHER AIRLINES TRANSPORTING PASSENGERS

4.2.1. MEASURE 7: 1999 RYANAIR AGREEMENT

- (110) Concerning the 1999 Ryanair agreement, the Commission generally pointed out in the 2008 opening decision that a reduction or system of reductions granting preferential treatment to a specific business was likely to fall within the scope of Article 107 of the Treaty.
- (111) The Commission considered that, as FFHG is a predominantly publicly owned undertaking, its resources constitute State resources. The Commission pointed out in relation to the 1999 Ryanair agreement that although the supervisory board did not vote on that agreement, neither did it pass any motion or take any action suggesting that it was opposed to it. Therefore, the Commission noted that it had no indications allowing it to conclude that the 1999 Ryanair agreement was not imputable to the State.
- (112) Furthermore, the Commission raised doubts as to whether a private market investor would have concluded the 1999 Ryanair agreement. The Commission noted in this respect that the charges imposed by FFHG on Ryanair did not cover FFHG's full costs and therefore appeared to confer an advantage to Ryanair.

⁽²⁷⁾ Point 33 of the 2005 Aviation Guidelines.

- (113) The Commission also pointed out that the costs of the new terminal of approximately EUR [...] million had not been taken into account in the MEOT submitted by Germany. As a preliminary observation, the Commission rejected Germany's argument that in 1999 HHN was anyway in need of a new passenger terminal, and that the capacity of 1,25 million passengers per year was far above the expected passenger volume to be generated by Ryanair, since Ryanair was the only major passenger air carrier at Frankfurt Hahn airport in 1999. For those reasons, the Commission raised doubts as to the MEOT handed in by Germany.
- (114) The Commission also considered that the 1999 Ryanair agreement is a selective and specific measure as only Ryanair received such conditions in the negotiations with FFHG, and that the measure concerned distorts or threatens to distort competition within the market of airlines and affects trade between the Member States.
- (115) Therefore, the Commission took the preliminary view that, since it appeared that it did not fulfil the MEOT and was imputable to the State, the 1999 Ryanair agreement would constitute State aid within the meaning of Article 107(1) of the Treaty. Furthermore, the Commission did see no legal grounds for declaring such a permanent operating aid for an airline compatible with the internal market.

4.2.2. MEASURE 8: 2001 SCHEDULE OF AIRPORT CHARGES

- (116) In the 2008 opening decision, the Commission also analysed whether the 2001 schedule of airport charges possibly constituted State aid to Ryanair. It considered in that respect that, as companies in which the public authorities have a predominant share, FFHG's and Fraport's resources constitute State resources and that their conduct would also be imputable to the State.
- (117) The Commission expressed doubts as to whether the fee structure of the 2001 schedule of airport charges was set in a manner which would allow the airport to run profitably as Germany had not provided a MEOT for this schedule. As Ryanair seemed to have been the only passenger airline using the airport between 2001 and 2003, and retained more than 95 % of the passenger volume until 2006, the results of the MEOT for the 2002 Ryanair agreement, which was based on the 2001 schedule of airport charges and introduced an additional marketing support, served as a benchmark. Based on the information provided, the Commission doubted whether the MEOT for the 2001 schedule of airport charges was fulfilled.
- (118) The Commission considered that the measure was selective as only airlines that use Frankfurt Hahn airport benefited from the 2001 schedule of airport charges and that it distorted or threatened to distort competition and affected trade between the Member States.
- (119) Therefore, concerning the 2001 schedule of airport charges, the Commission took the preliminary view that it might constitute State aid within the meaning of Article 107(1) of the Treaty. Furthermore, the Commission did not find legal grounds for declaring such a permanent operating aid for an airline compatible with the internal market.

4.2.3. MEASURE 9: 2002 RYANAIR AGREEMENT

- (120) Regarding the question of State resources, the Commission applied the same reasoning *mutatis mutandis* as for the 1999 Ryanair agreement, discussed in Section 4.2.1 (recital 110 and following). Concerning imputability of the measure, the 2002 Ryanair agreement was formally approved by the Supervisory Board of FFHG, which is dominated by members nominated by the public authorities. Hence, the Commission took the preliminary view that the 2002 Ryanair agreement was imputable to Germany.
- (121) Furthermore, the Commission expressed doubts as to whether a market economy investor would have concluded the 2002 Ryanair agreement. In this respect, the Commission doubted the calculation presented by Germany. Furthermore, the Commission raised doubts regarding the calculation of costs since the costs for general airport infrastructure and general airport administration handed in by Germany were based on marginal, rather than average costs. Also, the level of airport charges was frozen until 30 April 2004, and thereafter was to be adjusted corresponding to the German Consumer Price Index only if this index increased by more than [...] % compared to the previous year.

- (122) Concerning selectivity, distortion of competition and effect on trade, the Commission applied the same reasoning *mutatis mutandis* as for the 1999 Ryanair agreement, see Section 4.2.1 (recital 110 and following).
- (123) The Commission therefore took the preliminary view that the 2002 Ryanair agreement might constitute State aid within the meaning of Article 107(1) of the Treaty. Furthermore, the Commission did not see any legal grounds for declaring such a permanent operating aid for an airline compatible with the internal market.

4.2.4. MEASURE 10: 2005 RYANAIR AGREEMENT

- (124) Regarding the question of State resources, the Commission applied the same reasoning *mutatis mutandis* as for the 1999 Ryanair agreement discussed in Section 4.2.1 (recital 110 and following). On the question of whether there was an economic advantage, the Commission expressed doubts with regard to the MEOT presented by Germany since there was insufficient information for verifying the calculations and because the investments induced by increasing passenger numbers were not in any way taken into account or allocated to Ryanair.
- (125) The Commission furthermore indicated that although the 2005 Ryanair agreement, differed from the 1999 and 2002 Ryanair agreements, by introducing a kind of contractual penalty system if Ryanair did not generate the contractually determined passenger volume, it doubted whether those sanctions were effective.
- (126) Concerning selectivity, distortion of competition and effects on trade, the Commission applied the same reasoning *mutatis mutandis* as for the 1999 Ryanair agreement, see Section 4.2.1 (recital 110 and following).
- (127) The Commission concluded that the 2005 Ryanair agreement would also constitute State aid within the meaning of Article 107(1) of the Treaty. The Commission did not find any legal grounds for declaring such a permanent operating aid for an airline compatible with the internal market.

4.2.5. MEASURE 11: 2006 SCHEDULE OF AIRPORT CHARGES

- (128) With regard to the 2006 schedule of airport charges, Germany had only partially provided an economic justification in the form of a MEOT to the Commission. The Commission indicated in its 2008 opening decision that with the incomplete information it was unable to verify whether, as Germany argued, economies of scale justified the differentiation in passenger charges. Furthermore, the economic justifications given for the 2006 schedule of airport charges left several questions open, such as which costs are included in the cost coverage and why the marketing support was not included in the economic justification of the schedule.
- (129) The Commission considered that the measure was selective as only airlines using Frankfurt Hahn airport benefited from the 2006 schedule of airport charges and that the measure concerned distorted or threatened to distort competition and affected trade between the Member States.
- (130) Therefore, concerning the 2006 schedule of airport charges, the Commission took the preliminary view that it might constitute State aid within the meaning of Article 107(1) of the Treaty. Furthermore, the Commission did not see any legal grounds for declaring such a permanent operating aid for an airline compatible with the internal market.

5. COMMENTS FROM GERMANY

- (131) Germany submitted extensive observations and economic analysis in the course of this procedure.

5.1. GENERAL REMARKS

- (132) In its comments, Germany first of all provided some general background considerations concerning Frankfurt Hahn airport. Germany insisted that the Frankfurt Hahn airport project was meant to become a profitable private company from the moment of its conversion. Therefore, Fraport strategically got involved with a view to the

airport's long-term profitability. With its low-cost carrier business model, considerably simplified infrastructure and low capital costs, Frankfurt Hahn airport has been a pioneer in Europe, according to Germany. However, Germany argued that the necessary time framework for reaching positive operative results in that kind of infrastructure project would be approximately 20 years. Germany pointed out that Frankfurt Hahn airport has had a positive result in EBITDA for the first time in 2006, so already 8 years after its market entry, which would prove its economic viability. According to Germany, Frankfurt Hahn airport was the fastest growing airport in Germany.

- (133) Furthermore, Germany is of the opinion that the measures concerning Frankfurt Hahn airport were taken exclusively according to the market economy investor principle. According to Germany, if a private undertaking of the same size and in a comparable situation would also have undertaken the financing based on a commercial logic, this would exclude any advantage. Germany argued that the Commission should only assess whether the respective measure is commercially defensible and not whether it will without reasonable doubt be successful. Also, Germany referred to the principle of equality of public and private undertakings under which funds that the State is offering to an undertaking in accordance with market conditions will not be considered State aid. All in all, according to Germany, the measures for Frankfurt Hahn airport had all been granted in line with market conditions; the MEOTs which Germany presented would prove this. Germany then elaborated on those general remarks with regard to the respective measures assessed in the 2008 opening decision.

5.2. ALLEGED STATE AID GRANTED TO FFHG

5.2.1. MEASURE 1: 2001 PLTA

- (134) Germany argued that the State aid rules are not applicable to the 2001 PLTA since it was concluded in August 1999, i.e. before the judgment by the Court of Justice in the case *Aéroports de Paris* ⁽²⁸⁾ on 24 October 2002. According to Germany, the judgment at first instance by the General Court became definitive only after the judgment of the Court of Justice was delivered and only when it was clarified that airports were considered as undertakings and therefore fell within the scope of application of the State aid rules. That approach would have been confirmed later on in the *Leipzig-Halle* judgment ⁽²⁹⁾.
- (135) Germany stated furthermore that no State resources had been employed. In that regard, Germany elaborated that the losses taken over by Fraport did not burden the budget of the State. Furthermore, Germany argued that the decisions taken by Fraport were not imputable to Germany since the public shareholders were not able to exercise a determining influence. In this regard, Germany emphasised that it would have to be verified in each individual case whether resources of a company were actually controlled by the State. According to Germany, the fact that a majority of shareholders was public is not sufficient to assume that the 2001 PLTA involves State resources.
- (136) According to Germany, the shareholders cannot determine the behaviour of the management board in the case of a German stock company, an *Aktiengesellschaft*, such as Fraport. In Germany's view, Fraport is an independent incorporated company listed at the stock exchange and the public regional bodies do not exercise continuing control over its funds. Germany explained that according to Section 76 of the *Aktiengesetz* (the German stock corporation act, 'AktG'), the management board has a far-reaching decision-making powers independently of the shareholders. Germany argued that in the cases *Stadtwerke Brixen AG* ⁽³⁰⁾ and *Carbotermo* ⁽³¹⁾ cases, the Court of Justice already recognised the nature of the German listed company and the considerable independence enjoyed by their management board vis-a-vis its shareholders. In that respect, the public authorities could not control Fraport's day-to-day business.
- (137) In that regard, Germany explained that Fraport was not in any way incorporated into the structures of public administration, that Fraport was not accountable to Germany for its actions and was in no way subordinated to

⁽²⁸⁾ Case T-128/89 *Aéroports de Paris v Commission* [2000] ECR II-3929, confirmed by the judgment in case C-82/01P *Aéroports de Paris v Commission* [2002] ECR I-9297.

⁽²⁹⁾ Joined Cases T-443/08 and T-455/08 *Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH v Commission* (hereinafter: 'Leipzig/Halle judgment') [2011] ECR II-1311, in particular paragraphs 93-94; confirmed by the judgment in case C-288/11 P *Mitteldeutsche Flughafen and Flughafen Leipzig/Halle v Commission* [2012] not yet reported.

⁽³⁰⁾ Case C-458/03 *Stadtwerke Brixen AG* [2005] ECR I-08585, paragraph 67.

⁽³¹⁾ Case C-340/04 *Carbotermo* [2006] ECR I-04137, paragraph 36 and following.

the public administration. Even though Germany recognised that the public shareholders were involved in the decision-making at the general meeting of shareholders during which the 2001 PLTA was decided, Germany argued that this did not mean that the public shareholders had done anything more than exercise their lawful rights and obligations as shareholders.

- (138) In addition, Germany stated that the 2001 PLTA did not confer any advantage on FFHG. It referred to the MEOT undertaken by PwC in that regard, which considered that any market economy investor would also have concluded that agreement. Furthermore, Germany stated that the risks and benefits of the 2001 PLTA were evenly distributed and that it also made sense from a tax law point of view. Overall, Germany depicted the 2001 PLTA as a perfectly normal measure in a corporate group to apply global or sectorial structural policy.

5.2.2. MEASURE 2: 2001 CAPITAL INCREASE

- (139) Germany explained that the 2001 capital increase was necessary since an external financing of the investments into its infrastructure would have strained the annual results of FFHG too much in the short-term.
- (140) Germany stated that the 2001 capital increase was decided by the supervisory board of FFHG on 14 December 2001 and led to a change in the articles of association of FFHG on 9 January 2002. Therefore, Germany disputed that the rules of State aid are applicable to that measure and referred here also to its reasoning concerning the 2001 PLTA (see recital 134).
- (141) Germany furthermore argued that the funds invested by Fraport (EUR 19,7 million out of EUR 27 million) were not State resources since the State had no control over Fraport. In that respect Germany referred to its argumentation on State resources concerning the 2001 PLTA (see recital 136). In addition, Germany stated that the capital increase could also not be imputable to Germany and referred to its explanations on imputability concerning the 2001 PLTA (see recital 134). Germany added that the approval by FFHG's shareholders of the 2001 capital increase could not be a determining factor for its imputability to the State. In Germany's opinion, the actions of the undertaking who handed out the possible aid must be imputable, not those of the undertaking benefitting from the aid. Since FFHG was the undertaking benefitting from the aid, its approval of the capital increase would not make the granting of aid imputable to Germany. According to Germany, nor could the approval of Fraport's supervisory board be taken as an indication for imputability since at that time the supervisory board was already constituted on par of representatives of the employees and the shareholders with a right of codetermination, meaning that there were 10 representatives of the employees and 10 representatives of the shareholders.
- (142) Germany also argued that no advantage was conferred on FFHG by the 2001 capital increase. Fraport as well as the *Land* Rhineland-Palatinate had acted like any market economy investor would have in this matter.
- (143) Germany disagreed with the doubts raised by the Commission in relation to the MEOT regarding Fraport's 2001 capital increase decision. Germany submitted all additionally demanded internal documents to the Commission. According to Germany, the decision taken by Fraport in 2001 for a capital increase was based furthermore on an assessment of the measure by the BCG and two general studies ordered by Fraport on the development of air traffic. Germany emphasised that Fraport had increased the capital since the assessment of BCG stated that reaching profitability would not be possible at Frankfurt Hahn airport without further construction and infrastructure measures. The MEOT had taken into account all those documents.
- (144) Following the doubts raised by the Commission in relation to the MEOT carried out by PwC, Germany submitted a second, supplementary assessment from PwC to complement and refine the first MEOT. That refined assessment comes to the same conclusion as the first one, namely that the MEOT is fulfilled. Germany rejected Commission's doubts that PwC had not assessed a disengagement of Fraport and that therefore, without knowing the cost of disengagement, it would be impossible to verify whether Fraport had acted like a market economy investor. Germany argued that the cost of disengagement did not make a difference in the assessment. Moreover, Germany pointed out that Fraport had considered disengagement, but that it would not have been possible

during the next 5 years due to the 2001 PLTA. Furthermore, the PwC's assessment showed that the investment would have positive results for Fraport in the long run.

- (145) Following the 2008 opening decision Germany also submitted a MEOT also in relation to the behaviour of *Land* Rhineland-Palatinate and its decision to contribute to the capital increase of FFHG with EUR 7,3 million. According to the assessment, also carried out by PwC, *Land* Rhineland-Palatinate had acted like a market economy operator since the investment measures decided in 2001 were necessary and therefore the capital increase was commercially defensible.

5.2.3. MEASURE 3: 2004 CAPITAL INCREASE

- (146) Germany argued that also after the *Aéroports de Paris* judgment the State aid rules would not be applicable to the 2004 capital increase. According to Germany, the 1994 Aviation Guidelines were in force at that moment and under those Guidelines infrastructure measures at airports were not relevant to the application of State aid rules.
- (147) Germany argued that, in contrast to the Commission's description in the 2008 opening decision, the 2004 capital increase was agreed on 30 March 2005 and has been registered with the commercial registry on 19 May 2005. Furthermore, the basic agreement on this capital increase goes back to an agreement in the year 2002. Germany explained that this agreement foresaw the establishment of an airport system between Frankfurt-Main airport and Frankfurt Hahn airport under Council Regulation (EEC) No 2408/92 ⁽³²⁾. According to Germany, the assessment of the 2004 capital increase would have to be assessed against this background.
- (148) Germany pointed out that according to the MEOT submitted by PwC, supported by supplementary assessments after the 2008 opening decision, Fraport, *Land* Rhineland-Palatinate and *Land* Hesse have all acted like market economy investors concerning the 2004 capital increase. Concerning the argumentation for Fraport, Germany referred to its arguments made in relation to the 2001 capital increase (see recital 140 and following). In the first as well as in the supplementary MEOT PwC concluded, according to Germany, that the 2004 capital increase, as well as the conclusion of a new PLTA were to be seen as advantageous for Fraport at the time, qualitatively as well as quantitatively. This was according to Germany justified by the finding of PwC that Fraport's Return on invested capital (hereinafter: 'ROIC') when investing into FFHG was above an alternative return of an equivalent capital investment.
- (149) In respect to *Land* Rhineland-Palatinate, Germany pointed to PwC's conclusion that also the *Land* acted like a market economy investor since the ROIC for the Land was, similarly as for Fraport, above a comparable alternative investment.
- (150) In relation to the behaviour of *Land* Hesse, Germany argued that the restricted growth possibilities for Frankfurt Main airport deriving, inter alia, from the night flight curfew made further development of Frankfurt Hahn airport necessary in the eyes of *Land* Hesse. Otherwise Frankfurt Main airport would have faced severe economic consequences. Germany pointed out that this development was necessary in order to comprehensively exploit the existing growth opportunities in the framework of the 24 hours-flight permission for Frankfurt Hahn airport together with the envisaged introduction of the airport system Frankfurt Main airport — Frankfurt Hahn airport. Hence, the involvement of *Land* Hesse in the capital increase was unavoidable, according to Germany.

5.2.4. MEASURE 4: 2004 PLTA

- (151) Germany stated that the 2004 PLTA could only be seen in the light of the capital increase and the changes in the shareholder structure in 2004, especially since *Land* Rhineland-Palatinate and *Land* Hesse made the redistribution of FFHG shares subject to the conclusion of the 2004 PLTA between Fraport and FFHG until 2014.

⁽³²⁾ Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes (OJ L 240, 24.8.1992, p. 8).

- (152) Germany referred to its arguments made in relation to the 2004 capital increase and argued that the State aid rules were also not applicable to the 2004 PLTA (see recital 146 and the following).
- (153) Concerning the involvement of State resources, Germany referred to its explanations for the 2001 PLTA (see recital 134 and the following). Hence, in Germany's opinion the resources of Fraport were not State resources since Fraport was not subject to State control.
- (154) Germany also argued that for the decision of the 2004 PLTA to be approved, a majority of 75 % was needed, whereas the public shareholders only held approximately 70 % of the shares and were therefore in fact not able to control the decisions of Fraport. Moreover, the remaining 30 % of Fraport's shares were dispersed shareholdings. The vote was taken with 99,992 % positive votes, so also the market economy investors did vote for the 2004 PLTA.
- (155) As regards the existence of an economic advantage, Germany referred again to the explanations for the 2001 PLTA (see recital 137), according to which a distribution of profits and losses is an absolutely normal measure within a group of companies. Furthermore, according to PwC, any market economy investor would have taken the same decision of concluding the 2004 PLTA since at that moment a profit was to be expected from the year 2008/2009 onwards. Germany submitted further that on the basis of the doubts expressed by the Commission, PwC tested those measures again in the supplementary assessment according to qualitative calculations and came to the same conclusion.
- (156) Germany asserted further that the 2004 PLTA was a condition for the 2004 capital increase and, given the expectation of a positive development as from 2008/2009, it was in the interest of Fraport to conclude the 2004 PLTA for at least 5 years. Also, Germany explained that Fraport would have been allowed to take all profits of FFHG until at least 31 December 2024 while being able, in the opposite scenario, to cancel the agreement by 31 December 2010. Therefore, Germany submitted that Fraport would have been able to benefit 100 % from the agreement and to steer FFHG's day-to-day business, while holding only 65 % of its shares. Germany also took the view that the MEOT is supported by the fact that the private investors, making up 30 % of the shareholders of Fraport at that moment, also approved the decision.

5.2.5. MEASURE 5: COMPENSATION OF FFHG FOR SECURITY CHECKS

- (157) In this regard, Germany declared that no State resources were involved in the measure. Germany referred to the *Preussen-Elektra* ⁽³³⁾ judgment of the Court of Justice and stated that there can only be State aid where payments are being made by a public or private body designated or established by the State. Germany explained further that in the case of the fees for security checks, those were paid by the airlines to the *Land* Rhineland-Palatinate and only forwarded to FFHG by the *Land* as compensation for the security checks which FFHG conducted on behalf of the *Land*. Hence, according to Germany, in this sense, the fees never became part of the funds of the *Land*.
- (158) Germany explained that according to §5 *Luftsicherheitsgesetz* (Air Security Law), it is the State that checks passengers and their luggage in order to protect the security of air traffic against terroristic attacks. Germany asserted further that the authorities charge fees per passenger for this activity to the airlines. Germany stated that the level of the security charge depends on the individual circumstances of the airport and range from EUR 2 up to EUR 10 per passenger. At Frankfurt Hahn, the fee amounts to EUR 4,35 and is therefore appropriate in comparison to other airports.
- (159) This security task can also be transferred by the authorities to an airport operator, which is what happened in this case where the security checks are being performed by FFHG who in turn entrusted an external security company.

⁽³³⁾ Case C-379/98 *Preussen-Elektra* [2001] ECR I-02099, paragraph 58.

- (160) In addition, Germany stated that the security checks fall within the scope of the public policy remit and do not constitute an economic activity.
- (161) Germany shares the opinion of the Commission in this regard, that there should be no overcompensation for the services performed by FFHG. However, Germany emphasised that FFHG was not overcompensated since it has to bear all the costs for the security checks.

5.2.6. MEASURE 6: DIRECT GRANTS BY LAND RHINELAND-PALATINATE

- (162) Germany clarified that *Land* Rhineland-Palatinate has made the following payments to FFHG between 2001 and 2004. First, *Land* Rhineland-Palatinate supported FFHG in some of its infrastructure investments and granted EUR [...] to FFHG for this purpose in 2001. According to Germany, those grants were based on decisions taken already in the years 1999 and 2000. Germany argued that at the moment those decisions were taken, State aid rules did not apply to airports as undertakings within the meaning of Article 107(1) of the Treaty.
- (163) Second, Germany stated that the financing of personnel costs for security checks was partially taken over by *Land* Rhineland-Palatinate for the years 2001 (60 % of total costs), 2002 (50 %), 2003 (40 %) and 2004 (30 %).
- (164) Third, Germany admitted that *Land* Rhineland-Palatinate had co-financed two scientific studies which had been ordered by FFHG, but which were mainly in the general public interest according to Germany. Germany stated that *Land* Rhineland-Palatinate had subsidised the first study on the regional economic effects of Frankfurt Hahn airport at 90 % of total costs, and the second study on the development potentials of the freight carrier business at 70 % of the total costs. Germany argued that *Land* Rhineland-Palatinate had given those subsidies only because of its own interest in the studies and could just as well have ordered the studies itself. Germany did not see how any advantage was conferred on FFHG through this partial financing since the studies are in the public general interest, neither how this financing might distort competition. As far as those studies were of interest to FFHG, FFHG had also contributed to them financially.

5.3. POSSIBLE STATE AID GRANTED BY FFHG TO RYANAIR AND ALL OTHER AIRLINES TRANSPORTING PASSENGERS

5.3.1. MEASURE 7: 1999 RYANAIR AGREEMENT

- (165) Concerning the 1999 Ryanair agreement, Germany generally remarked that from the beginning Frankfurt Hahn airport built only very basic infrastructure so that this airport could be a cost-efficient and innovative partner for low-cost airlines. According to Germany, also at other European airports the so-called 'anchor clients' are the natural drivers of the initial development of the airport. For Frankfurt Hahn, the anchor client, i.e. the client through whom a foothold in the market could be obtained, was Ryanair.
- (166) Germany argued that when the first agreement with Ryanair was concluded, the concept of a low-cost carrier airport was still in its infancy. Therefore, through this agreement an incentive was given to Ryanair to start flying to the rarely frequented Frankfurt Hahn airport. Germany stated that committing such a big airline to Frankfurt Hahn airport led to the acquisition of more airline agreements for the airport ('follow-on principle'). Through the so-called 'domino-effect', this ultimately also led to an increase in the profits for the non-aviation sector.
- (167) Germany argued that, given these dynamics, airlines such as Ryanair had a great bargaining power, since many other small regional airports tried to conclude agreements with Ryanair at that time.
- (168) Furthermore, Germany stated that no State resources were granted through the 1999 Ryanair agreement. Moreover, Germany argued that the contractual relationship between the operator of the airport and the airline was conferring no advantage unto the airline. In Germany's view, the responsibility for the conclusion of this agreement must be attributed exclusively to the management board since the conclusion of the 1999 Ryanair agreement represented day-to-day business and the supervisory board had taken no decision in this matter. In

Germany's view, the Commission cannot consider the conclusion of the 1999 Ryanair agreement as imputable to Germany because the supervisory board did not do anything to prevent it. Such actions do not lie within the responsibilities and tasks of the supervisory board, according to Germany. Also, the criteria mentioned by the Court of Justice in *Stardust Marine* would be led *ad absurdum* if the fact that a supervisory body of a publicly held company did not act would be enough to conclude on the imputability of the measure to the State. Therefore, according to Germany the agreement was not imputable in any way to the State.

- (169) Moreover, Germany argued that the 1999 Ryanair agreement did not confer any advantage on Ryanair since any market economy investor would have also concluded such agreement. Germany especially emphasised that this agreement did not induce any losses, contrary to what the Commission argued in its 2008 opening decision, but produced an enormous amount of revenues which by far surpassed the costs incurred.
- (170) In this regard, Germany emphasised that Frankfurt Hahn airport used the 'single-till-approach', according to which the revenues of aviation and non-aviation flow into a single pool ('single till'). Therefore, according to Germany aeronautical and non-aeronautical revenues generated by the airlines and its passengers at the airport have to be taken into account. As Germany stated before, PwC concluded that a market economy investor with a long-term strategy would have signed the 1999 Ryanair agreement, in particular if one considered Frankfurt Hahn airport's situation in 1999. According to Germany, at that time Frankfurt Hahn airport was facing high fixed costs for maintenance of the air and ground infrastructure, whereas the capacity utilisation of the airport was low. Thus, Germany argued, the possibility to generate additional passenger volume was an opportunity to limit losses and acquire clients with growth potential.
- (171) Germany is of the opinion that costs which were decided on before the conclusion of the agreement, such as the costs for the general airport infrastructure and general airport administration (in other words costs that arose irrespective of the 1999 Ryanair agreement), should not be included in the profitability analysis of the 1999 Ryanair agreement, and PwC supports Germany in this opinion. Germany argued especially that it would only be possible for an airport with an existing network of clients to have his clients partially bear the costs of infrastructure measures and that Frankfurt Hahn airport was not in such a position.
- (172) Furthermore, Germany argued that if one were to consider the actual costs for building the new terminal, at most the envisaged passenger volume to be generated by Ryanair could be taken into account. Germany took the view that a depreciation period of 25 years would then be appropriate, which would mean a depreciation of EUR [...] per year. Even in case of a depreciation period of 15 years, as suggested by the Commission, Germany argued that this would mean a depreciation of EUR [...] per year, so that the overall break-even analysis would still be positive. Therefore, taking into account the time for initiation of Frankfurt Hahn airport, Germany took the view that this would have sufficed for a market economy investor to conclude the agreement.

5.3.2. MEASURE 8: 2001 SCHEDULE OF AIRPORT CHARGES

- (173) The 2001 schedule of airport charges could not be seen as State aid according to Germany. Germany argued that there was no granting of State resources and refers in this regard to its explanations concerning the 1999 Ryanair agreement (see Section 5.3.1 and especially recital 167). Germany stated that the 2001 schedule of airport charges had generated revenues for FFHG and it was not necessary or possible that the schedule of airport charges would lead to coverage of all costs incurred by FFHG. For such a result, according to Germany, the revenues from the non-aviation sector needed be taken into account as well under the single-till-approach (see recital 169).
- (174) Germany furthermore disputed that the measure was imputable to the State because of the approval of the airport charges by the Rhineland-Palatinate Transport department. This approval did not mean any economic or political dependence, but was simply a regulatory formality requested under German law which every airport, whether publicly owned or not, has to fulfil according to the law. The reason for this law is to protect the airlines from any possible abuse of the monopolistic power of the airport to set prices for its use.

- (175) Moreover, Germany argued that no advantage was granted to Frankfurt Hahn airport through the 2001 schedule of airport charges. It agreed with the Commission that the results of the private market investor test for the 2002 Ryanair agreement, which is based on the 2001 schedule of airport charges and introduces an additional marketing support, can serve as a benchmark. On this basis, since the MEOT is positive for the 2002 Ryanair agreement, Germany argued that no other result can apply to the 2001 schedule of airport charges. Concerning the doubts raised by the Commission in relation to the MEOT, Germany referred to its argumentation in relation to MEOT for the 2002 Ryanair agreement (see recital 178 and following).
- (176) Furthermore, Germany expressly disagreed with the Commission as to the assessment concerning the selectivity of the 2001 schedule of airport charges. Germany argued that the 2001 schedule of airport charges was of a general nature and applied to all airlines using the airport, and that hence it could not be selective or specific. According to Germany, the 2001 schedule of airport charges included no differentiations which would give an advantage to one airline over the other and they did not contain any kind of rebate system either. Therefore, Germany took the view that no airline was granted a selective advantage.
- (177) Finally, Germany argued in relation to the 2001 schedule of airport charges that this schedule was in accordance with market conform behaviour and as such would not be able to distort competition between airports or the competition on the internal market.

5.3.3. MEASURE 9: 2002 RYANAIR AGREEMENT

- (178) Germany considered, in contrast to the 2008 opening decision, that the 2002 Ryanair agreement did not generate any losses, but instead provided a source of income for FFHG. Concerning the question of imputability of the 2002 Ryanair agreement and the use of State resources, Germany referred to its explanations concerning the 1999 Ryanair agreement (see recital 167 and following). Furthermore, Germany added that in 2002, at the time of conclusion of the agreement, FFHG's shares were already being held mainly by Fraport, whose resources are not State resources and whose actions are not imputable to the State, as Germany already pointed out in relation to the 2001 PLTA (see recital 134 and following).
- (179) According to Germany, the supervisory board of FFHG, who approved the conclusion of the 2002 Ryanair agreement, was not dominated by the State. In this regard, Germany contended that the presentation of FFHG's supervisory board members in recital 18 of the 2008 opening decision was erroneous. Germany stated that according to FFHG's articles of association, Fraport had six representatives and *Land* Rhineland-Palatinate had eight, out of which three were representatives of local authorities. According to Germany, the members had however different numbers of votes and the majority of votes was always with the private company Fraport. This was due to the fact that Fraport's representatives had 12 votes each, while the representatives of the *Land* only had 5 votes each and those of the local authorities even had only one vote. Therefore, according to Germany, Fraport had 72 votes while the representatives of the *Land* and local authorities only had 28 votes. Since the supervisory board decides by simple majority, Germany took the view that it would not have been possible to conclude the 2002 Ryanair agreement without the votes of Fraport and therefore the conclusion of the agreement is not imputable to the State.
- (180) Furthermore, Germany rejected the doubts of the Commission concerning the conferral of an advantage and the MEOT submitted by PwC on this matter. Germany argued that the figure of [...] passengers per flight was not overestimated since already in 2002 [...] % of Ryanair flights were carried out by a Boeing 737-800 and the average load factor of those flights was [...] %, meaning that the number of passengers per plane was in fact on average [...] per Ryanair flight. Therefore, Germany took the view that the estimation of the number of passengers of [...] was reasonable and not too high, especially since FFHG had taken into account that the change by Ryanair from Boeing 737-200 to Boeing 737-800 would come very quickly.
- (181) As regards the Commission's doubts relating to the cost for general airport infrastructure and general airport administration, Germany referred to its argumentation in relation to the 1999 Ryanair agreement (see recital 171 and following). It also referred to its statements for the 2001 schedule of airport charges (see recital 176) as regards the selectivity of the measure.

5.3.4. MEASURE 10: 2005 RYANAIR AGREEMENT

- (182) In relation to the question of State resources and imputability, Germany referred to its statements for the 1999 and 2002 Ryanair agreements (see recitals 167 and following, and recitals 178 and following). Furthermore, Germany stated that, at the moment of conclusion of the 2005 Ryanair agreement, the supervisory board of FFHG was constituted in a way that the public authorities were not able to exercise a determining influence on the decision. At that moment Fraport held 156 votes while *Land* Rhineland-Palatinate and *Land* Hesse held 42 votes each. Therefore, Germany argued that the State could not have a determining influence as it only possessed 84 out of 240 votes.
- (183) Furthermore, Germany took the view that no advantage was conferred on Ryanair through this agreement. Germany stated that in contrast to the Commission's suggestion in the 2008 opening decision, PwC had been provided with all relevant figures since it could otherwise not have conducted this comprehensive, neutral and independent MEOT. Germany moreover rejected the doubts of the Commission that the investments induced by Ryanair were not allocated appropriately. Germany stated that PwC had made a second evaluation in its supplementary assessment where it explained that a major part of the costs related to investments of a general nature which the airport made independently of the services provided to Ryanair. As far as costs are induced by the handling of Ryanair passengers, these are according to Germany allocated to Ryanair.
- (184) Germany also rejected the doubts of the Commission concerning the effectiveness of the penalty system which was introduced in the 2005 Ryanair agreement. Germany stated that this penalty system reflects market conform behaviour. Germany argued that additional sanctions to the ones agreed upon would have been unnecessary and inappropriate since Ryanair had no exclusive rights to use the airport and was also assuming a risk.
- (185) Moreover, Germany stated that the agreement was not a selective measure since the agreed airport charges were based on the general 2006 schedule of airport charges. Germany also argued that any losses incurred by FFHG were not generated by the 2005 Ryanair agreement but by the necessary investments for Frankfurt Hahn airport, whereas the investments induced by Ryanair had been covered by the revenue generated by the 2005 Ryanair agreement.

5.3.5. MEASURE 11: 2006 SCHEDULE OF AIRPORT CHARGES

- (186) In relation to the 2006 schedule of airport charges, Germany argued generally that these airport charges had been developed exclusively based on economic considerations taking into account the business model of Frankfurt Hahn airport as a low cost carrier airport, i.e. with the expectation that the costs of operation would be covered in the short term and in the long term a sustainable profit would be generated.
- (187) Concerning the questions of State resources and imputability, Germany referred to its argumentation made in relation to the 1999, 2002 and 2005 Ryanair agreements (see recitals 167 and following, 178 and following and 182 and following) and in relation to the 2001 schedule of airport charges (see recital 173 and following).
- (188) Germany argued that no advantage was conferred upon Ryanair through the 2006 schedule of airport charges. Firstly, Germany justified the different passenger charges which were created in order to provide an incentive to low cost carriers while covering the operational costs of the airport. A reduction of charges according to the volume of passengers, Germany argued, is a common approach at national and international airports, as was already accepted by the Court of Justice. When such volume based reductions are granted, these must be justified on the basis of objective and non-discriminatory criteria and this was the case at Frankfurt Hahn airport, according to Germany. Since the threshold for acquiring rebates was very low, namely 100 000 passengers per year, these rebates were also supporting smaller airlines.
- (189) Secondly, Germany argued that the economic justification of the airport charges relied on the single-till-approach, referring to its statements concerning the 1999 Ryanair agreement (see recital 169). Germany also justified the differentiation according to turn-around-times (hereinafter: TRT) of under or over 30 minutes by explaining that TRT of more than 30 minutes are in fact more cost-intensive. Germany also stated that even though the airport charges were not covering 100 % of the costs, a MEO would still have chosen this schedule of charges since cost-coverage of an infrastructure such as an airport could not be achieved in such a short time. However, FFHG was

expecting that through the 2006 schedule of airport charges more passengers would be generated and that by 2008 full cost coverage would be achieved. According to the assessment made by PwC for this schedule of airport charges, this was economically realistic at the moment of introduction of the airport charges, as was also confirmed by PwC's supplementary assessment.

- (190) In relation to the marketing support granted under the 2006 schedule of airport charges, Germany argued that this is in fact not an integral part of the schedule. Germany also argued that any market economy investor would have made the same marketing support available for airlines since there are high economic risks attached to the opening of a new route. This support is exclusively given for newly offered routes, meaning routes which have not been served at all or within the last 24 months. The amount of the support is based on the number of departing passengers served within 1 year. On the basis of criteria such as the temporary routes offered at Frankfurt Hahn airport, the weekly connections and the duration of continuous flight operation, it is ensured that support is in fact leading to an expansion of the network of flights offered by the airlines.
- (191) Germany argued that the marketing support cannot be seen as a one-sided performance by the airport. According to Germany, the promotion of new routes led to a higher profit for the airport since higher passenger numbers would create higher non-aeronautical revenues. Furthermore, Germany explained that the fixing of the amounts of support was based on reasonable considerations.
- (192) Germany also rejected the doubts of the Commission that the risk of marketing was higher for airlines which are not yet active at Frankfurt Hahn airport. For airlines with high passenger numbers servicing an attractive network, Germany argued, requires higher marketing costs which in turn justifies a higher marketing support from the airport, also given that higher passenger numbers increase the profits for the airport. In any case, the amount of support would be no more than one third of the real marketing costs, thereby ruling out any discrimination between airlines already serving Frankfurt Hahn airport and other airlines. Moreover, Germany reasoned that bigger airlines will generally have a larger marketing budget, so the support given will actually be lower in relation to the whole budget than in case of a smaller airline.
- (193) Finally, Germany submitted that the MEOT carried out by PwC established that this marketing support was given in a way that was conforming to the market.
- (194) As regards selectivity of the measure and distortion of competition on the internal market, Germany referred to its statements concerning the 2001 schedule of airport charges (see recitals 176 and following).
- (195) Germany thus argued that the 2006 schedule of airport charges did not involve State aid. Should the Commission establish that the airport charges did constitute State aid, Germany argued in the alternative that the aid was compatible with the internal market.

5.4. COMPATIBILITY OF THE MEASURES WITH THE INTERNAL MARKET

5.4.1. COMPATIBILITY OF INVESTMENT AID TO FINANCE AIRPORT INFRASTRUCTURE

- (196) According to Germany, if it would be considered that measures 1 to 6 involved State aid within the meaning of Article 107(1) of the Treaty, insofar as they were aimed at financing airport infrastructure at Frankfurt Hahn airport this aid could be deemed compatible on the basis of Article 107(3) of the Treaty and the 2005 Aviation Guidelines.

5.4.1.1. *Contribution to a well-defined objective of common interest*

- (197) Concerning the well-defined objective of common interest, Germany submitted that the financing of airport infrastructure at Frankfurt Hahn airport was always aimed at the objective of improving the regional economic structure of the economically underdeveloped and scarcely populated Hunsrück region.

- (198) In this regard, Germany stated that, firstly, the objective of supporting FFHG was to help overcome the weak structural economy of the Hunsrück region. Germany asserted that Frankfurt Hahn airport is surrounded by a number of areas considered as regions in need of support within the framework of the *Gemeinschaftsaufgabe 'Verbesserung der regionalen Wirtschaftsstruktur'* ⁽³⁴⁾, a task shared by the federal and local governments. In this regard, Germany submitted that the four regions around the airport, namely Landkreis Bernkastel-Wittlich, Birkenfeld, Cochem-Zell and Rhein-Hunsrück-Kreis, are on average only half as densely populated as the rest of Land Rhineland-Palatinate. Germany pointed out that for those districts whose economy is shaped by small and medium sized enterprises, employment is the main anchor against a further decrease of the regional economy and Frankfurt Hahn airport plays an important role as an employer and client.
- (199) Secondly, Germany argued that Frankfurt Hahn airport plays an important role in the strategic development of incoming (~ 33 % of passengers corresponding to approximately 1 million passengers in 2005) and outgoing tourism (~ 67 % of passengers) for the Land Rhineland-Palatinate. Germany stated that 88 % of the incoming passengers are staying several nights in the region. Germany submitted that the Frankfurt Hahn airport's incoming tourists generated approximately 5,7 million overnight stays in 2005 ⁽³⁵⁾. According to Germany the number of overnight stays further increased, with Land Rhineland-Palatinate welcoming 8,2 million guests in 2011 which generated 21,5 million overnight stays. Germany pointed out that the number of guests from Eastern and Southern European countries, in particular, has increased and that a large number of flights are operated from those countries to Frankfurt-Hahn. This has resulted in about 198 000 jobs being generated by tourism in Rhineland-Palatinate, according to Germany. The catalysed income and employment effects stem especially from incoming tourism, in which Frankfurt Hahn airport plays a central role as the gateway for tourists into the Hunsrück region, but also into Rhineland-Palatinate more generally, as Germany explained. Germany stated that between 1990 and 2001 the number of tourists has increased by 70 % for the Hunsrück region and by 35 % for Rhineland-Palatinate. According to Germany, during the same period, the number of tourists coming from abroad has increased by 163 % in the Hunsrück region. Since 88 % of incoming tourists from Frankfurt Hahn stay at least one night and more than 80 % of those even stay two to 10 days, they generate a total benefit of about EUR 133,7 million per year. Furthermore, Germany argued that outgoing tourism (67 %) also generates income for Frankfurt Hahn airport through non-aeronautical revenues.
- (200) Thirdly, Germany stated that, taking into account all parts of the airport activities, Frankfurt Hahn airport created 3 063 jobs in the region Hunsrück in 2012 out of which 74 % were full-time positions. According to Germany, 90 % of those employees also live in this region. Germany argued furthermore that through Frankfurt Hahn airport, a movement of young, qualified employees towards other regions is being prevented as well as an economic and social decline of the regional communities and their infrastructure. Furthermore, Germany pointed out that the presence of Frankfurt Hahn airport does not only produce the mentioned direct effects for the labour market, but also substantial indirect effects through an increasing number of economic and touristic activities. In this respect, Germany referred to the positive secondary effects for the region, namely less unemployment and more tax payers, helps to ensure that the municipalities in the region have the financial means to support the local economy. In total, this generated around 11 000 jobs through incoming tourism for all of Rhineland-Palatinate.
- (201) Germany argued that the financing of infrastructure at Frankfurt Hahn airport has also helped reaching the well-defined objective of common interest of combatting air traffic congestion at major EU hubs. In this regard, Germany pointed to the fact that in the past the capacity limits of Frankfurt Main airport have constantly been exceeded. Germany submitted that Frankfurt Hahn airport, especially in the light of its 24 hours operating licence, was therefore serving the goal to provide additional capacities in order to relieve the congestion at Frankfurt Main airport.
- (202) Furthermore, Germany submitted that supporting Frankfurt Hahn airport also serves the objective of common interest to increase the mobility of Union citizens. In this regard, Germany pointed out that Frankfurt Hahn airport is the only German airport offering direct flights to Kaunas (Latvia), Kerry (Ireland), Kos (Greece), Montpellier (France), Nador (Morocco), Plovdiv (Bulgaria), Pula (Croatia), Rhodes (Greece), Santiago de Compostela (Spain) and Volos (Greece). Also, according to Germany, Frankfurt Hahn airport contributes to the job mobility of young people, who can reach the region Hunsrück and Rhineland-Palatinate at low prices.

⁽³⁴⁾ Gemeinschaftsaufgabe 'Verbesserung der regionalen Wirtschaftsstruktur' (GRW) Gesetz' of 6 October 1969 (BGBl. I S. 1861), which was last amended by Article 8 of the Act of 7 September 2007 (BGBl. I, p. 2,246).

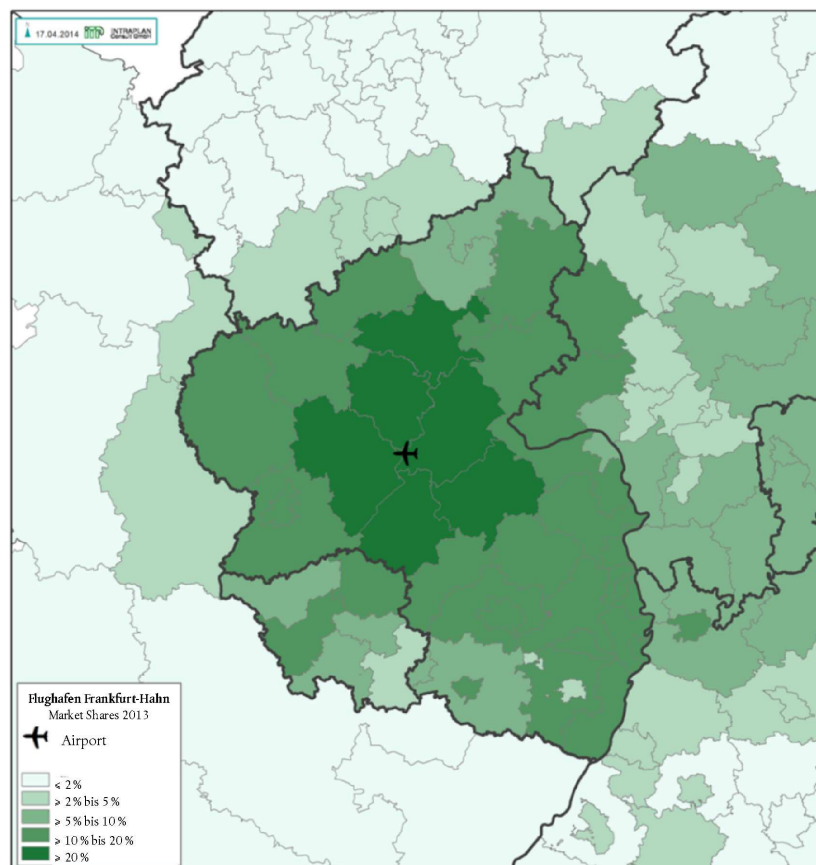
⁽³⁵⁾ Flughafen Frankfurt Hahn — Regionalökonomische Effekte, ZfL Studie, 03/2007.

Similarly, Germany pointed out that the high-quality universities and institutions of higher education in Koblenz, Mainz, Kaiserslautern, Trier, Wiesbaden, Mannheim, Bonn, etc., where for the most part no tuition fees are demanded, are now easily accessible to students from all over Europe.

- (203) Germany argued, moreover, that it is also of common interest that the Hunsrück and the surrounding regions of Rhineland-Palatinate are connected to other peripheral regions, for example Limerick, which has already manifested itself through city partnerships. Germany stated that, as the fourth biggest national economy in the world, it is focussing not only on connecting to the major European hubs, but also on connecting the regions with each other. According to Germany, becoming more independent from the major hubs such as Heathrow, Charles de Gaulle, Schiphol or Frankfurt/Main is important for Europe since it will mean not only more direct connections, but also more security especially for the freight business as regional airports are less prone to cancellations due to weather, strikes, terrorism or other cancellation risks.
- (204) Lastly, Germany generally emphasised that the proximity of Zweibrücken airport does not lead to a duplication of airports for the same catchment area, due to the distance of 127 km between Frankfurt Hahn airport and Zweibrücken airport. According to Germany, this distance translates into a travelling time of 1 hour and 27 minutes by car or around 4 hours by train. Therefore, Germany argued that no reasonable worker, freight carrier or tourist whose point of departure lies in the Hunsrück region would go to Zweibrücken airport instead of Frankfurt Hahn airport in order to reach his final destination. Furthermore, Germany submitted that, looking at passenger and air freight traffic between 2005 and 2012, no relationship of substitution between the airports can be deduced. According to Germany, the largest share of passengers of Frankfurt Hahn airport comes from the Hunsrück-Mosel-Nahe region (see Figure 5).

Figure 2

Market shares in passenger air transport of Frankfurt Hahn airport in 2013 ⁽³⁶⁾



⁽³⁶⁾ Submission of Germany, September 2014.

5.4.1.2. *The infrastructure is necessary and proportionate to the objective*

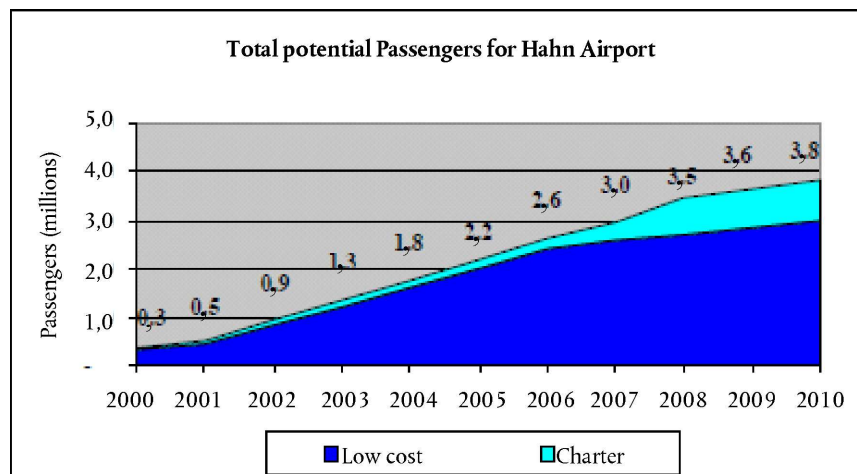
- (205) Germany emphasised that the financed investments were necessary and proportionate to the objective of common interest (see recital 197 and the following). According to Germany, the investments were undertaken according to the needs and the constructed infrastructure was necessary for the airport in order to guarantee the connectivity and serve the development of the region and to decongest Frankfurt Main airport. Germany pointed out that the infrastructure was not disproportionate or too large for the needs of users of the airport. Hence, Germany considered that this compatibility condition was met.

5.4.1.3. *The infrastructure has satisfactory medium-term prospects for use*

- (206) Germany submitted that before the decision to extend the airport infrastructure was taken, Fraport commissioned traffic forecast studies in order to identify the traffic potential for Frankfurt Hahn airport. Germany provided these studies conducted by aviation experts on behalf of Fraport. Figures 3, 4 and 5 summarise the results of one of these studies regarding the expected passenger and freight traffic development at Frankfurt Hahn airport between 2000 and 2011.

Figure 3

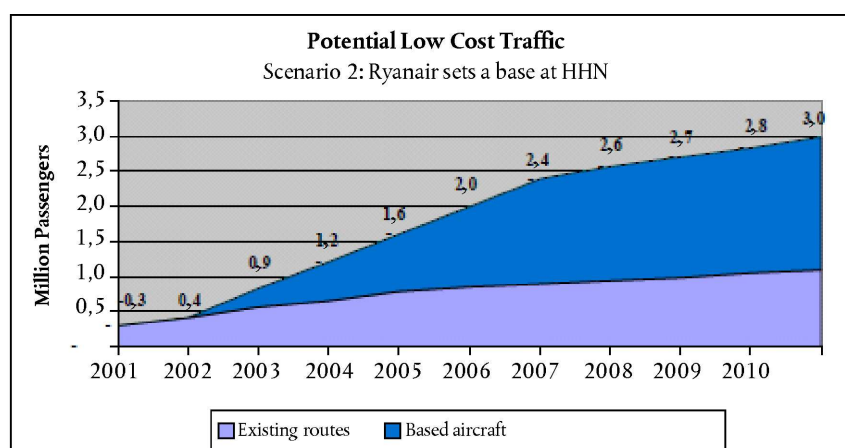
Total potential passengers at Frankfurt Hahn airport in 2000-2010



Source: SH&E

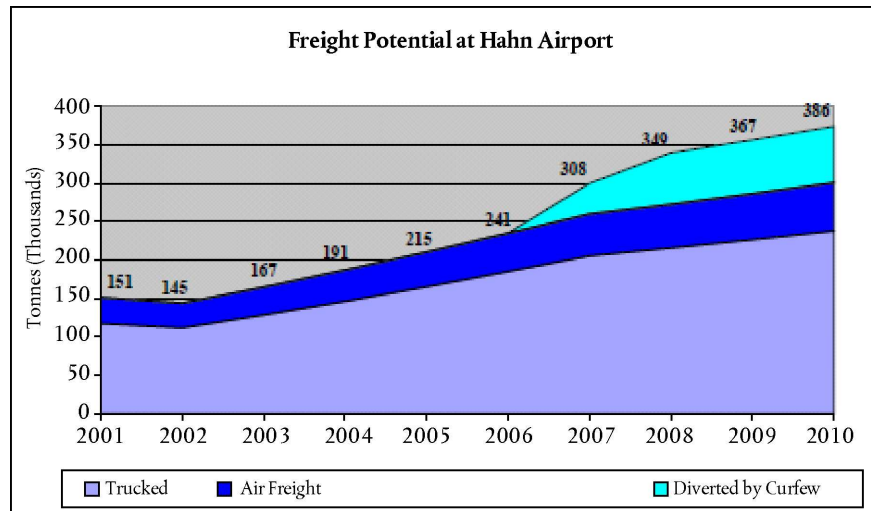
Figure 4

Potential low-cost passenger traffic (under the assumption that Ryanair sets a base) at Frankfurt Hahn airport in 2001-2011



Source: SH&E

Figure 5

Total potential freight traffic at Frankfurt Hahn airport in 2001-2010

Source: SH&E

5.4.1.4. Access to the infrastructure in an equal and non-discriminatory manner

- (207) According to the information provided by Germany, all potential users of the infrastructure have access to the airport on equal and non-discriminatory terms. Germany submitted that the airport charges paid for the use of the infrastructure were based on commercially justified differentiation and that the schedule of airport charges is available to all potential users in a transparent and non-discriminatory manner.

5.4.1.5. Trade is not affected contrary to common interest

- (208) Firstly, Germany stated that there are no substitution effects between Frankfurt Hahn airport and other airports in the catchment area, such as Zweibrücken airport and Frankfurt Main airport. According to Germany, undue negative effects on competition with these airports because of the aid granted to FFHG cannot be shown, be it in passenger or in freight traffic. Indeed, Germany argued that in recent years, low cost carriers increasingly had to offer flights to the major hubs since traditional airlines have lowered their prices and started to enter the market of low cost flights. In this regard, Germany stated that regional airports, such as Frankfurt Hahn, are now under a bigger pressure to compete with the hub airports for leisure passengers. Therefore, Germany concluded that the financial support provided has not led to any undue negative effects on competition, but has on the contrary proven appropriate in helping the adaption process towards a stable business model in the future.
- (209) Secondly, Germany argued that the fact that Fraport, before getting involved in Frankfurt Hahn airport, was already the operator of Frankfurt Main airport, shows that no substitution movements from Frankfurt Main towards Frankfurt Hahn airport were to be expected. Instead, Fraport was investing into the possibility to de-congest Frankfurt Main airport and to use the additional, complimentary function of Frankfurt Hahn airport, as a future capacity overload was foreseeable for Frankfurt Main hub. According to Germany, the ban on night flights at Frankfurt Main airport was one of the main factors in this reasoning as Frankfurt Hahn airport had a 24 hours operating license.
- (210) In conclusion, Germany argued that the effects of any aid in favour of FFHG have been limited to positive regional effects for the Hunsrück region, whilst creating no undue negative effects in the relationship to other airports given that Frankfurt Hahn airport is simply used to de-congest Frankfurt Main. Furthermore, Germany stated that, apart from Luxembourg airport, which is already 1 hour and 30 travelling time (111 km) from

Frankfurt Hahn airport, there are no other foreign competing airports in the same catchment area. Even in relation to Luxembourg, no negative distortive effect on competition due to the aid granted can be observed according to Germany.

5.4.1.6. *Incentive effect, necessity and proportionality*

- (211) Germany stated that in the absence of investment aid, the level of economic activity of the airport would be significantly reduced. Germany submitted that the aid was necessary as it compensated only the costs of financing and a lower amount would lead to lower levels of investment.

5.4.2. COMPATIBILITY OF OPERATING AID TO FINANCE THE AIRPORT'S OPERATION

- (212) The 2014 Aviation Guidelines provide conditions under which operating and investment aids to airports may be declared compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty. On 17 April 2014, Germany provided its views on the compatibility of the measures under the 2014 Aviation Guidelines. Germany argued that, even if the measures under investigation would constitute operating aid to FFHG, they would be compatible with the internal market according to Article 107(3)(c) of the Treaty and Section 5.1.2 of the 2014 Aviation Guidelines.

5.4.2.1. *Contribution to a well-defined objective of common interest*

- (213) Concerning the well-defined objective of common interest, Germany submitted that the coverage of operating costs of FFHG was always aimed at the objective of improving the regional economic structure of the economically underdeveloped and scarcely populated Hunsrück region. In this regard the Germany presented the same reasoning as for the compatibility assessed of investment aid to finance the airport infrastructure (see Section 5.4.1.1).

5.4.2.2. *Need for State intervention*

- (214) As regards the need for State intervention, Germany explained why Frankfurt Hahn is making operational losses which need to be covered. In its view, it is a rather ambitious objective for an airport such as Frankfurt Hahn airport with 1-3 million passengers to become profitable and be able to cover its operating costs. According to Germany, it was not possible to realise this ambitious objective in the start-up years since the airport was burdened by very high infrastructure investments which it financed itself on the capital market and for which it had to pay high interest. In addition, Germany stated that since the beginning of the world economic and financial crisis, a stagnation of passenger and especially of freight traffic could be registered.
- (215) Germany submitted that in light of these circumstances, there was a need for State intervention to cover the operating losses since FFHG would otherwise have gone insolvent. This would also have resulted, according to Germany, in the withdrawal of the 24 hours operating licence, meaning that during the insolvency FFHG would have had to stop operating all flights, which in turn would have resulted in the loss of clients such as airlines and freight carriers. Germany pointed out that it would then also have become very difficult to find a new operator for the airport.

5.4.2.3. *Appropriateness of the aid measures as policy instruments*

- (216) Germany submitted that covering the operating costs was an appropriate measure to achieve the intended objective. Germany argued in this respect that, if Frankfurt Hahn airport would have had to stop operating and would have disappeared from the relevant markets, it would no longer have been possible to achieve the objectives of common interest pursued by the conversion of a former US air base into a full functioning civil aviation airport and developing the Hunsrück region. In this regard, Germany emphasised that in contrast to a market economy investor, a public investor will have to take into account these objectives when considering the alternative of a closure of the airport.

5.4.2.4. *Existence of an incentive effect*

- (217) Germany argued that in order to maintain Frankfurt Hahn airport in operation, it was a necessary *conditio sine qua non* to cover its operating costs as FFHG would otherwise have gone insolvent. A successful operation of the airport was in turn the basis for realising the objectives of common interest as stated in recitals 213 and following. Furthermore, Germany argued that without operating aid, the financial consolidation of the airport would have been unthinkable, given that the airport would have accrued more and more debt instead of making it out of its debts as foreseen in the current austerity programme.

5.4.2.5. *Proportionality of the aid amount (aid limited to the minimum)*

- (218) Germany argued that any aid element contained in the loans was limited to the operating losses of and represented the absolute minimum necessary in order to maintain Frankfurt Hahn airport in operation and prevent it from becoming insolvent.

5.4.2.6. *Avoidance of undue negative effects on competition and trade between Member States*

- (219) Firstly, Germany stated that there are no substitution effects between Frankfurt Hahn airport and other airports in the catchment area, such as Zweibrücken airport and Frankfurt Main airport. Undue negative effects on competition with these airports because of the operating aid granted to FFHG cannot be shown according to Germany, be it in passenger or in freight traffic. Germany submitted that, on the contrary, Frankfurt Hahn has experienced significant substitution effects of passengers choosing the hubs, such as Köln/Bonn or Frankfurt Main, for flying with low cost carriers rather than from Frankfurt Hahn airport. Indeed, Germany argued that in recent years low cost carriers increasingly had to provide flights to the major hubs since traditional airlines have lowered their prices and started to enter the market of low cost flights. In this regard, Germany stated that regional airports, such as Frankfurt Hahn, are now under a bigger pressure to compete with the hub airports for leisure passengers. Therefore, Germany concluded that the coverage of operating costs has not led to any undue negative effects on competition, but has on the contrary proven appropriate in supporting the adaption process towards a stable business model in the future.
- (220) Secondly, Germany argued that the fact that Fraport, before getting involved in Frankfurt Hahn airport, was already the operator of Frankfurt Main airport, shows that no substitution movements from Frankfurt Main towards Frankfurt Hahn airport were to be expected. Instead, Fraport was investing into the possibility to de-congest Frankfurt Main airport and to use the additional, complimentary function of Frankfurt Hahn airport, given that a future capacity overload was foreseeable for the Frankfurt Main hub. According to Germany, the ban on night flights at Frankfurt Main airport was one of the main factors in this reasoning as Frankfurt Hahn airport had a 24 hours operating license.
- (221) In conclusion, Germany argued that the effects of any in favour of FFHG were limited to the positive regional effects for the Hunsrück region, while creating no undue negative effects in the relationship to other airports as Frankfurt Hahn airport is used to de-congest Frankfurt Main. Furthermore, Germany stated that apart from Luxembourg airport, which is already 1 hour and 30 travelling time (111 km) from Frankfurt Hahn airport, there are no other foreign competing airports in the same catchment area. Even in relation to Luxembourg, no negative distortive effect on competition due to the aid granted can be observed according to Germany.

6. COMMENTS FROM INTERESTED PARTIES

6.1. RYANAIR

- (222) Ryanair objects against the decision of the Commission to initiate the formal investigation procedure as regards the 1999, 2002 and 2005 Ryanair agreements with Frankfurt Hahn airport. Ryanair stated that these agreements complied with the market economy investor principle, and hence did not involve State aid.

- (223) Ryanair essentially argues that no advantage has been conferred to it since the agreements reflect normal market conditions. In this respect, Ryanair claimed that the contractual conditions must not be compared to those at other German airports, but those which Ryanair was agreeing with other airports hosting low-cost carriers, such as Blackpool airport and Charleroi airport.
- (224) Concerning the issue of marketing support, Ryanair argued that the charge for new destinations rewards flight frequencies and that the discounts granted by Frankfurt Hahn airport were in line with industry practice as many privately or publicly held airports applied the same or greater level of discounts for new destinations.
- (225) Concerning the application of airport charges, Ryanair argued that normal market charges, i.e. charges which were not abnormally low, satisfy the market economy investor principle. According to Ryanair, the prospect of an immediate profitability was not needed in order to fulfil this principle. The prospect of achieving profitability in the medium- to long-term would be sufficient in Ryanair's opinion. Furthermore, Ryanair contests the Commission's argument that Frankfurt Hahn airport had taken into account only the specific costs of the Ryanair contract as regards the coverage of its costs from the charges paid to Ryanair, and not the costs of the common airport infrastructure and general administration. As concerns the coverage of costs, Ryanair stated that there was never a plan to reserve the use of Frankfurt Hahn airport exclusively to Ryanair. In this regard, Ryanair pointed to the fact that Frankfurt Hahn airport was also used to a significant extent as a freight airport. Furthermore, Ryanair was pointing out that it should pay a lower level of charges compared to other airlines, given that its handling requirements and operations minimise the costs for the airport.
- (226) Ryanair furthermore argued that the conduct of Frankfurt Hahn airport was guided by foreseeable prospects of profitability. According to Ryanair, Frankfurt Hahn airport had performed a financial and strategic analysis prior to concluding the agreements, consistent with what is expected of a market economy investor. Ryanair stated that its commitment to deliver a high passenger volume was since 2005 also secured by a contractual penalty, and that this contract was allocating the bulk of the risk to Ryanair, thus providing for an exceptionally generous deal for Frankfurt Hahn airport. Furthermore, the agreements have allowed Frankfurt Hahn airport to improve its financial situation. At the conclusion of the contract, Frankfurt Hahn Airport was aware that similar agreements of Ryanair with airports throughout Europe had proven to be profitable.
- (227) Lastly, Ryanair points out that its agreements with Frankfurt Hahn did not contain any exclusivity clause, so other airlines could and do avail of the same terms and conditions as Ryanair, provided they were ready to offer the same commitment to the airport as Ryanair.
- (228) Furthermore, Ryanair submitted a series of notes prepared by Oxera, and an analysis prepared by Professor Damien P. McLoughlin.

Oxera Note 1 — Identifying the market benchmark in comparator analysis for MEOTs. Ryanair State aid cases, prepared for Ryanair by Oxera, 9 April 2013

- (229) Oxera considers that the Commission's approach of only accepting comparator airports in the same catchment area as the airport under investigation is flawed.
- (230) Oxera also argues that market benchmark prices obtained from comparator airports are not tainted by State aid given to surrounding airports. Therefore, it is possible to robustly estimate a market benchmark for the MEOTs.
- (231) This is because:
- (a) comparator analyses are widely used for MEOTs outside of the field of State aid;
 - (b) companies affect each other's pricing decisions only to the extent that their products are substitutes or complements;

- (c) airports in the same catchment area do not necessarily compete with each other, and the comparator airports used in the submitted reports face only limited competition from State-owned airports within their respective catchment areas (less than 1/3 of commercial airports within the catchment areas of the comparator airports are fully State owned, and none of them were subject to State aid investigations (as of April 2013));
- (d) even where comparator airports face competition from State-owned airports within the same catchment area, there may be reasons to believe their behaviour is in line with the MEO principle (for example, where there is a large private ownership stake or where the airport is privately managed);
- (e) MEO airports will not set prices below incremental cost.

Oxera Note 2 — Principles underlying profitability analysis for MEOTs. Ryanair State aid cases, prepared for Ryanair by Oxera, 9 April 2013

- (232) Oxera argues that the profitability analysis undertaken by Oxera in its reports submitted to the Commission follows the principles that would be adopted by a rational private sector investor and reflects the approach apparent from Commission precedents.
- (233) The principles underlying the profitability analysis are:
 - (a) the assessment is undertaken on an incremental basis;
 - (b) an *ex ante* business plan is not necessarily required;
 - (c) for an uncongested airport, the single till approach is the appropriate pricing methodology;
 - (d) only those revenues associated with the economic activity of the operating airport should be considered;
 - (e) the entire duration of the agreement, including any extensions, should be considered;
 - (f) future financial flows should be discounted in order to assess profitability of the agreements;
 - (g) incremental profitability of Ryanair agreements to the airports should be assessed on the basis of estimates of the internal rate of return or net present value (NPV) measures.

Analysis of Professor Damien P. McLoughlin — Brand building: why and how small brands should invest in marketing, prepared for Ryanair, 10 April 2013

- (234) The paper aims to set out the commercial logic underlying regional airports' decisions to buy advertising on Ryanair.com from AMS.
- (235) The paper argues that there are a large number of very strong, well known, and habitually used airports. Weaker competitors must overcome static buying behaviour of consumers to expand their business. Smaller regional airports need to find a way to consistently communicate their brand message to as wide an audience as possible. Traditional forms of marketing communication require expenditure beyond their resources.

Oxera Notes 3 and 4 — How should AMS Agreements be treated within the profitability analysis as part of the market operator test?, 17 and 31 January 2014

- (236) Ryanair submitted further reports by its consultant Oxera. In these reports, Oxera discusses the principles which, according to the airline, should be taken into account as part of the MEOT in the profitability analysis of, on the

one hand, airport services agreements between Ryanair and airports and, on the other hand, the marketing agreements between AMS and the same airports. Ryanair emphasised that those reports do not in any way change its position presented earlier that the airport service agreements and the marketing agreements should be analysed under separate MEOTs.

- (237) The reports indicate that the profits generated by AMS should be included as revenues in a joint analysis regarding profitability while the expenses of AMS would have to be incorporated in the costs. To do this, the reports suggest the application of a cash-flow-based methodology to the joint profitability analysis, meaning that the expenditure by airports on AMS could be treated as incremental operating expenses.
- (238) The reports emphasise that marketing activities contribute to the creation and support of the brand's value, which helps to generate effects and benefits not only for the duration of the contract, but also after its termination. This would especially be the case if, due to the fact that Ryanair has concluded an agreement with an airport, other airlines establish themselves at the airport, which will in turn attract more shops to install themselves there and therefore bring in more non aeronautical revenues for the airport. According to Ryanair, if the Commission proceeds to undertake a joint analysis of profitability, those benefits have to be taken into account by treating the expenses of AMS as incremental operating costs, net of AMS payments.
- (239) Furthermore, Ryanair considers that a terminal value (reflecting the value generated after the termination of the agreement) would have to be included in the projected incremental profits at the end of the airport services agreement. The terminal value could be adapted on the basis of a 'renewal'-probability, measuring the expectation that profits will persist after the termination of the agreement with Ryanair or if similar conditions are agreed with other airlines. Ryanair considers that it would then be possible to calculate a lower limit for benefits generated jointly by the agreement with AMS and the airport service agreement, reflecting the uncertainties of incremental profits after the termination of the airport services agreement.
- (240) To supplement this approach, the reports present a synthesis of the results of studies on the effects of marketing on the value of a brand. Those studies consider that marketing can support the value of a brand and can help to build a customer base. According to the reports, in the case of an airport, marketing on Ryanair.com significantly increases the visibility of the brand. The reports moreover state that smaller regional airports wishing to increase their air traffic can therefore especially increase the value of their brand by concluding marketing agreements with AMS.
- (241) The reports lastly indicate that a cash-flow-based approach is to be preferred over a capitalisation approach in which the costs of marketing services provided by AMS would be treated as capital expenditure on an intangible asset (that is, the value of the brand)⁽³⁷⁾. The capitalisation approach would only take into account the proportion of marketing expenditure that is attributable to the intangible assets of an airport. The marketing expenses would be treated as capital expenditure in an intangible asset, and then depreciated for the duration of the contract, taking into consideration a residual value at the foreseen termination of the airport services agreement. This approach would not take into account the incremental profits which the conclusion of the airport services agreement with Ryanair would bring about and it is also difficult to calculate the value of the intangible asset due to the expenses of the brand and the time period of use of the asset. According to the reports, the cash-flow method is also more appropriate than a capitalisation approach since the latter would not capture the positive benefits to the airport that are expected to arise as a result of signing the airport services agreement with Ryanair.

Oxera — Economic MEOP assessment: Frankfurt Hahn Airport, 11 August 2014:

- (242) Ryanair submitted a further report prepared by Oxera regarding the agreements between Frankfurt Hahn airport and Ryanair of 1999, 2002, 2005. The assessment of the 2005 Ryanair agreement takes also into account the marketing agreement concluded directly with *Land Rhineland-Palatinate*. Oxera's assessment of the Ryanair agreements is based on the information available to the airport around the time of signing the agreement.

⁽³⁷⁾ Oxera, 'How should AMS agreements be treated within the profitability analysis as part of the market economy operator test? — Practical application', 31 January 2014, prepared for Ryanair.

The 1999 Ryanair agreement:

- (243) According to the report, the analysis of the 1999 Ryanair agreement has been based on the business plan document produced by FFHG on 25 May 1999, a document which has been drawn up before signing the agreement. The report states that the aeronautical revenues have been calculated based on the charges specified in the 1999 Ryanair agreement. The estimates of incremental operating costs have been based on FFHG's own estimates. The report points out that the costs of fire fighting, which are usually considered as falling within the public policy remit, were not taken into account. The same applies to infrastructure investments.

Table 16

Oxera's incremental profitability assessment of the 1999 Ryanair agreement ⁽³⁸⁾

[...]

The 2002 Ryanair agreement:

- (244) The report explains that the forecasts of total passenger numbers have been obtained from FFHG's business plan drawn up in November 2002, as it is the only document available that contains traffic forecasts over the relevant period. According to the report, the aeronautical revenues have been calculated based on the charges specified in the 2002 Ryanair agreement. Non-aeronautical revenues have been obtained from FFHG's business plan drawn up in November 2002, as it is the only document that contains projections of non-aeronautical revenues that was drawn up around the time of the 2002 Ryanair agreement.
- (245) The estimates of operating costs per passenger have been based on FFHG's own analysis of incremental operating costs per Ryanair departing passenger. The schedule of investments has been drawn up in November 2000.

Table 17

Oxera's incremental profitability assessment of the 2002 Ryanair agreement ⁽³⁹⁾

[...]

6.2. LUFTHANSA AND BDF

- (246) Lufthansa and the *Bundesverband der Deutschen Fluggesellschaften e.V.* (Federal Association of German Air Carriers, hereinafter: BDF) have submitted comprehensive information and comments on the 2008 opening decision which shall be summarised below.
- (247) Lufthansa and BDF stated that the losses of FFHG and its predecessors since 1998 and until 2009 amount to EUR 161 million and that FFHG did not, contrary to what it claims, reach a positive EBITDA in 2006 either. In this respect, Lufthansa and BDF claim that the slightly positive EBITDA was only possible after the release of legacy liabilities, which reduced the operational losses. Hence, Lufthansa and BDF suggest that the Commission should seek to get access to all of FFHG's annual balance sheets. In this regard Lufthansa argued, that in contrast to what Germany has stated, the depreciation of investments did not increase much during the years and cannot

⁽³⁸⁾ According to Oxera, depreciation charges are not incorporated as the 1999 Ryanair agreement was signed prior to the *Aéroports de Paris* Judgment of 12 December 2000. Oxera also stated that the data is presented in nominal terms. Oxera clarified that the estimates presented for 1999 and 2004 have been adjusted to reflect the start and end dates of the 1999 Agreement in April 1999 and March 2004, respectively.

⁽³⁹⁾ Oxera clarified that depreciation is modelled in an NPV-neutral manner. According to Oxera, this approach ensured that the sum of the discounted present value of depreciation over the asset's life equates the original amount of capital expenditures. Oxera stated that the data is presented in normal terms. Oxera clarified that the estimates presented for 2002 and 2017 have been adjusted to reflect the start and end dates of the 2002 Ryanair Agreement in February 2002 and February 2017, respectively.

be considered very high in comparison to the costs related to marketing support for Ryanair, which are included in 'other operating costs', as Table 18 shows. Lufthansa and BDF also suggest that the Commission should request the full, non-publicised annual balance sheets of FFHG.

Table 18

Relationship of depreciation and other operating costs

In EUR	2000	2001	2002	2003	2004
Depreciations	4 477 257	5 325 627	5 423 627	6 045 387	7 699 330
Losses	8 217 199	13 355 347	19 993 895	17 832 868	16 797 889
Other operational costs	[...]	5 692 808	11 434 306	10 521 273	11 454 363

- (248) Lufthansa and BDF also claimed that a study submitted by Germany containing statistics on the effects of FFHG on tourism in *Hunsrück* and *Land Rhineland-Palatinate* should not be taken into account as the numbers on passenger growth and job growth around the airport were provided by FFHG and remained unchecked by the authors of the study. Lufthansa and BDF claimed furthermore that it was known, even when the study was conducted, that the numbers given were not realistic.
- (249) Furthermore, Lufthansa and BDF submitted that FFHG did not have a clear business model, which could be shown by the changing plans for additions to the airport, such as malls or places for excursions, which did not have anything to do with the operation of the airport. Furthermore, according to Lufthansa and BDF, the conflicting declarations by FFHG that Frankfurt Hahn airport should have been profitable first by 2005, then by 2008 and then 2013, point in the same direction that no consistent business plan was being followed. The last prognosis made, namely that Frankfurt Hahn airport should become profitable from 2016 onwards, would therefore also seem doubtful and this prognosis was apparently even based on the assumption that further, substantial investments would be made. The origin of such investments was, however, completely unclear according to Lufthansa and BDF.
- (250) Moreover, Lufthansa and BDF stated that, in contrast to what Germany is claiming, PwC has not provided a proper MEOT since its assessment does not take into account the case law of the Court of Justice on at least two points.
- (251) Firstly, Lufthansa and BDF referred to the argumentation of Germany that the accumulated losses of FFHG could be compensated by Fraport as its shareholder. In this regard, Lufthansa and BDF argued that it is not important whether losses can be compensated within a group of companies, but whether the individual measures taken as such are measures which a market economy investor would have taken as well (or not) and that this argumentation was therefore unacceptable.
- (252) Secondly, Lufthansa and BDF submitted that the argumentation in the assessment by PwC was not sufficient to prove that a market economy investor would have taken the same decision since PwC argued, for example concerning the 1999 Ryanair contract, that a reduction of losses by increasing the passenger volume could be achieved. Lufthansa and BDF referred to the case *WestLB*, according to which a market economy investor would normally 'seek to achieve the maximum reasonable return on his investment, according to the particular circumstances and the satisfaction of his short-, medium- and long-term interests, even where he is investing in an undertaking of which he is already a shareholder' ⁽⁴⁰⁾. Hence a reduction of losses would not suffice for a measure to pass the MEOT and therefore PwC already disregarded the case law of the Court of Justice in this

⁽⁴⁰⁾ Case T-228 and 233/99 *DEP — Westdeutsche Landesbank Girozentrale v Commission* [2003] ECR II-00435, paragraph 314.

respect, Lufthansa and BDF argued. Also, Lufthansa and BDG pointed out that the assessment submitted on behalf of FFHG did not include any own MEOT as it only referred to the test made by PwC.

- (253) In addition, Lufthansa and BDF contested the argument made by PwC in relation to the capital increases that long planning horizons of more than 30 years and amortisation of investments over 20 years are normal business practice for infrastructure investments (see recital 103 of the 2008 opening decision). In this respect, Lufthansa and BDF claimed that the comparisons made by PwC to concession contracts at Budapest airport, Da Vinci and Campiano airports, Sparta airport and Belfast City airport were completely indefensible since the situation of none of these airports is even remotely comparable to the situation of FFHG and Frankfurt Hahn airport. Lufthansa and BDF argued that unlike all of the airports mentioned by PwC, Frankfurt Hahn was a military airport at which the major part of the civil use started only in 1999 and was then supported by infrastructure developments exactly matching Ryanair's needs. This is why, according to Lufthansa and BDF, the break-even analysis is not accurate since the costs for the terminal were not taken into account.
- (254) Lufthansa and BDF also argued on the basis of the 2008 opening decision that the overcompensation of security fees clearly constituted State aid. In this regard Lufthansa and BDF advanced the argument, firstly, that the security checks had not been publicly procured. In the opinion of Lufthansa and BDF, the rules of public procurement have not been followed and therefore, by default, the service has not been procured at the most advantageous price. Secondly, Lufthansa and BDF argued that, according to German law, these security fees must be oriented towards the actual and necessary costs. However, Lufthansa and BDF pointed out that the fees at Frankfurt Hahn airport have remained at the same level between 2003 and 2008, whereas at other airports traffic fluctuations could be observed.
- (255) In contrast to the comments from Germany concerning the legal assessment, Lufthansa and BDF were of the opinion that the aid granted by Fraport to FFHG originated from State resources. According to Lufthansa and BDF, Fraport had expressly admitted in all of its annual balance sheets between 2001 and 2006 that because of a consortium agreement between the public shareholders, it is a 'dependent, publicly held undertaking'. In this regard, Lufthansa and BDF point to a number of indications that the funds of Fraport were State resources according to the judgment in case *Stardust Marine* ⁽⁴¹⁾ and Article 2(1)(b) of Commission Directive 2006/111/EC ⁽⁴²⁾.
- (256) Furthermore, Lufthansa and BDF considered that the actions of Fraport are also imputable to the State. In this regard, Lufthansa and BDF referred to indications for imputability such as the fact that FFHG's meeting of shareholders, meaning *Land Rhineland-Palatinate* and Fraport, agreed to the conclusion of the Ryanair agreements. Furthermore, Lufthansa and BDG claimed that there is a remarkable temporal relationship between the second capital increase and the application for recognition of a common airport system in 2005. According to Lufthansa and BDF, within two weeks the shareholders of FFHG decided on the capital increase, which resolved FFHG's financial difficulties, and subsequently the application for a common airport was made by Germany. Lufthansa and BDF therefore claimed that the public shareholders made this application possible through the new capital increase.
- (257) Lufthansa and BDF moreover claimed that no market economy investor would have undertaken to finance and invest into FFHG, since according to the case law of the Court of Justice, a market economy investor is always profit oriented. A mere reduction of losses would not be enough to convince a market economy investor and he would not take social or local political considerations into account.
- (258) Lastly, Lufthansa and BDF claimed that the aid granted to FFHG for new infrastructure, as well as the aid granted to Ryanair are incompatible with the internal market under the 2005 Aviation Guidelines as well as under the 2014 Aviation Guidelines. In this regard, Lufthansa and BDF claimed that in this case there was no conversion of a military airport, given that the airport had been built 6 years after the end of military use. Furthermore, they argued that Frankfurt Hahn airport did not decongest Frankfurt Main airport and especially that it was doubtful whether the airport helped the development in the region and created jobs there. According to Lufthansa and

⁽⁴¹⁾ *Stardust Marine* judgment, paragraph 33-34.

⁽⁴²⁾ Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (OJ L 318, 17.11.2006, p. 17).

BDF, this argument could in any case not justify the aid since the job generation started only in 1999, six years after the military use of the airport had ended. Even if one would accept this as a justification, the numbers given by FFHG in its studies would be completely overestimating the effects on the economy and job creation.

- (259) Furthermore, Lufthansa and BDF claimed that the rebates granted through the airport charges for passenger numbers of 1 to 3 million or more were discriminatory. Lufthansa and BDF argued that only Ryanair was eligible for these rebates as it was the only airline generating that many passengers and Frankfurt Hahn airport did not even have the capacity to host another airline which could have provided such passenger numbers. The granting of marketing support was also discriminatory in the opinion of Lufthansa and BDF as the proportion of the marketing support is dependent on the number of passengers the airline has already brought to the airport and the number of destinations already offered by the airline at the airport. Since these factors do not have any relation to the amount of marketing support for new destinations, this system will provide Ryanair with a much higher amount of marketing support, which according to Lufthansa and BDF is unjustifiable.
- (260) As far as operating aid for the airport is concerned, according to Lufthansa and BDF emphasised it is obvious that the single-till-approach applied at Frankfurt Hahn airport does not work since overall the revenues are not able to cover the losses. Therefore, the compensation of these losses through the financing of FFHG constitutes operating aid.
- (261) As concerns aid to Ryanair, Lufthansa and BDF stated that Ryanair has received advantages through the airport charges and the agreements with Frankfurt Hahn airport. Lufthansa and BDF claimed that no market economy investor would have taken these measures since Frankfurt Hahn airport is obviously unable to operate profitably on this basis. Lufthansa and BDF claimed that through the 2001 and 2006 schedule of airport charges, Ryanair had been given an additional advantage in form of the additional reductions granted in relation to the total volume of passengers departing with the airline.
- (262) Lufthansa and BDF argued that, as Fraport has to be considered as a publicly held undertaking, FFHG is a publicly owned undertaking and therefore its resources have to be considered as State resources. The advantages granted by FFHG to Ryanair are also imputable to the State, according to Lufthansa and BDF, since the PLTA also comprises a control agreement ('Beherrschungsvertrag') and the public shareholders can steer the behaviour of FFHG. In this regard, Lufthansa and BDF argued that it should also be taken into account that the manager of FFHG is always an employee of Fraport.
- (263) Lufthansa and BDF argued that none of the aid to Ryanair is compatible with the internal market. The Ryanair agreements and the 2001 schedule of airport charges should be assessed directly under Article 107(3)(c) of the Treaty. In this regard, the Commission decision in *Chareloi* ⁽⁴³⁾ should also be taken into account. On this basis Lufthansa and BDF stated that the aid to Ryanair could not be justified since it constituted partly operating aid, which could not be justified at all, and partly start-up aid, which pursued no legitimate goal and was not granted in a transparent and non-discriminatory manner. Lufthansa and BDF furthermore stated that the 2006 schedule of airport charges is not compatible with the 2005 Aviation Guidelines, since the conditions for compatibility in point 79 of the guidelines are not fulfilled in relation to the marketing support and the operating aid granted through the passenger fees. This is due to the fact that the marketing support is discriminatory, Lufthansa and BDF explained, and that the passenger fees do not have a limited duration and have no incentive effect. Furthermore, in Lufthansa's and BDF's opinion all of the aid granted to Ryanair is of a cumulative nature and hence is not in line with the compatibility conditions. Therefore, in their view, it should be considered incompatible with the internal market.

6.3. ASSOCIATION OF EUROPEAN AIRLINES (AEA)

- (264) The AEA stated that the fact that FFHG has been loss making since its opening and that the announced date for break-even has been constantly postponed shows that the business model is at best questionable and that there is a blatant disrespect of the market economy investor principle.

⁽⁴³⁾ Case T-196/04 *Ryanair v Commission* (hereinafter: '*Charleroi* judgment') [2008] ECR II-3643.

- (265) Concerning the possible aid to Ryanair, AEA was of the opinion that this aid has had negative effects for competing airlines and that the agreements with Ryanair constituted discriminatory measures. According to AEA, these agreements are discriminatory as their conclusion coincides with the beginning of any commercial use of the airport, meaning that the airport was tailor-made for Ryanair's needs.

6.4. AIR FRANCE

- (266) Air France remarked generally that it strongly supported the Commission's action in State aid matters in the aviation sector. More specifically in relation to the situation at Frankfurt Hahn airport, Air France concurred with the Commission's preliminary assessment that the measures in favour of FFHG and Ryanair constituted State aid. Air France believes in particular that the three commercial agreements with Ryanair constitute a clear-cut discriminatory measure as no other airlines operating in the same airport system have ever been offered the same conditions. Therefore, Air France concluded that such measures have inevitably been contributing to a significant distortion of competition between intra-EU carriers within the internal market.

6.5. COMMENTS SUBMITTED ON THE IMPLEMENTATION OF THE 2014 AVIATION GUIDELINES TO THE PENDING CASE

6.5.1.1. Lufthansa

- (267) Lufthansa stated that the 1999, 2002 and 2005 Ryanair agreements constitute incompatible State aid and provides further comments on the respective agreements.
- (268) With regard to the 1999 Ryanair agreement, Lufthansa submitted that the costs for Terminal 1 at the airport are to be fully taken into account when applying the MEOT. To support this, Lufthansa refers to the statement of Ryanair in a parliamentary hearing. According to Lufthansa, Ryanair stated that the airport was built for them. Lufthansa disputed that a proportion of the cost of the terminal could be attributed also to other airlines.
- (269) In the opinion of Lufthansa, the MEOT carried out by PwC for the 2002 Ryanair agreement underestimates the marketing costs for the opening of new routes in 2002. According to Lufthansa it was publicly known that at least 7 new routes would be opened in 2002. Hence, Lufthansa stated that the marketing support was underestimated by at least EUR [...] in 2002.
- (270) With regard to the 2005 Ryanair agreement, Lufthansa stated that the passenger volume forecasts underlying the MEOT of the 2005 Ryanair agreement appear to be overestimated. Lufthansa stated that in the worst case the airport expected that Ryanair would bring 3 million passengers between 2006 to 2012. However, according to Lufthansa this expectations were not based on a real commitment by Ryanair.
- (271) Moreover Lufthansa stated that the *Land* Rheinland-Palatinate and Ryanair concluded a marketing agreement in 2005, which is not part of the 2008 opening decision ⁽⁴⁴⁾. According to Lufthansa, the agreement grants Ryanair marketing support of least EUR [...] million per year.
- (272) With regard to aid to the airport for the financing of infrastructure, Lufthansa is of the opinion that the infrastructure is dedicated to Ryanair and hence the compatibility criteria in the guidelines do not apply.

⁽⁴⁴⁾ Neither was the 2005 marketing agreement subject of the 2011 opening decision.

6.5.1.2. *Transport & Environment*

- (273) This non-governmental organization made comments criticizing the 2014 Aviation Guidelines and decisions of the Commission regarding the aviation industry so far, for their allegedly negative effects on the environment.

7. COMMENTS FROM GERMANY ON THIRD PARTY SUBMISSION

7.1. ON THE COMMENTS FROM RYANAIR

- (274) Concerning the comments from Ryanair, Germany stated that these comprehensively supported its observations and supplemented these from the side of the airline. Ryanair's comments especially underline, according to Germany, that the contracts with Ryanair are such as any market economy investor would have concluded and that in fact many other European airports have concluded similar agreements with Ryanair.
- (275) Furthermore, Germany emphasised that the airport charges as established by FFHG were according to Ryanair absolutely normal in the low-cost carrier sector and were not especially advantageous for Ryanair.

7.2. ON THE COMMENTS FROM LUFTHANSA AND BDF

- (276) Concerning the comments from Lufthansa, Germany rejected the argument that the results of the study submitted on the effects of Frankfurt Hahn airport on the regional economy and the number of jobs created would be questionable and emphasised instead that the study is based on the well-founded economic research conducted by the expert authors. Germany submitted that of course the numbers in the study are a forecast and would not necessarily always correspond to the numbers actually realised, especially in the context of the world economic crisis. According to Germany, the forecast was realistic at the moment of publication and led to the conclusion by PwC, from an *ex ante* perspective, that FFHG has acted as a market economy investor.
- (277) Germany also rejected the doubts of Lufthansa and BDF that profitability will not be reached at Frankfurt Hahn airport. Germany stated that the forecast when profitability will be achieved may have to be adapted with time due to multiple factors, such as the investment and expansion decisions of the undertaking. In any case, PwC has put forward reliable evaluations that all the measures under investigation were economically reasonable.
- (278) The claim by Lufthansa and BDF that no real MEOT justification exists are therefore unfounded according to Germany, especially since Lufthansa did not have access to the MEOT of PwC.
- (279) Concerning the capital increases, Germany stated that there was no closure of Frankfurt Hahn airport; rather, the airport has been used for civil aviation since 1993 and up until the moment that Fraport got involved. Germany explains that Frankfurt Hahn airport was therefore not a project to provide an airport for Ryanair, as Lufthansa claimed, but was designed as a low-cost airport to be used according to equal, non-discriminatory conditions by any airline. That some airports are being used more by certain airlines than by others is normal, Germany claimed. In fact, Lufthansa itself has for example an exclusive terminal at Munich airport.
- (280) Furthermore, Germany stated that there was no discrimination concerning the marketing support scheme. The levels of marketing support granted have been set up in a reasonable, non-discriminatory manner. The payment of marketing support in instalments, as criticised by Lufthansa and BDF, only served the purpose of minimising the risks in case a route would be closed again soon after its opening. This danger, Germany argued, was not present to the same extent if an airline was already present at Frankfurt Hahn airport and already served more than 1 million passengers. According to Germany, Ryanair has furthermore not received any secret or unjustified marketing support from FFHG.

- (281) In relation to the question of whether there was any aid coming from State resources, Germany argued that in contrast to what Lufthansa and BDF claimed, no conclusions could be drawn from the annual balance sheets of Fraport in which the undertaking stated that it is a 'dependent, publicly held undertaking'. This statement was only included in the annual financial report in order to present the relationship to undertakings and persons close to Fraport, but does not have any implications for the State aid assessment. In any case, no imputability of the capital increases to the State could be derived from this application.
- (282) Concerning the question whether the aid granted to FFHG would be compatible with the internal market, Germany stated that Lufthansa's and BDF's argument that civil use began only six years after the termination of military use would be incorrect as well as irrelevant. Civil use had started directly in 1993 and the infrastructure for civil use was already there. The expansion of the infrastructure in order to make the airport ready for commercial passenger traffic was inevitable.
- (283) Germany rejected Lufthansa's and BDF's argument that Frankfurt Hahn airport did not help to decongest Frankfurt Main airport and pointed out that Lufthansa and BDF had not substantiated their claim with any evidence.
- (284) Germany especially opposed the argument of Lufthansa and BDF that it was doubtful whether Frankfurt Hahn airport generated a great number of jobs. In this regard Germany argued that it could not be doubted that Frankfurt Hahn airport had had considerable influence on the economic and social development of the structurally weak region around it.
- (285) Furthermore, Germany dismissed the discriminatory effects which Lufthansa and BDF claimed the passenger fees and marketing support to have. Germany ensured that these had been established on the basis of economic considerations and calculations and were available to airlines in a uniform and non-discriminatory way.
- (286) Germany lastly rejected the doubts raised by Lufthansa and BDF with regard to the single-till-approach at Frankfurt Hahn airport. Germany stated that this approach was economically justified, as the MEOT by PwC had shown, and that it would not have been possible to attract airlines to Frankfurt Hahn airport if the passenger fees would have been so high as to guarantee a profitable operation of the airport from the beginning.
- (287) Concerning the claims that Lufthansa and BDF advance in relation to aid granted to Ryanair through the 1999, 2002 and 2005 Ryanair agreements, Germany referred to the detailed MEOTs carried out by PwC and stated that these agreements cannot constitute State aid as they are complying with the market economy investor principle. According to Germany, the calculations presented by Lufthansa and BDF are implausible and based on wrong passenger numbers. Germany again pointed out that it was not possible to operate an airport like Frankfurt Hahn profitably from the very beginning, but only on a medium- to long-term basis.
- (288) Germany also stated that the doubts which Lufthansa and BDF raised in relation to the question whether the aid to Ryanair could be justified were unfounded. Germany moreover argued that even if the marketing support would constitute an advantage to Ryanair, which it did not, according to Germany, even in that case such aid would be compatible with the internal market on the basis of the criteria set out in recital 79 of the 2005 Aviation Guidelines.

7.3. ON THE COMMENTS FROM AIR FRANCE AND THE AEA

- (289) Germany pointed out in relation to the comments from AEA that these were not substantiated with any evidence. Furthermore, Germany argued that even if, as AEA stated, there were negative effects for competing airports, then these airports had not complained about this and had not even commented on the 2008 opening decision.

8. ASSESSMENT — EXISTENCE OF AID

- (290) By virtue of Article 107(1) of the Treaty ‘... any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.’
- (291) The criteria in Article 107(1) of the Treaty are cumulative. Therefore, in order to determine whether the measure in question constitutes aid within the meaning of Article 107(1) of the Treaty all of the following conditions need to be fulfilled. Namely, the financial support should:
- (a) be granted by the State or through State resources;
 - (b) favour certain undertakings or the production of certain goods;
 - (c) distort or threaten to distort competition; and
 - (d) affect trade between Member States.

8.1. AID NATURE OF THE MEASURES GRANTED TO THE AIRPORT

8.1.1. MEASURE 1: 2001 PLTA

APPLICABILITY OF STATE AID RULES TO AIRPORTS

- (292) Germany submits that the 2001 PLTA was put into place before the public funding of airports was considered to constitute State aid and was not altered until it was replaced by the 2004 PLTA.
- (293) Hence, the Commission must first establish whether the State aid rules were applicable to the 2001 PLTA at the time it was concluded. In that context, the Commission recalls that an aid measure constitutes existing aid pursuant to Article 1(b)(v) of Regulation (EC) No 659/1999 where it can be established that at the time the aid measure was put into effect, it did not constitute State aid, and subsequently became aid due to the evolution of the common market and without having been altered by the Member State.
- (294) Indeed, in the past, the development of airports was often determined by purely territorial considerations or, in some cases, military requirements. The operation of airports was organised as part of the administration rather than as a commercial undertaking. Competition between airports and airport operators was also limited and developed gradually. Taking into account those conditions, the financing of airports and airport infrastructure by the State was for some time considered by the Commission as a general measure of economic policy which could not be controlled under the State aid rules of the Treaty.
- (295) However, the market environment has changed. In the *Aéroports de Paris* judgment, the General Court stated that the operation of an airport, including the provision of airport services to airlines and to the various service providers within airports, is an economic activity ⁽⁴⁵⁾. Consequently, since the adoption of that judgment (12 December 2000) it is no longer possible to consider the operation and construction of airports as a task carried out by the administration within the public policy remit, outside the ambit of State aid control.

⁽⁴⁵⁾ Case T-128/89 *Aéroports de Paris v Commission* [2000] ECR II-3929 (confirmed by Court of Justice in Case C-82/01 P [2002] ECR I-9297, paragraph 75 with further references).

- (296) In its *Leipzig/Halle Airport* judgment, the General Court confirmed that it is *a priori* not possible to exclude the application of State aid rules to airports as the operation of an airport and the construction of airport infrastructure is an economic activity ⁽⁴⁶⁾. Once an airport operator engages in economic activities, regardless of its legal status or the way in which it is financed, it constitutes an undertaking within the meaning of Article 107 (1) of the Treaty, and the Treaty rules on State aid therefore apply ⁽⁴⁷⁾.
- (297) FFHG has been engaged in constructing, maintaining and operating Frankfurt Hahn airport. In this context, it has offered airport services and charged users — commercial aviation operators as well as non-commercial general aviation users — for the use of the airport infrastructure, thereby commercially exploiting the infrastructure. Therefore, it must be concluded that FFHG has been engaged in an economic activity as from the date of the *Aéroports de Paris* judgment (that is to say 12 December 2000) onward.
- (298) However, in the light of the developments (as set out in recitals 294 to 296) the Commission considers that, prior to the judgment of the General Court in *Aéroports de Paris*, public authorities could legitimately consider that financing measures with regard to airports did not constitute State aid and accordingly did not need to be notified to the Commission. Hence, the Commission cannot put into question individual financing measures (not awarded on the basis of an aid scheme ⁽⁴⁸⁾) which were definitively adopted before judgment in *Aéroports de Paris* under State aid rules.
- (299) Accordingly, the Commission has to assess first, whether the 2001 PLTA was put into place before the judgment in *Aéroports de Paris* (12 December 2000) and second whether that measure was later amended.
- (300) The 2001 PLTA was irrevocably agreed on 31 August 1999 and confirmed in a notarial deed of 24 November 2000. Therefore, the Commission considers that the 2001 PLTA was irrevocably put in place before the *Aéroports de Paris* judgment. Moreover, the 2001 PLTA was not amended until it was replaced by the 2004 PLTA.
- (301) Hence, at that time the public authorities could legitimately consider that a PLTA to cover annual losses of FFHG did not constitute State aid.

CONCLUSION

- (302) In the light of the considerations in recitals 292 and following, the Commission concludes that, at the time the 2001 PLTA, was put into place public authorities could legitimately consider that a PLTA to cover annual losses of FFHG did not constitute State aid.

8.1.2. MEASURE 2: 2001 CAPITAL INCREASE

- (303) In 2001, Fraport and *Land Rhineland-Palatinate* increased FFHG's capital by EUR 27 million. Fraport contributed EUR 19,7 million; *Land Rhineland-Palatinate* contributed EUR 7,3 million. The capital increase was approved first by the supervisory board of Fraport (as regards its contribution) on 14 December 2001 and subsequently by a resolution of the shareholders of FFHG dated 9 January 2002 ⁽⁴⁹⁾. The capital increase by Fraport and the *Land* became effective on 9 January 2002.

⁽⁴⁶⁾ Case T-455/08 *Flughafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG v Commission*, [2011] ECR II-01311, in particular paragraphs 105 and 106.

⁽⁴⁷⁾ See in particular Commission Decision of 17 June 2008 in case C-29/08 *Frankfurt-Hahn airport — Alleged State aid to the airport and the agreement with Ryanair* (OJ C 12, 17.1.2009, p. 6), paragraphs 204 — 208; Commission Decision of 21 March 2012 in case C76/02 *Charleroi airport — Alleged State aid to the airport and Ryanair* (OJ C 248, 17.8.2012, p. 1).

⁽⁴⁸⁾ Article 1(d) of Regulation (EC) No 659/1999 stipulates that “aid scheme” shall mean any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be awarded to one or several undertakings for an indefinite period of time and/or for an indefinite amount.”

⁽⁴⁹⁾ Status report of FFHG of 2002, page 5.

8.1.2.1. *Notion of undertaking and economic activity*

- (304) As was analysed in recitals 293 and following, since 12 December 2000 FFHG has to be considered as an undertaking exercising an economic activity for the purposes of Article 107(1) of the Treaty.

8.1.2.2. *State resources and imputability*

- (305) In order to constitute State aid, the measures in question have to be financed from State resources and the decision to grant the measure must be imputable to the State.
- (306) The concept of State aid applies to any advantage granted through State resources by the State itself or by any intermediary body acting by virtue of powers conferred on it ⁽⁵⁰⁾. Resources of local authorities are, for the application of Article 107(1) of the Treaty, State resources ⁽⁵¹⁾. In that respect, it is constant Commission practice to consider that irrespective of whether a public undertaking is loss-making or profit-making, all its resources are to be considered as State resources ⁽⁵²⁾.

Land Rhineland-Palatinate's share in the 2001 capital increase

- (307) *Land Rhineland-Palatinate* has financed its share of the 2001 capital increase directly from its general budget. Thus, it can be concluded that that measure is financed through State resources and also imputable to the State.

Fraport's share in the 2001 capital increase

State resources

- (308) In Germany's opinion, Fraport's share in the 2001 capital increase does not qualify as funding from State resources as at the time Fraport was an independent incorporated company under private law noted at the stock exchange and the public authorities were exercising no continuing control over its funds.
- (309) According to the case law, resources of an undertaking are to be considered State resources if the State is capable, by exercising control over such undertakings, to direct the use of their resources ⁽⁵³⁾.
- (310) The Commission considers that in the present case, the State at all material times exercised direct or indirect control over the resources under consideration. The Commission notes that, at the moment the 2001 capital increase was irrevocably decided, Fraport was a company that was in majority publicly owned. Before 11 June 2001, public shareholders held 100 % of Fraport's shares ⁽⁵⁴⁾. On 11 June 2001, Fraport was listed on the stock exchange and 29,71 % of its shares were sold to private shareholders. Afterwards, *Land Hesse* held 32,04 % of the shares, *Stadtwerke Frankfurt am Main GmbH* (100 % owned by the municipality Frankfurt am Main) held 20,47 % of the shares and the Federal Republic of Germany held 18,32 % of the shares.
- (311) Hence, between 11 June 2001 and 26 October 2005, 70,29 % of Fraport's shares were held by public shareholders and as such would qualify as a public undertaking within the meaning of Article 2(b) of Directive 2006/111/EC. Also, the majority of Fraport shares held by public bodies meant that these were in a position to exercise a dominant influence over Fraport.
- (312) Thus, the Commission considers that any capital injection granted from Fraport's resources would signify a loss of State resources, thus constituting a transfer of State resources.

⁽⁵⁰⁾ Case C-482/99 *France v Commission* ("Stardust Marine") [2002] ECR I-4397.

⁽⁵¹⁾ Joined Cases T-267/08 and T-279/08, *Nord-Pas-de-Calais* [2011], not yet published, paragraph 108.

⁽⁵²⁾ See for example Commission decision C41/05, *Hungarian Stranded Costs* (OJ C 324, 21.12.2005, p. 12), with further references.

⁽⁵³⁾ *Stardust Marine*, paragraphs 52 and 57.

⁽⁵⁴⁾ *Land Hesse* held 45,24 % of Fraport's shares, *Stadtwerke Frankfurt am Main Holding GmbH* (owned for 100 % by the municipality Frankfurt am Main) held 28,89 % and the Federal Republic Germany held 25,87 %.

Imputability to the State

- (313) However, the Court has also ruled that, even if the State is in a position to exercise control over a public undertaking and its operations, actual exercise of that control in a particular case cannot be automatically presumed. A public undertaking may act with more or less independence, according to the degree of autonomy left to it by the State.
- (314) Therefore, the mere fact that a public undertaking is under State control is not sufficient for measures taken by that undertaking, such as the funding provided to FFHG through the 2001 capital increase, to be considered as imputable to the State. It is also necessary to examine whether the public authorities must be regarded as having been involved, in one way or another, in the adoption of this measure. On that point, the Court indicated that the imputability to the State of a measure taken by a public undertaking might be inferred from a set of indicators arising from the circumstances of the case and the context in which that measure was taken ⁽⁵⁵⁾.
- (315) Such indicators can be the integration of the undertaking into the structures of the public administration, the nature of its activities and the exercise of the latter on the market in normal conditions of competition with private operators, the legal status of the undertaking (in the sense of it being subject to public law or ordinary company law), the intensity of the supervision exercised by the public authorities over the management of the undertaking, or any other indicator showing, in the particular case, an involvement by the public authorities in the adoption of a measure or the unlikelihood of their not being involved, having regard also to the compass of the measure, its content or the conditions which it contains ⁽⁵⁶⁾.
- (316) As stated in recital 135 and the following, Germany submitted that the measures taken by Fraport in relation to Frankfurt Hahn airport were not imputable to the State. In this regard, Germany referred especially to §76 of the AktG and to judgments under German law according to which the management board of an *Aktiengesellschaft* has a large discretion to act with regard to the day-to-day business of the company and insofar acts independently of its shareholders.
- (317) Germany also referred to a judgment of the German Federal Court, the *Bundesgerichtshof*, in which that court noted that the public shareholders were not able to have an influence on individual decisions taken in day-to-day business, but could only provide the general framework and guiding supervision of Fraport. According to Germany, this special nature of the *Aktiengesellschaft* was also recognised in relation to EU public procurement law in the Court's judgment in case *Stadtwerke Brixen AG* ⁽⁵⁷⁾.
- (318) Therefore, as regards the involvement of the public shareholders in the decision-making at the general meeting of shareholders, Germany argued that a vote by the meeting of shareholders did not constitute anything more than a mere exercise of their lawful rights and obligations as shareholders. Germany also rejected the notion that any of the other indications from the *Stardust Marine* judgment, mentioned in recital 315, were present.
- (319) As a preliminary remark, the Commission points out that the fact that a State owned company is a company incorporated under private law alone cannot — having regard to the autonomy which that legal form is capable of conferring upon it — be regarded as sufficient to exclude imputability of its actions to the State ⁽⁵⁸⁾. No distinction should be drawn between cases where aid is granted directly by the State and cases where it is granted by public or private bodies established or appointed by the State to administer the aid ⁽⁵⁹⁾.
- (320) In addition, the Commission notes that the judgment rendered by the German *Bundesgerichtshof* in 1999 ⁽⁶⁰⁾ concerns criminal proceedings. In those proceedings, the question at last instance was whether a former

⁽⁵⁵⁾ *Stardust Marine*, paragraphs 52 and 57.

⁽⁵⁶⁾ *Stardust Marine*, paragraph 55-56.

⁽⁵⁷⁾ Case C-458/03 *Stadtwerke Brixen AG* [2005] ECR I-08585, paragraph 67.

⁽⁵⁸⁾ Case T-442/03 *SIC — Sociedade Independente de Comunicação v Commission* [2008] ECR II-01161, paragraph 100.

⁽⁵⁹⁾ Commission Decision 2014/273/EU of 19 September 2012 on the measures in favour of ELAN d.o.o. SA.26379 (C 13/10) (ex NN 17/10) implemented by Slovenia (OJ L 144, 15.5.2014, p. 1), recital 99.

⁽⁶⁰⁾ Urteil vom 3.3.1999, Az. 2StR 437-98, NJW 1999, 2378.

employee of Fraport could be charged with the offence of 'corruption of an employee' or 'corruption of a public official', so the question arose whether Fraport was to be viewed as an 'other administration' according to the German criminal code ⁽⁶¹⁾. Therefore, the case is in no way connected to the question whether an action of Fraport can be seen as imputable to the State under State aid rules, but only clarifies that an employee by Fraport is not a public official and Fraport cannot be considered as part of the public administration in the meaning of the German criminal code.

- (321) Also as concerns the other judgment of the Bundesgerichtshof presented by Germany ⁽⁶²⁾, the Commission notes that that judgment, as the case of *Parking Brixen* ⁽⁶³⁾, concerned the criterion of public control over an undertaking in the sense of Union public procurement rules. It does not concern the question of imputability under State aid law.
- (322) Furthermore, while it may be that the management board of an *Aktiengesellschaft* can act independently of its public shareholders when day-to-day business decisions are taken, because of its shareholder structure (with 70 % of its shareholders being public) and the consortium agreement between its public shareholders Fraport nevertheless considers itself as a 'dependent, publicly held undertaking' ⁽⁶⁴⁾ (as reported in each annual financial report between 2001 and 2006).
- (323) Moreover, several factors indicate that the 2001 capital increase is in fact imputable to the State.
- (324) First of all, the Commission considers that the 2001 capital increase cannot be considered out of context, but must be viewed in the light of the political and legal situation of Fraport at that time. Those circumstances and facts clearly indicate that the measure would not have been adopted but for the involvement of the State.
- (325) According to the minutes of Fraport's supervisory board meeting on 26 September 1997, the authorities of *Land Rhineland-Palatinate* offered Fraport to become involved in Frankfurt Hahn airport, since 'Land Rhineland-Palatinate wished, through the involvement of [Fraport] in [FFHG] to strengthen the development of employment opportunities, and since it expected an increase in air traffic'. After Fraport had become a shareholder in FFHG with a share of 64 % on 1 January 1998, according to the minutes of the supervisory board meeting of 10 May 1999, 'the government of Land Rhineland-Palatinate [has] turned to the prime minister of Land Hesse with the request for a stronger commitment of [Fraport] at Hahn [airport]'. For this purpose, Fraport was to take over the shares which Holding Hahn and Weiss and Freytag still held in the airport (see recital 17). The minutes state furthermore that Fraport should not be penalised 'if it does not reach regional political goals, e.g. number of employment opportunities' and that 'the negotiations between Fraport and the Land about points of discussion have begun'. Finally, the minutes express that 'public funds should be used as much as possible' for the development of the airport and that, in order to speed up the process of collecting these funds, 'Land Rhineland-Palatinate has already established a working group in the Ministry of Economy, of which Fraport is also a member'.
- (326) Those minutes show that Fraport was being used as a vehicle by *Land Rhineland-Palatinate* and *Land Hessen* in order to pursue regional and structural political goals, such as creating more jobs in the region.
- (327) Since Fraport was still a publicly held undertaking at that time, its supervisory board, whose members were nominated to a large extent (at least half of the supervisory board) by the public shareholders, had the power to approve the basic agreement of 31 August 1999 ('Grundlagenvereinbarung') ⁽⁶⁵⁾ and to authorise the management board to conclude the 2001 PLTA ⁽⁶⁶⁾. Furthermore, Fraport's shareholder meeting then adopted a resolution dated 3 May 2000 authorising the management board to conclude the 2001 PLTA with FFHG and therefore to bind Fraport to the FFHG project until at least 2005. Since that resolution required a majority of

⁽⁶¹⁾ According to §11 I No 2 lit. c *Strafgesetzbuch*.

⁽⁶²⁾ Urteil vom 3.7.2008, Az. I ZR 145/05, WRP 2008, 1182, 1186.

⁽⁶³⁾ Case C-458/03 *Stadtwerke Brixen AG* [2005] ECR I-08585, paragraph 67.

⁽⁶⁴⁾ See annual financial reports (*Geschäftsbericht*) of Fraport of 2001-2006, published at <http://www.fraport.de/de/investor-relations/termine-und-publikationen/publikationen.html> See in particular *Geschäftsbericht* 2001, p. 46; *Geschäftsbericht* 2002, p. 66; *Geschäftsbericht* 2003, p. 54; *Geschäftsbericht* 2004, p. 80; *Geschäftsbericht* 2005, p. 64; *Geschäftsbericht* 2006, p. 72.

⁽⁶⁵⁾ Basic agreement between Fraport and *Land Rhineland-Palatinate* of 31 August 1999.

⁽⁶⁶⁾ Approval for the conclusion of the basic agreement was given by the supervisory board in its meeting on 1 October 1999.

votes representing at least three quarters of the authorised capital taking part in the vote, and the public authorities held 100 % of the shares at the time (see recital 305), that resolution was effectively taken by the public authorities.

- (328) *Land* Rhineland-Palatinate also made its support and public funding conditional upon the conclusion of the 2001 PLTA, as can be seen from the basic agreement of 31 August 1999 ⁽⁶⁷⁾.
- (329) Therefore, through the political involvement of the two *Länder*, directly on a political level and indirectly through the supervisory board and as the public shareholders of Fraport, Fraport was involved with FFHG and signed the 2001 PLTA for taking over the losses of FFHG until at least 2005.
- (330) Furthermore, §13 of FFHG's articles of association ⁽⁶⁸⁾ stated that until 31 December 2027 any sale of shares by one of the shareholders would have to be authorised in writing by the other shareholders. Since FFHG only had two shareholders at that time, Fraport and *Land* Rhineland-Palatinate, this meant that Fraport needed the agreement in writing from *Land* Rhineland-Palatinate in order to sell its shares. This effectively meant that the *Land* could hinder Fraport from leaving the FFHG project.
- (331) Already in 2001, when the 2001 capital increase was discussed, it appeared that the management of FFHG was in direct negotiations with Land Hesse and *Land* Rhineland-Palatinate ⁽⁶⁹⁾. It should be noted that *Land* Hesse was at that point in time not yet FFHG's shareholder, but a shareholder of Fraport (with a 45,2 % shareholding).
- (332) Against that political and legal background, it then became evident in January 2001 ⁽⁷⁰⁾ that further investments into FFHG were urgently needed in order to allow FFHG to become profitable.
- (333) Moreover, *Land* Rhineland-Palatinate directly induced Fraport to adopt the 2001 capital increase. In a proposal for the supervisory board's meeting from 20 June 2001, it is noted that, in view of the capital increase of EUR 27 million in connection with the development of Frankfurt Hahn airport, the shareholder *Land* Rhineland-Palatinate had insisted that the investments to be financed by the 2001 capital increase were the condition for the continuation of the public infrastructure investments, such as for the construction of the road leading towards Frankfurt Hahn airport amounting to approximately EUR [...] million.
- (334) In that regard, the committee on the acquisitions of Fraport's supervisory board noted in a meeting on the 2001 capital increase, dating from 23 November 2001, so less than a month before the supervisory board approved the 2001 capital increase, that Fraport could not disengage itself from FFHG at that time, since it was 'not to be expected that Land Rhineland-Palatinate would agree to that' ⁽⁷¹⁾.
- (335) Consequently, the Commission considers that the 2001 capital increase is imputable to the State.

8.1.2.3. *Economic advantage*

- (336) An advantage within the meaning of Article 107(1) of the Treaty is any economic benefit which an undertaking would not have obtained under normal market conditions, that is to say, in the absence of State intervention ⁽⁷²⁾. Only the effect of the measure on the undertaking is relevant, not the cause nor the objective of the State intervention ⁽⁷³⁾. Whenever the financial situation of the undertaking is improved as a result of State intervention, an advantage is present.

⁽⁶⁷⁾ Basic agreement between Fraport and *Land* Rhineland-Palatinate of 31 August 1999, see points 4 and 5.

⁽⁶⁸⁾ §13 of the articles of association of FFHG of 29 November 2001, termed 'Verfügung über Geschäftsanteile' (i.e. disposition of shares).

⁽⁶⁹⁾ Minutes of the meeting of the committee for acquisitions of the supervisory board on 30 May 2001.

⁽⁷⁰⁾ Documents submitted to the management board ('Vorstandsvorlage') on the economic developments of FFHG of 14 May 2001; see also minutes of the meeting of the committee for acquisitions of the supervisory board of 30 May 2001; see also BCG analysis of the potential of FFHG of 14 February 2001, p. 10.

⁽⁷¹⁾ Proposed resolution to the supervisory board of Fraport from 23 November 2001,

⁽⁷²⁾ Case C-39/94 *Syndicat français de l'Express international (SFEI) and others v La Poste and others* [1996] ECR I-3547, paragraph 60 and case C-342/96 *Kingdom of Spain v Commission of the European Communities* [1999] ECR I-2459, paragraph 41.

⁽⁷³⁾ Case 173/73 *Italian Republic v Commission of the European Communities* [1974] ECR 709, paragraph 13.

- (337) Furthermore, 'capital placed directly or indirectly at the disposal of an undertaking by the State in circumstances which correspond to normal market conditions cannot be regarded as State aid' ⁽⁷⁴⁾. In this case, in order to determine whether the 2001 capital increase grants an advantage to FFHG that it would not have received under normal market conditions, the Commission has to compare the conduct of the public authorities providing the direct investment grants and capital injections to that of a MEO who is guided by prospects of profitability in the long-term ⁽⁷⁵⁾.
- (338) The assessment should leave aside any positive repercussions on the economy of the region in which the airport is located, since the Court has clarified that the relevant question for applying the Market Economy Operator ('MEO') principle is whether 'in similar circumstances a private shareholder, having regard to the foreseeability of obtaining a return and leaving aside all social, regional-policy and sectoral considerations, would have subscribed the capital in question' ⁽⁷⁶⁾.
- (339) In *Stardust Marine* the Court stated that, '[...] in order to examine whether or not the State has adopted the conduct of a prudent investor operating in a market economy, it is necessary to place oneself in the context of the period during which the financial support measures were taken in order to assess the economic rationality of the State's conduct, and thus to refrain from any assessment based on a later situation.' ⁽⁷⁷⁾.
- (340) Furthermore, the Court declared in the *EDF* case that, '[...] for the purposes of showing that, before or at the same time as conferring the advantage, the Member State took that decision as a shareholder, it is not enough to rely on economic evaluations made after the advantage was conferred, on a retrospective finding that the investment made by the Member State concerned was actually profitable, or on subsequent justifications of the course of action actually chosen.' ⁽⁷⁸⁾.
- (341) In order to be able to apply the MEO principle, the Commission has to place itself at the time when the decision to increase the capital of FFHG was taken. Also, the Commission must in principle base its assessment on the information and assumptions which were at the disposal of FFHG's public shareholders at the time when the decision regarding the financial arrangements at stake was taken.
- (342) The Commission recognises that it may be difficult for the relevant Member State and for the operators concerned to provide full contemporaneous evidence in respect of financial arrangements concluded many years ago and will take that into account when applying the criterion at stake in the present case.
- (343) Germany argues that FFHG's shareholders based their decision to inject additional capital on several documents drawn up by FFHG, Fraport and external advisers, showing that the decision was justified.
- (344) While it is true that a long-term plan 2001-2015 for investments into FFHG was drawn up, at the time of the 2001 capital increase the investment was considered by Fraport's consultants BCG and SD as involving high risks, because FFHG would reach an annual profit of EUR [...] under disproportionately high growth assumptions only in 2015. In that context, several observations can be made concerning the timing of the 2001 capital increase and the available information at the time this measure was decided by *Land* Rhineland-Palatinate and Fraport.
- (345) The decision to inject additional capital into FFHG was taken against the background of the worsening financial situation of the airport in 2001. In January 2001, a report on the economic situation of FFHG was presented. This report concluded that, even though the preliminary goals which Fraport had set itself for FFHG had been reached swiftly and the passenger numbers were increasing, the overall economic situation was declining dramatically since two of FFHG's major clients (Malaysian Airlines Cargo and MNG Airlines) shifted their activities from, or reduced their activities at, Frankfurt Hahn airport. Against this background, Fraport mandated BCG and SD to develop a strategy for FFHG. BCG's report shows that even in the event of disproportionate growth no profitability of the investments into FFHG could be expected until 2015. Such growth assumptions

⁽⁷⁴⁾ Case C-482/99 *France v Commission* ('*Stardust Marine*') [2002] ECR I-4397, paragraph 69.

⁽⁷⁵⁾ Case C-305/89 *Italy v Commission* ('*ALFA Romeo*') [1991] ECR I-1603, paragraph 23; Case T-296/97 *Alitalia v Commission* [2000] ECR II-03871, paragraph 84.

⁽⁷⁶⁾ Case 40/85 *Belgium v Commission* [1986] ECR I-2321.

⁽⁷⁷⁾ *Stardust Marine*, paragraph 71.

⁽⁷⁸⁾ Case C-124/10P *European Commission v Électricité de France* ('*EDF*') [2012], not yet reported, paragraph 85.

were also confirmed as unrealistic by Interplan ⁽⁷⁹⁾ ⁽⁸⁰⁾. Moreover, BCG stated in its report that under realistic growth assumptions no profitability of the investments undertaken could be expected. To support this, BCG calculated the Net Present Value (NPV) of the investment as summarised in Table 19.

Table 19

BCG's profitability calculation of investments into FFHG ⁽¹⁾

Assumptions ⁽²⁾	NPV ⁽³⁾ (in EUR)
20 % growth as from 2005	[...]
10 % growth as from 2005	[...]
7 % growth as from 2005	[...]

⁽¹⁾ Profitability assessment, BCG, 14 February 2001.

⁽²⁾ The discount rate for the calculation of the NPV was assumed to be [...] %.

⁽³⁾ The Net Present Value (NPV) indicates whether the income from a given project exceeds the (opportunity) costs of capital. The project is considered as an economically profitable investment when it generates a positive NPV. Investments producing lower income as the (opportunity) costs of capital are not economically profitable. The (opportunity) costs of capital are reflected in the discount rate.

(346) Moreover, according to the traffic projections of Fraport's external expert further growth would be subject to additional infrastructure investments ⁽⁸¹⁾. The overall amount of the necessary investments was estimated to be up to EUR [...] million and would have involved the extension of the runway, taxiways, aprons and other infrastructure measures. However, as stated by BCG, no detailed assessment underpinning this considerable investment plan was conducted. For these reasons, BCG considered that the investment involved high risks and recommended to share these risks with an additional investor or to consider selling Fraport's share in FFHG.

(347) Germany submitted a MEOT conducted by PWC to justify the market conformity of the 2001 capital increase. That document does, however, not support Germany's argument that FFHG's shareholders acted like prudent investors as assessed in recital 348 and following.

(348) The Commission takes note of the long-term business plan drawn up by Fraport's SD in 2001, which served as the basis for the MEOT conducted by PWC in 2006 and 2008, respectively. In that business plan, the following three scenarios were identified:

- (i) Status quo: no further investments to be undertaken by Fraport;
- (ii) Alternative scenario 1: limited investments into the extension of the runway under very pessimistic traffic forecasts; and
- (iii) Alternative scenario 2: with identical investments, but best case traffic forecasts.

(349) However, PWC did not calculate the NPV of the different scenarios in order to allow for a comparison. The NPV established in Table 20 shows that in all scenarios the NPV₂₀₀₁₋₂₀₁₅ would be negative. Also, the projections underlying PWC's profitability assessment show that the alternative scenarios would only under very optimistic traffic forecasts, assuming a disproportionately high growth, result in losses that are smaller (by EUR [...] million) than in the status quo scenario (without taking into account that an additional investment of EUR [...] million would be required). In the worst case scenario, the NPV of the alternative scenario would even be higher (by EUR [...] million) than in the status quo scenario.

⁽⁷⁹⁾ Interplan was a consultant hired by Fraport to analyse the traffic potential of Frankfurt Hahn airport.

⁽⁸⁰⁾ Minutes of the Committee for acquisitions of FFGH's supervisory board of 30 May 2001.

⁽⁸¹⁾ SH&E: Study of traffic potential of Frankfurt-Hahn Airport, 18 July 2001.

Table 20

Profitability assessment of the 2001 capital increase ⁽⁸²⁾

[...]

Source: PWC Report, 24 October 2008, p. 39 and Commission's assessment ⁽⁸³⁾.

- (350) Germany further argued that an exit of Fraport had been considered, but was not possible until at least 2005, therefore this was not considered as an option. However, even though Fraport was bound by the 2001 PLTA, the NPV of the losses expected to be incurred from 2001 to 2005 amounted to EUR [...] million. Hence, the Commission considers that a coverage of losses of FFHG until 2005 without any further investments would have been less costly than investing further into the airport.
- (351) Moreover, it has to be also recalled that the profitability forecast of Fraport's investment into FFHG deteriorated substantially after the decision to conclude the 2001 PLTA was taken (namely after August 1999).
- (352) Table 21 compares the expected annual results in 2001 to 2010 under the business plan of FFHG drawn up to support the 2001 PLTA decision and the business plan of FFHG supporting the 2001 capital increase. Accordingly, the NPV of FFHG's annual results for the same period decreased by approximately EUR [...] million.

Table 21

Comparative assessment of the annual results of FFHG under the business plan for the 2001 PLTA versus the 2001 capital increase ⁽⁸⁴⁾

[...]

Source: PWC Report, 24 October 2008, p. 32 and 39 and Commission's assessment ⁽⁸⁵⁾.

- (353) The Commission further observes that according to the minutes of the supervisory board meeting on 16 November 2001 the profitability of the 2001 capital increase was discussed. According to those minutes, the investments — even the intermediate investments of EUR 27 million — into FFHG were not expected to be profitable. Moreover, it was stated that nevertheless Fraport would provide the 'risk capital in order to open up opportunities for the future'. In addition, the representative of the Land Rheinland-Palatinate (Landrat of the Rhein-Hunsrück District) noted that according to the minutes of the supervisory board meeting of FFHG in May 2001, 'Fraport's decision to investment into FFHG will not depend on the profitability prospect, but on the agreement of Fraport's supervisory board acquisition committee, which has given its agreement.'
- (354) In the light of the above, the Commission concludes that the 2001 capital increase of Fraport was not granted in conformity with the MEOP and conferred an advantage to FFHG.
- (355) With regard to the capital increase of *Land* Rhineland-Palatinate, the Commission notes that Germany's justification of its market conformity is based on the same grounds as for Fraport, which was already discussed in recital 344 and following. The arguments put forward in this regard also apply here.

⁽⁸²⁾ The scenarios 'Status quo', 'Alternative 1' and 'Alternative 2' are based on the data provided in the PWC Report of 24 October 2008, p. 39; the discount rate was identified in the BCG's 'Potential assessment' of 14 February 2010.

⁽⁸³⁾ The Commission calculated the NPV using the discount rate of [...] %, which was established in BCG's profitability assessment. Moreover, the Commission identified another option, i.e. the Status quo (coverage of losses until 2005).

⁽⁸⁴⁾ Discount rate as identified in the PWC Report, 24 October 2008, p. 33.

⁽⁸⁵⁾ The Commission calculated the NPV by using the discount rate indicated in the PWC Report.

- (356) In that regard, the Commission first observes that, since 1994, the Land had already invested several times into FFHG without any success. Second, the *Land* participated in the capital increase under different conditions as Fraport (no remuneration of its investment during the duration of the 2001 PLTA could have been expected). Third, according to the 2003 investment report for Rhineland-Palatinate, the reason for the *Land's* investment into Frankfurt Hahn airport were important social and structural policy objectives, such as the creation of jobs and the fulfilment of transport policy objectives, rather than profitability considerations.
- (357) Therefore, the Commission also concludes that the 2001 capital increase of *Land* Rhineland-Palatinate was not granted in conformity with the MEOP and conferred an advantage to FFHG.

8.1.2.4. *Selectivity*

- (358) For it to fall within the scope of Article 107(1) of the Treaty, a State measure must favour 'certain undertakings or the production of certain goods'. Hence, only those measures favouring undertakings which grant an advantage in a selective way fall under the notion of State aid.
- (359) In the case at hand, the 2001 capital increases by Fraport and *Land* Rhineland-Palatinate only benefitted FFHG. Both capital increases were thus by definition selective within the meaning of Article 107(1) of the Treaty.

8.1.2.5. *Distortion of competition and effect on trade*

- (360) When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in intra-Union trade, the latter must be regarded as affected by that aid. In accordance with settled case law⁽⁸⁶⁾, for a measure to distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (361) As assessed in recital 304, the operation of an airport is an economic activity. Competition takes place, on the one hand, between airports to attract airlines and the corresponding air traffic (passengers and freight), and, on the other hand, between airport managers, which may compete between themselves to be entrusted with the management of a given airport. Moreover, in particular with respect to low cost carriers and charter operators, airports that are not located in the same catchment areas and even in different Member States can also be in competition with each other to attract those airlines.
- (362) Given the size of Frankfurt Hahn airport (see Table 1) and its proximity to other Union airports, notably Frankfurt Main airport, Luxembourg airport, Zweibrücken airport, Saarbrücken airport and Köln-Bonn airport⁽⁸⁷⁾, the Commission considers that the measures concerned were liable to affect trade between Member States. There are international flights from Frankfurt Hahn airport to a number of international destinations as set out in recital 202. The runway at Frankfurt Hahn airport is of sufficient length and allows airlines to serve international destinations.
- (363) In addition, Frankfurt Hahn airport serves as a freight airport (see Table 2). With regard to competition for air freight, the Commission notes that freight is usually more mobile than passenger transport⁽⁸⁸⁾. In general, a catchment area for freight airports is considered to have a radius of at least around 200 kilometres and 2 hours travelling time. With regard to competition for air freight, the Commission notes that freight is usually more mobile than passenger transport⁽⁸⁹⁾. In general, the catchment area for freight airports is considered to have a radius of at least around 200 kilometres and 2 hours travelling time. Based on the Commission's information, industry players generally consider that the catchment area of a freight airport may be even larger as up to a half a day of trucking time (that is to say, up to 12 hours driving time by trucks) would in general be acceptable for

⁽⁸⁶⁾ Case T-214/95 *Het Vlaamse Gewest v Commission* [1998] ECR II-717.

⁽⁸⁷⁾ See Section 2.2 further above.

⁽⁸⁸⁾ For example, Leipzig/Halle airport was in competition with Vatry airport (France) for the establishment of the DHL European hub. See *Leipzig/Halle judgment*, paragraph 93.

⁽⁸⁹⁾ See footnote 88.

freight forwarders to use the airport in order to transport freight ⁽⁹⁰⁾. Against that background, the Commission considers that, since freight airports are more fungible than passenger airports given that it is sufficient for air freight to be delivered into a certain area and then forwarded by road and rail freight forwarders to its final destination, inter alia, there is a higher likelihood of distortions of competition and effect on trade between Member States.

- (364) On the basis of the arguments presented in recitals 360 to 364, the economic advantage which FFHG received has strengthened its position vis-à-vis its competitors on the Union market for the provision of airport services. Against that background, the advantage provided to FFHG through the 2001 capital increase must be considered as being liable to distort competition and have an effect on trade between Member States.

8.1.2.6. **Conclusion**

- (365) The 2001 capital increase of EUR 27 million by Fraport and Land Rhineland-Palatinate constitutes State aid within the meaning of Article 107(1) of the Treaty.

8.1.3. MEASURE 3: 2004 CAPITAL INCREASE AND MEASURE 4: 2004 PLTA

- (366) In 2004, the capital of FFHG was increased by a further EUR 42 million (Fraport invested EUR 10,21 million, Land Hesse invested EUR 20 million and Land Rhineland-Palatinate invested EUR 11,79 million). Land Rhineland-Palatinate and Land Hesse agreed to that capital increase in 2002 subject to the condition that a new PLTA (namely the 2004 PLTA) between FFHG and Fraport would be concluded, covering the period until 31 December 2014.

- (367) On 5 April 2004, Fraport and FFHG concluded the 2004 PLTA. That agreement was approved by the shareholders of Fraport on 2 June 2004.

8.1.3.1. ***Notion of undertaking and economic activity***

- (368) As analysed in recitals 293 and following, since 12 December 2000 FFHG has to be considered as an undertaking exercising an economic activity for the purposes of Article 107(1) of the Treaty.

8.1.3.2. ***State resources and imputability***

2004 capital increase and the 2004 PLTA — Fraport

- (369) The Commission considers that due to the fact that the 2004 PLTA was a pre-condition for the 2004 capital increase to become effective and because both measures were subject to the agreement of Fraport's shareholders at the same shareholder meeting, the imputability of both measures needs to be assessed together (as regards Fraport's contribution).

- (370) The 2004 capital increase and the 2004 PLTA were confirmed by Fraport's shareholders assembly on 2 June 2004 with 99,992 % of the votes of the shareholders present at the meeting.

- (371) Furthermore, Germany argued that for the decision of the 2004 PLTA to be approved, a majority of 74,994 % of the votes at the shareholders assembly was needed, whereas the public shareholders only held approximately 70 % of the shares in Fraport and were therefore in fact not able to control the decisions of Fraport. In this regard it needs to be recalled that the 2004 capital increase would not become effective without the endorsement of the 2004 PLTA by Fraport's shareholders.

⁽⁹⁰⁾ Response of Liège airport to the public consultation on the 2014 Aviation Guidelines.

- (372) The Commission considers that as a majority shareholder the State had an important share in the vote on the 2004 capital increase and 2004 PLTA. Nevertheless, according to the German *Aktiengesetz* (AktG) a PLTA becomes effective only upon its approval by the shareholder's meeting with majority of votes representing at least three quarters of the authorised capital taking part in the vote ⁽⁹¹⁾. Hence, the public authorities could not without the substantial participation of the private shareholders control the decision to implement the 2004 PLTA and to carry out the 2004 capital increase by Fraport.
- (373) Therefore, in light of the considerations in recital 369 and the following, the Commission considers that the 2004 capital increase by Fraport and the 2004 PLTA are not imputable to the State. Even if imputability were to be confirmed and the measure considered to be aid, such aid would be compatible with the internal market. In this respect, the considerations below in Sections 10.3 and 10.4 equally apply.

2004 capital increase — Land Rhineland-Palatinate and Land Hesse

- (374) *Land* Rhineland-Palatinate and *Land* Hesse financed their shares of the 2004 capital increase from their general budget. Hence, those parts of the 2004 capital increase were clearly financed from State resources and are imputable to the State.

8.1.3.3. *Economic advantage*

- (375) As was stated in recitals 336 and following, the Commission applies the MEO principle to test whether there is an economic advantage conferred on an undertaking. The principles regarding the application of the MEO principle set out in recitals 336 and following apply equally.

Application of the MEOT — Land Rhineland-Palatinate

- (376) In relation to the 2004 capital increase of Land Rhineland-Palatinate, Germany submitted that it acted in line with the MEO principle. To support this, following the 2008 opening decision Germany provided a MEOT conducted by PWC in 2008.
- (377) The Commission first of all notes that Land Rhineland-Palatinate did not draw up its own *ex ante* profitability calculation or calculated its own return on investment. On the contrary, Land Rhineland-Palatinate was relying on the business plan prepared by FFGH and Fraport.
- (378) Second, the Commission considers however that the from the situation of the Land was not the same as the situation of Fraport's shareholders. Table 22 shows Land Rhineland-Palatinate was supposed to inject EUR [...] million in 2005 to 2009 (in total EUR [...] million), but expected receiving dividend payments or any other remuneration for its participation only as of 2025. However, Fraport's shareholders were supposed to inject EUR [...] million and expected after the negative results during the first four years, to receive dividend payments. The NPV of the expected dividends for the period up to 2025 amounted to EUR [...] million with an Internal Rate of Return (IRR) of [...] %.
- (379) Third, In view of this long planning horizon and given the fact that Land Rhineland-Palatinate had already invested several times without any success into FFGH, the Commission considers that no prudent private investor in the position of the Land would have decided to inject further capital into FFGH without also conducting an *ex ante* sensitivity assessment.

⁽⁹¹⁾ § 293(1) of the AktG.

Table 22

Profitability assessment of the 2004 capital increase by Land Rhineland-Palatinate

[...]

Source: PWC Report: Rheinland-Pfalz, 24 October 2008, p. 21.

- (380) Furthermore, the MEOT for the 2004 capital increase and the 2004 PLTA are based on significant growth expectations as regards FFHG's annual financial results (see Table 23). These growth assumptions underlying the MEOT are substantially higher than those underpinning the MEOT for the 2001 capital increase. In addition, they are subject to high fluctuations and for example in 2009 amounted to more than 300 %.

Table 23

Comparison of the forecasted annual results of FFHG in the business plans used by PWC for the MEOT for the 2001 capital increase and for the 2004 capital increase

In 1 000 EUR	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
2004 capital increase	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2004 capital increase — annual changes in %	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2001 capital increase	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2001 capital increase — annual changes in %	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]

In 1 000 EUR	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
2004 capital increase	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2004 capital increase — annual changes in %	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2001 capital increase	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]
2001 capital increase — annual changes in %	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]	[...]

Source: PWC Report, 24 October 2008, p. 45 and Commission's assessment ⁽⁹²⁾

⁽⁹²⁾ Commission has calculated the growth rates on the basis of the forecasted annual results.

- (381) Furthermore, according to the investment reports for Land Rhineland-Palatinate, the reason for the Land's investment into Frankfurt Hahn airport was the achievement of important social and structural policy considerations, such as the creation of jobs and the fulfilment of transport policy objectives, rather than profitability considerations. However, social and regional considerations cannot be taken into account when conducting the MEOT.
- (382) In view of these specific factors concerning Land Rhineland-Palatinate's decision to inject further capital into FFHG (recitals 376 to 380) the Commission considers that the 2004 capital increase by Land Rhineland-Palatinate was not in line with the MEO principle and conferred an advantage on FFHG.

Application of the MEOT — Land Hesse

- (383) In relation to the behaviour of Land Hesse, Germany argued that the restricted growth possibilities for Frankfurt Main airport deriving, inter alia, from the night flight curfew made further development of Frankfurt Hahn airport necessary in the eyes of Land Hesse. Germany pointed out that this development allowed to comprehensively exploit the existing growth opportunities in the framework of the 24 hours-flight permission for Frankfurt Hahn airport together with the envisaged introduction of the airport system Frankfurt Main airport — Frankfurt Hahn airport. Moreover, with the participation in the 2004 capital increase, Land Hesse could further support the development of air traffic in the Rhine-Main area.
- (384) First of all, the Commission notes that no specific *ex ante* profitability calculation was drawn up by Land Hesse. Second, similarly as for Land Rhineland-Palatinate, also Land Hesse was expecting to start receiving dividend payments only after 2025. Third, despite the long planning horizon no sensitivity assessment of the assumptions was conducted. Moreover, the reason for the Land's investment into Frankfurt Hahn airport, such as development of air traffic in the Rhine-Main area or other important social and structural policy considerations, cannot be taken into account when conducting the MEOT.
- (385) In view of these specific factors concerning Land Hesse's decision to become a shareholder of FFHG (recitals 383 to 384), the Commission considers that the 2004 capital increase by Land Hesse was not in line with the MEO principle and conferred an advantage on FFHG.

Conclusion

- (386) In the light of those considerations, the Commission concludes that the 2004 capital increases by Land Rhineland-Palatinate and Land Hesse confer an advantage to FFHG.

8.1.3.4. *Selectivity*

- (387) As the 2004 capital increases by Land Rhineland-Palatinate and Land Hesse were put in to place only for the benefit of FFHG, those measures are thus by definition selective within the meaning of Article 107(1) of the Treaty.

8.1.3.5. *Distortion of competition and effect on trade*

- (388) For the same reasons as outlined in recitals 360 and following, the Commission considers that any selective economic advantage granted to FFHG was liable to distort competition and affect trade between Member States.

8.1.3.6. *Conclusion*

- (389) The 2004 capital increase, granted by the *Länder* Rhineland-Palatinate and Hesse in favour of FFHG constitutes State aid within the meaning of Article 107(1) of the Treaty.

- (390) The 2004 PLTA under which Fraport took over all losses incurred by FFHG between 2004 and 2009 and the 2004 capital increase by Fraport are not imputable to the State. As one of the cumulative criteria pursuant to Article 107(1) of the Treaty is not fulfilled, the Commission considers that the 2004 PLTA and the 2004 capital increase by Fraport do not constitute State aid within the meaning of Article 107(1) of the Treaty.
- (391) Even if, the 2004 PLTA and the 2004 capital increase would constitute State aid, this aid would be compatible on the basis of the considerations set out in Section 10.

8.1.4. MEASURE 5: COMPENSATION OF FFHG FOR SECURITY CHECKS

8.1.4.1. *Notion of undertaking and economic activity*

- (392) As stated in recital 293, while FFHG must be considered to constitute an undertaking for the purposes of Article 107(1) of the Treaty, it must be recalled that not all activities of an airport owner and operator are necessarily of an economic nature ⁽⁹³⁾.
- (393) The Court of Justice ⁽⁹⁴⁾ has held that activities which normally fall under a State's responsibility in the exercise of its official powers as a public authority are not of an economic nature and do not fall within the scope of the rules on State aid. Such activities may include, for example, security, air traffic control, police, customs, etc. The financing has to be strictly limited to compensation of the costs to which they give rise and may not be used instead to fund other economic activities ⁽⁹⁵⁾.
- (394) Therefore, the financing of activities falling within the public policy remit or of infrastructure directly related to those activities in general does not constitute State aid ⁽⁹⁶⁾. At an airport, activities such as air traffic control, police, customs, firefighting, activities necessary to safeguard civil aviation against acts of unlawful interference and the investments relating to the infrastructure and equipment necessary to perform those activities are considered in general to be of a non-economic nature ⁽⁹⁷⁾.
- (395) However, public financing of non-economic activities necessarily linked to the carrying out of an economic activity must not lead to undue discrimination between airlines and airport managers. Indeed, it is established case law that there is an advantage when public authorities relieve undertakings of the costs inherent to their economic activities ⁽⁹⁸⁾. Therefore, if in a given legal system it is normal that airlines or airport managers bear the costs of certain services, whereas some airlines or airport managers providing the same services on behalf of the same public authorities do not have to bear those costs, the latter may enjoy an advantage, even if those services are considered in themselves as non-economic. Therefore, an analysis of the legal framework applicable to the airport operator is necessary in order to assess whether under that legal framework airport managers or airlines are required to bear the costs of the provision of some activities that might be non-economic in themselves but are inherent to the deployment of their economic activities.
- (396) Germany submitted that the costs arising from the security checks pursuant to §8 *Luftsicherheitsgesetz* (Air Security Law, 'LuftSiG') are to be considered as falling within the public policy remit.
- (397) The Commission agrees that measures pursuant to §8 LuftSiG can, in principle, be considered to constitute activities falling within the public policy remit.
- (398) As regards the costs for carrying out such measures, Germany appears to consider that all of them will be borne by the relevant public authorities. The Commission notes, however, that pursuant to §8(3) LuftSiG only the costs related to the provision and maintenance of spaces and premises necessary for the performance of the listed

⁽⁹³⁾ Case C-364/92 *SAT Fluggesellschaft v Eurocontrol* [1994] ECR I-43.

⁽⁹⁴⁾ Case C-118/85 *Commission v Italy* [1987] ECR 2599, paragraphs 7 and 8, and Case C-30/87 *Bodson/Pompes funèbres des régions libérées* [1988] ECR 2479, paragraph 18.

⁽⁹⁵⁾ Case C-343/95 *Cali & Figli v Servizi ecologici porto di Genova* [1997] ECR I-1547; Commission Decision N309/2002 of 19 March 2003; Commission Decision N438/2002 of 16 October 2002, Aid in support of the public authority functions in the Belgian port sector.

⁽⁹⁶⁾ Commission Decision N309/2002 of 19 March 2003.

⁽⁹⁷⁾ See, in particular, Case C-364/92 *SAT Fluggesellschaft v Eurocontrol* [1994] ECR I-43, paragraph 30 and Case C-113/07 *P Selex Sistemi Integrati v Commission* [2009] ECR I-2207, paragraph 71.

⁽⁹⁸⁾ See, inter alia, Case C-172/03 *Wolfgang Heiser v Finanzamt Innsbruck* [2005] ECR I-01627, paragraph 36, and case-law cited.

activities pursuant to §5 LuftSiG may be reimbursed. All other costs, including in particular those for security checks, must be borne by the airport operator. Hence, to the extent that public financing granted to FFHG relieved this undertaking of costs they normally had to bear given the limits prescribed in §8(3) LuftSiG, that public financing is not exempted from scrutiny under EU State aid rules.

8.1.4.2. *State resources and imputability to the State*

- (399) In this case, insofar as the Land has not only transferred the revenues collected from the airlines for the security checks to FFHG, the funds provided were granted from the budget of the Land Rhineland-Palatinate.
- (400) Thus, the Commission considers that they are financed through State resources and are also imputable to the State.

8.1.4.3. *Economic advantage*

- (401) The Commission notes that the measures at stake covered a portion of costs incurred by FFHG in the context of its economic activity. The operator of an airport normally has to bear all the costs related to the construction and operation of the airport (with the exception of those costs that fall within the public policy remit and do not generally have to be borne by the airport operator under the applicable legal framework). Hence, covering a part of those costs relieves FFHG of a burden it would normally have to bear and therefore provides to FFHG an economic.

8.1.4.4. *Selectivity*

- (402) As the measures at stake were granted only to FFHG, those measures have to be qualified as being selective in nature.

8.1.4.5. *Distortion of competition*

- (403) For the same reasons as outlined in recitals 360 and following, the Commission considers that any selective economic advantage granted to FFHG is liable to distort competition and affect trade between Member States.

8.1.4.6. *Conclusion*

In the light of the considerations in recital 392 and following, the Commission considers that the public funding granted to FFHG, to the extent that the payments of the Land Rhineland-Palatinate for the security checks exceeded the revenue collected from the airlines, constitutes State aid within the meaning of Article 107(1) of the Treaty.

8.1.5. MEASURE 6: DIRECT GRANTS FROM LAND RHINELAND-PALATINATE

8.1.5.1. *Applicability of State aid rules to public grants decided before 2000 and notion of an undertaking*

- (404) For the reasons outlined in recital 293 and following, as of 12 December 2000 FFHG must be considered to constitute an undertaking for the purposes of Article 107(1) of the Treaty.
- (405) Germany clarified that in 2001 Land Rhineland-Palatinate granted to FFHG EUR [...] to support some of its infrastructure investments. According to Germany, however, those grants were based on a decision taken already in 1999.

- (406) For the same reasons as outlined in recital 293 and following, the Commission considers that for grants (like the one described in recital 405) decided prior to the Court judgment in *Aéroports de Paris*, public authorities could legitimately consider that the financing did not constitute State aid and accordingly did not need to be notified to the Commission. It follows that the Commission can not put into question such grants under State aid rules.
- (407) Moreover, Germany stated that Land Rhineland-Palatinate partially financed personnel costs for security checks in the years 2001 ([...] % of total costs), 2002 ([...] %), 2003 ([...] %) and 2004 ([...] %).
- (408) As assessed in recital 397 and following, the carrying out of security checks (pursuant to §8 LuftSiG) can, in principle, be considered to constitute an activity falling within the public policy remit. However, pursuant to §8 (3) LuftSiG only the costs related to the provision and maintenance of spaces and premises necessary for the performance of the listed activities pursuant to §5 LuftSiG may be reimbursed. However, in the present case the Land Rhineland-Palatinate has taken over costs for security checks, which must be borne by the airport operator. Hence, the public support granted to FFHG through the financing of personnel costs for security checks is not exempted from scrutiny under EU State aid rules.

8.1.5.2. *State resources and imputability to the State*

- (409) The Commission considers that the direct grants are financed through State resources and are also imputable to the State.

8.1.5.3. *Economic advantage*

- (410) The Commission notes that the measures at stake covered a portion of costs incurred by FFHG in the context of its economic activity. The operator of an airport normally has to bear all the costs related to the construction and operation of the airport, including those for security checks, so that covering a part of those costs relieves FFHG of a burden it would normally have to bear and provides to FFHG an economic advantage it would normally not receive under normal market conditions.
- (411) Moreover, the measures at stake were non-repayable in nature and did not yield a return on investment. Germany has not presented any evidence that the direct grants were put at the disposal of FFHG on market terms. Furthermore, Germany does not rely on the MEO principle. The Commission therefore finds that the measures at stake by the *Land* in favour of FFHG granted after 12 December 2000 conferred an economic advantage on FFHG.

8.1.5.4. *Selectivity*

- (412) As the measures at stake were granted only to FFHG, those measures have to be qualified as being selective in nature.

8.1.5.5. *Distortion of competition and effect on trade*

- (413) For the same reasons as outlined in recitals 360 and following, the Commission considers that any selective economic advantage granted to FFHG is liable to distort competition and affect trade between Member States.

8.1.5.6. *Conclusion*

- (414) In the light of the considerations in recital 392 and following, the Commission concludes that, as the direct grants amounting to EUR [...] million (years 1997-2000) and EUR [...] million (paid in 2001) were irrevocably decided by the public authorities before the *Aéroports de Paris* judgment, they could legitimately consider that those grants did not constitute State aid.

- (415) The Commission considers that the public funding granted to FFHG amounting to EUR 1,93 million (years 2001-2004) constitutes State aid within the meaning of Article 107(1) of the Treaty.

8.1.6. MEASURE 12: EQUITY INCREASE AMOUNTING TO EUR [...] MILLION

8.1.6.1. *Relation between the capital increase and the financial arrangements already put in place in favour of FFHG*

- (416) Before assessing whether the capital increase amounting to EUR [...] million in favour of FFHG constitutes State aid, it is necessary to determine whether this capital increase and the financial arrangements previously put in place in favour of FFHG should be considered as separate measures or as a single measure.
- (417) Germany submitted that the capital increase is intended to refinance the loans covering investments into infrastructure which were irrevocably committed to be financed or refinanced by the public shareholder between 1997 and 2012, but not yet been paid.
- (418) In view of the evidence presented by Germany, the Commission considers that the equity injection is aimed to refinance loans which financed the infrastructure improvements at Frankfurt Hahn airport between 1997 and 2012. As according to Germany by the decision to undertake these investments, FFHG was entitled to receive this funding. Hence, the Commission considers that the capital injection of EUR [...] million has to be assessed in the context of the previous commitments by the public shareholders when these investments were decided.

8.1.6.2. *Conclusion*

- (419) In that regard, and in the light of the considerations in Section 8.1.1, the Commission concludes that FFHG has been engaged in an economic activity as from the date of the *Aéroports de Paris* judgment (12 December 2000) onward and constitutes an undertaking within the meaning of Article 107(1) of the Treaty.
- (420) Moreover, in line with the considerations in Sections 8.1.1, 8.1.3 and 8.1.4, which apply equally to that measure, the Commission considers that the equity injection constitutes State aid within the meaning of Article 107(1) of the Treaty, as it involves State resources, it is imputable to the State and confers an selective economic advantage on FFHG that distorts or threatens to distort competition and trade between Member States.

8.2. AID NATURE OF THE MEASURES RELATING TO RYANAIR AND OTHER AIRLINES USING THE AIRPORT

8.2.1. GENERAL CONSIDERATIONS REGARDING THE APPLICATION OF THE MEO PRINCIPLE

- (421) In order to assess whether an agreement between a publicly-owned airport and an airline confers an economic advantage on the latter, it is necessary to analyse whether that agreement complied with the MEO principle. In applying the MEOT to an agreement between an airport and an airline, it must be assessed whether, at the date when the agreement was concluded, a prudent market economy operator would have expected the agreement to lead to a higher profit than would have been achieved otherwise. That higher profit is to be measured by the difference between the incremental revenues expected to be generated by the agreement (that is, the difference between the revenues that would be achieved in case the agreement is concluded and the revenues that would be achieved in the absence of the agreement) and the incremental costs expected to be incurred as a result of the agreement (that is, the difference between the costs that would be incurred in case the agreement is concluded and the costs that would be incurred in the absence of the agreement), the resulting cash flows being discounted with an appropriate discount rate.
- (422) In that analysis, all the relevant incremental revenues and costs associated with the agreement must be taken into account. The various elements (discounts to airport charges, marketing grants, other financial incentives) should not be assessed separately. Indeed, as stated in the *Charleroi* judgment: 'It is (...) necessary, when applying the

private investor test, to envisage the commercial transaction as a whole in order to determine whether the public entity and the entity which is controlled by it, taken together, have acted as rational operators in a market economy. The Commission must, when assessing the measures at issue, examine all the relevant features of the measures and their context [...].’⁽⁹⁹⁾.

- (423) The expected incremental revenues must include in particular the revenues from airport charges, taking into account the discounts as well as the additional traffic expected to be generated by the agreement and the non-aeronautical revenues expected to be generated by the traffic. The expected incremental costs must include in particular all the incremental operating and investment costs that would not be incurred in the absence of the agreement as well as the costs of the marketing grants and other financial incentives.
- (424) The Commission also notes in that context that price differentiation (including marketing support and other incentives) is a standard business practice. Such differentiated pricing policies should, however, be commercially justified⁽¹⁰⁰⁾.
- (425) The Court held in the Stardust Marine judgment that, ‘[...] in order to examine whether or not the State has adopted the conduct of a prudent investor operating in a market economy, it is necessary to place oneself in the context of the period during which the financial support measures were taken in order to assess the economic rationality of the State’s conduct, and thus to refrain from any assessment based on a later situation.’⁽¹⁰¹⁾.
- (426) Hence, in order to be able to apply the MEOT the Commission has to place itself at the time when the respective agreements between FFHG and Ryanair were concluded. Also, the Commission in principle must base its assessment on the information at the disposal of the airport manager when the respective agreements were signed or put in place, as well as any reasonable assumptions that it could entertain at such time.
- (427) Point 63 of the 2014 Aviation Guidelines provides that arrangements concluded between airlines and an airport can be deemed to satisfy the MEO test when they incrementally contribute, from an *ex ante* perspective, to the profitability of the airport. While this criterion reflects the logic of the MEO test, it has been spelt out only recently and refers to individual arrangements rather than to the overall business, as is more often the case when applying the MEO test. Therefore, the Commission recognises that it may be difficult for the relevant Member State and for the operators concerned to provide full contemporaneous evidence in respect of arrangements concluded many years ago and will take that into account when applying the criterion at stake in the present case.

8.2.1.1. *The feasibility of comparing Frankfurt Hahn airport to other European airports*

- (428) Under the 2014 Aviation Guidelines, the existence of aid to an airline using a particular airport can, in principle, be excluded if the price charged for the airport services corresponds to the market price, or if it can be demonstrated that from an *ex ante* analysis —, i.e. one founded on information available when the aid was granted and on developments foreseeable at the time — the airport/airline arrangement could be expected to lead to a positive incremental profit contribution for the airport⁽¹⁰²⁾.
- (429) In that respect, the Commission considers an *ex ante* incremental profitability analysis to be the most relevant criterion for the assessment of arrangements concluded by airports with individual airlines⁽¹⁰³⁾. The reason is that, at the present time, it is doubtful that an appropriate benchmark can be identified to establish a true market price for services provided by airports. In general, the application of the MEO principle based on an average price on other, similar markets may prove helpful if such a price can be reasonably identified or deduced from other

⁽⁹⁹⁾ Case T-196/04 *Ryanair v Commission* [2008] ECR II-3643, paragraph 59.

⁽¹⁰⁰⁾ See Commission Decision 2011/60/EU of 27 January 2010 on State aid C 12/08 (ex NN 74/07) — Slovakia — Agreement between Bratislava Airport and Ryanair (OJ L 27, 1.2.2011, p. 24).

⁽¹⁰¹⁾ Case C-482/99 *France v Commission* [2002] ECR I-04397, paragraph 71 (‘Stardust Marine judgement’).

⁽¹⁰²⁾ See point 53 of the 2014 Aviation Guidelines.

⁽¹⁰³⁾ See points 59 and 61 of the 2014 Aviation Guidelines.

market indicators. However, this method is not as relevant in the case of airport services, as the structure of costs and revenues tends to differ greatly from one airport to another. This is because costs and revenues depend on how developed an airport is, the number of airlines which use the airport, its capacity in terms of passenger traffic, the state of the infrastructure and related investments, the regulatory framework which can vary from one Member State to another and any debts or obligations entered into by the airport in the past ⁽¹⁰⁴⁾.

- (430) Moreover, the liberalisation of the air transport market complicates any purely comparative analysis. As can be seen in the present case, commercial practices between airports and airlines are not always based exclusively on a published schedule of charges. Rather, these commercial relations are very varied. They include sharing risks with regard to passenger traffic and any related commercial and financial liability, standard incentive schemes and changing the spread of risks over the term of the agreements. Consequently, one transaction cannot really be compared with another based on a turnaround price or price per passenger.
- (431) Finally, assuming that it could be established, based on a valid comparative analysis, that the 'prices' involved in the various transactions that are the subject of that assessment are equivalent to or higher than the 'market prices' established through a comparative sample of transactions, the Commission would, nevertheless, not be able to conclude from this that these transactions comply with the MEO test if it emerges that, when they were concluded, the airport operator had expected them to generate incremental costs higher than the incremental revenues. This is because an MEO will have no incentive to offer goods or services at 'market price' if doing so would result in an incremental loss.
- (432) In such conditions, the Commission considers that, taking into account all the information available to it, there are no grounds for diverging from the approach recommended in the 2014 Aviation Guidelines for applying the MEO principle to relations between airports and airlines, i.e. an *ex ante* analysis of incremental profitability.

8.2.1.2. *Assessment of Incremental Costs and Revenues*

- (433) The Commission considers that price differentiation is a standard business practice, as long as it complies with all relevant competition and sectoral legislation. Nevertheless, such differentiated pricing policies should be commercially justified to satisfy the MEO test.
- (434) In the view of the Commission, arrangements concluded between airlines and an airport can be deemed to satisfy the MEO test when they incrementally contribute, from an *ex ante* perspective, to the profitability of the airport. The airport should demonstrate that, when setting up an arrangement with an airline (for example, an individual contract or an overall scheme of airport charges), it is capable of covering all costs stemming from the arrangement, over the duration of the arrangement, with a reasonable profit margin on the basis of sound prospects.
- (435) In order to assess whether an arrangement concluded by an airport with an airline satisfies the MEO test, expected non-aeronautical revenues stemming from the airline's activity must be taken into consideration together with airport charges, net of any rebates, marketing support or incentive scheme). Similarly, all expected costs incrementally incurred by the airport in relation to the airline's activity at the airport must be taken into account. Such incremental costs may encompass all categories of expenses or investments, such as incremental personnel, equipment and investment costs induced by the presence of the airline at the airport. For instance, if the airport needs to expand or build a new terminal or other facilities mainly to accommodate the needs of a specific airline, such costs should be taken into consideration when calculating the incremental costs. In contrast, costs which the airport would have to incur anyway independently from the arrangement with the airline should not be taken into account in the MEOT.
- (436) Moreover, when deciding on whether or not to enter into an airport service agreement and/or a marketing service agreement, a MEO will choose a time frame for its assessment based on the duration of the agreements in question. In other words, it will assess the incremental costs and revenues for the term of application of the agreements.

⁽¹⁰⁴⁾ Decision 2011/60/EU.

- (437) There does not seem to be any justification for choosing a longer period. On the date of signature of the agreements, a prudent MEO will not count on the agreements being renewed once they have expired, whether under the same or new terms. Moreover, a prudent operator would be aware that low-cost airlines such as Ryanair have always been and are known for being very responsive to market developments, both when starting up or shutting down routes and when increasing or decreasing the number of flights.

8.2.2. MEASURE 7: 1999 RYANAIR AGREEMENT

- (438) Germany submitted that FFHG prepared an *ex ante* incremental profitability assessment of the agreement before concluding any individual agreement with Ryanair. Hence, Germany argued that FFHG acted as a rational investor when concluding the 1999 Ryanair agreement.
- (439) The Commission notes that FFHG had indeed drawn up several business plans and calculations around the time it entered into its commercial relation with Ryanair. FFHG's profitability calculations took into account all revenues (aeronautical and non aeronautical) expected to be generated by Ryanair at the airport and all costs induced by the presence of the airline.

FFHG's first profitability assessment of the 1999 Ryanair agreement

- (440) Table 24 summarises the incremental profitability calculation of the 1999 Ryanair agreement conducted by FFHG for the year 1999, which was conducted by FFHG on the basis of the expected revenue to be generated by the agreement, expected non-aeronautical revenue generated by duty free and sales in shops at the airport and the expected incremental costs related to the agreement.

Table 24

Ex ante incremental profitability of the 1999 Ryanair agreement (year 1999)

[...]

Source: FFHG incremental profitability calculation, 4 March 1999.

- (441) While the *ex ante*-analysis of 4 March 1999 undertaken by FFHG and submitted by Germany did not include a projection for the whole period covered by the agreement, it was clear that the contract was expected to be profitable from the first year of Ryanair's operation. Even though a MEO would normally draw up a business plan for the whole duration of the agreement, the agreement was expected to generate as from the beginning a positive incremental contribution for the airport. This is in particular because the first year of starting-up airline operations at an untested airport is the most risky period of time. In the present case, the traffic forecasts appear to be based on prudent assumptions and were also confirmed by the actual traffic development at the airport (see Table 1). Hence, even if — what was however very unlikely — the passenger traffic would remain at the same level over the duration of the agreement, the airport could still reasonably expect the agreement would generate a positive contribution to the overall profitability of FFHG.
- (442) The incremental revenue taken into account in that incremental profitability calculation includes the aeronautical revenue and other non-aeronautical revenue (such as ticketing revenue) as agreed in the 1999 Ryanair agreement, as well as duty free and shopping revenue. The key value driver of the forecasted revenues was the expected passenger traffic. With regard to the passenger forecast, FFHG expected to handle approximately [...] Ryanair passengers in 1999 ⁽¹⁰⁵⁾. That traffic forecast was confirmed by the actual passenger development at the airport (see Table 1).

⁽¹⁰⁵⁾ This is based on the following calculation: [...] flights in 1999 * [...] passengers per flight = [...] Ryanair passengers.

- (443) The incremental costs taken into account include the costs of groundhandling, carried out by an external ground-handling company, the costs of fuel, the costs for additional staff to be hired (additional 8 employees), as well as the costs for marketing, the call centre and security checks. In addition, also depreciation and costs of financing for investments directly induced by Ryanair were taken into account. Those investments were estimated to amount to approximately DM [...] million and mainly concerned general airport equipment.
- (444) Germany submitted that the investment costs for the new passenger terminal amounting to DM [...] million were not induced by Ryanair. In that context, Germany explained that until the new terminal was built, the airport did not dispose of a proper passenger terminal. Therefore, according to Germany, the construction of a new terminal was a pre-condition for the airport's expansion strategy into scheduled passenger traffic. Moreover, also in the context of FFHG's freight expansion strategy several investments were undertaken by the airport that were not induced by a specific airline. As those costs would have been incurred irrespective of the presence of Ryanair at the airport, according to Germany those costs did not need to be taken into account in the incremental profitability calculation.
- (445) First, the Commission notes that indeed, according to FFHG's business plan of 16 November 1998 for the year 1999, the construction of a new passenger terminal had already commenced (i.e. before any agreement with Ryanair was negotiated).
- (446) Second, the authentic *ex ante* business plans submitted by Germany show that the construction of the terminal and other infrastructure measures was part of the conversion of a former US military base into a full functioning civil aviation airport (with a broader objective to develop the airport as a means to better connect the region) and was not limited to the 1999 Ryanair agreement.
- (447) In view of the above considerations, the Commission considers that the *ex ante* calculation conducted by FFHG was based on realistic assumptions and correctly did not take into account the costs for infrastructure. Moreover, even though the *ex ante* profitability calculation did not cover the overall period, it established that as from the first year the 1999 Ryanair agreement would provide a positive profit contribution to the airport.

FFHG's second profitability assessment of the 1999 Ryanair agreement

- (448) A second *ex ante* profitability assessment of the 1999 Ryanair agreement covering the period 1999 — 2003 was conducted in the context of the discussions in FFHG's supervisory board regarding the acquisition of new clients (Ryanair) ⁽¹⁰⁶⁾, as summarised in Table 25. The Commission observes that also that assessment is based on an incremental profitability calculation and the principles described in recitals 442 to 444. While that assessment is based on higher passenger forecasts than the previous calculation, also those forecasts were confirmed by the actual passenger development at the airport (see Table 1).

Table 25

Incremental profitability assessment of the 1999 Ryanair agreement 1999-2003

[...]

Source: Report on airport charges — Frankfurt Hahn airport, 1999 and Commission assessment.

- (449) While the *ex ante*-analysis undertaken by FFHG and submitted by Germany did not discount the future payments to the date on which the agreement was concluded, it is clear that the agreement was expected to be profitable. The Commission considers that that assumption was realistic taking into account the prevailing market conditions at the time when the 1999 Ryanair agreement was concluded. The traffic forecasts which are a main

⁽¹⁰⁶⁾ Report on airport charges — Frankfurt Hahn airport, 1999.

driver for the aeronautical revenue were based on prudent assumptions, and confirmed by the actual passenger development at the airport. Moreover, it was expected that the induced incremental costs will remain stable in 2000 to 2003, as only a marginal increase in the frequencies offered by Ryanair was expected. Also the forecasts for the non-aeronautical revenue were based on realistic assumptions, as it was expected that each passenger will spend around EUR [...] at the airport.

- (450) The Commission notes that the management of FFHG, taking into account all incremental costs and revenues stemming from the activity of Ryanair at the airport, expected that the 1999 Ryanair agreement would not just cover all incremental costs but over its duration generate a positive contribution to the profitability of Frankfurt Hahn airport with a NPV which amounts to DM [...] million (discount rate = [...] %). Given that expected positive contribution also the overall business of Frankfurt Hahn airport was expected to become more profitable over the duration of the 1999 Ryanair agreement.
- (451) Even though in order to comply with the MEOT, it is sufficient to demonstrate that the expected revenue generated by the agreement with an airport was capable of covering its expected incremental costs, the Commission also conducted a sensitivity analysis including the costs of depreciation of the new passenger terminal in the profitability calculation (see Table 26).

Table 26

Incremental profitability assessment of the 1999 Ryanair agreement 1999-2003 (incl. annual depreciation for the new passenger terminal of DM [...] ⁽¹⁰⁷⁾)

[...]

Source: Report on airport charges — Frankfurt Hahn airport, 1999 and Commission assessment.

- (452) Even after taking into account the full costs of depreciation of the new passenger terminal, the 1999 Ryanair agreement could reasonably have been expected to generate a positive NPV of around DM [...] million (discount rate = [...] %).

Oxera's profitability assessment of the 1999 Ryanair agreement

- (453) In addition, also Ryanair submitted a profitability assessment conducted by Oxera on the basis of information available at the time the 1999 Ryanair agreement was concluded, which was provided by the airport and Ryanair. The results of that calculation are summarised in Table 16. Oxera's assessment equally shows that the 1999 Ryanair agreement could be expected to result in a positive NPV for the airport.
- (454) Moreover, based on the information available the Commission considers as convincing Germany's argument that the ability to generate additional traffic through agreements with Ryanair offered FFHG the possibility to attract customers with growth potential, to improve the overall utilisation of the airport and overall to reduce its losses.

Conclusion

- (455) Having analysed the agreement and the expectations of FFHG at the time of the conclusion of the 1999 Ryanair agreement, the Commission is satisfied that the agreement contributed to the profitability of Frankfurt Hahn airport, in that the expected incremental revenues were higher than the expected incremental costs. As the contract thus complied with the MEO principle, it did not confer an advantage on Ryanair.

⁽¹⁰⁷⁾ Investment costs of the new terminal of DM [...] million/expected economic utilization of the terminal of 20 years = Depreciation of DM [...] p. a.

- (456) As one of the cumulative criteria pursuant to Article 107(1) of the Treaty is not fulfilled, the Commission considers that the 1999 Ryanair agreement between Frankfurt Hahn airport and Ryanair does not constitute State aid within the meaning of Article 107(1) of the Treaty.

8.2.3. MEASURE 8: 2001 SCHEDULE OF AIRPORT CHARGES

- (457) The Commission notes that the 2001 schedule of airport charges entered into force on 1 October 2001. At that point in time, Ryanair was the main passenger airline operating at Frankfurt Hahn airport, as Volare and Air Polonia started operating at the airport only in 2003 and Wizzair and Iceland Express only in 2005.
- (458) The 2001 schedule of airport charges applied to all airlines using Frankfurt Hahn airport and offered variable and fixed marketing support for new airlines, new destinations and increased passenger numbers.
- (459) The 2001 schedule of airport charges was introduced to enhance the competitiveness of Frankfurt Hahn airport and to support the growth strategy of the airport at that time.
- (460) Against that background, Germany argued that no advantage was granted through the 2001 schedule of airport charges and agreed with the Commission that the results of the MEOT for the 2002 Ryanair agreement, which is based on the 2001 schedule of airport charges and introduced an additional marketing support, can serve as a benchmark (see Section 8.2.4).
- (461) The Commission agrees that the 2002 Ryanair agreement can serve as a benchmark for the 2001 schedule of airport charges, in particular, given the fact that the main airline at the airport at the time the 2001 schedule of airport charges was introduced was Ryanair and that the charges agreed in the 2002 Ryanair agreement correspond to charges set in the 2001 schedule.

Conclusion

- (462) In view of the incremental profitability calculation conducted in the context of the 2002 Ryanair agreement, which was based on the 2001 schedule of airport charges, the Commission concludes that also the introduction of the 2001 schedule of airport charges was in line with the MEO principle, as it incrementally contributed, from an *ex ante* point of view, to the profitability of the airport.
- (463) As at least one of the cumulative criteria pursuant to Article 107(1) of the Treaty is not fulfilled, the Commission considers that the 2001 schedule of airport charges does not constitute State aid within the meaning of Article 107(1) of the Treaty.

8.2.4. MEASURE 9: 2002 RYANAIR AGREEMENT

- (464) The 1999 Ryanair agreement was replaced by the 2002 Ryanair agreement, which came into effect on 14 February 2002. The 2002 Ryanair agreement was concluded for a period of [...] years (that is until [...]). Ryanair has the option to prolong the agreement on similar terms and conditions until [...].
- (465) Before a decision on the 2002 Ryanair agreement was taken, a rough profitability assessment was carried out by FFHG on 21 May 2001 (see Table 27).

Table 27

Profitability assessment of the 2002 Ryanair agreement

Turnover revenues per flight (132,30 passengers per flight)	Unit	Amount per flight	Costs/turnover per flight in DM
Ticketing revenue	Flight	[...]	[...]
Passenger charge (less DM 3,52 marketing support) ⁽¹⁾	Pass.	[...]	[...]
Security tax	Pass.	[...]	[...]
Fuel	m ³	[...]	[...]
Non-aviation turnover (basis year 2000)	Pass.	[...]	[...]
Parking	Pass.	[...]	[...]
Total turnover per flight			[...]
Variable costs per flight			
Wages			
OPS	Hours	[...]	[...]
Ramp handling	Hours	[...]	[...]
Clearance devices ⁽²⁾			
— overall operating supply costs	Flight	[...]	[...]
— 1 follow me vehicle	Flight	[...]	[...]
— 1 luggage transport vehicle	Flight	[...]	[...]
— 1 sewage vehicle	Flight	[...]	[...]
— 1 water vehicle	Flight	[...]	[...]
— 1 ground power unit	Flight	[...]	[...]
— 1 push back	Flight	[...]	[...]
Passenger and luggage clearance			
— passenger clearance (check-in lump sum)	Flight	[...]	[...]
— luggage clearance (lump sum)	Flight	[...]	[...]
— passenger control	Pass.	[...]	[...]
Total variable costs per flight			[...]
Deckungsbeitrag I per flight			[...]
Deckungsbeitrag I per year ⁽³⁾			[...]
New route support ⁽⁴⁾			[...]

Turnover revenues per flight (132,30 passengers per flight)	Unit	Amount per flight	Costs/turnover per flight in DM
Depreciations of investments induced by Ryanair ⁽⁵⁾			[...]
Financing costs of the aforementioned investments (interest rate: 5 %)			[...]
Incremental profit contribution per annum			[...]

⁽¹⁾ FFHG based its expectations for passenger charge revenue on the assumption that Ryanair would base 3 aircrafts at HHN which is why the passenger fee was reduced by the marketing support of EUR [...] per passenger.

⁽²⁾ Costs correspond to the rent charged for the use of the clearance devices plus operating costs of material ('operating supply costs').

⁽³⁾ On the basis of [...] annual flights.

⁽⁴⁾ FFHG presumed Ryanair would open 3 new routes, for which it would pay DM [...].

⁽⁵⁾ The depreciation concerns the extension of the passenger terminal requiring an investment in the amount of EUR [...] (EUR [...] plus EUR [...] for the expected additional demand) plus financing costs. These investment costs have been broken down to Ryanair according to its share in the passenger volume of HHN amounting to [...] %. Depreciation period: [...] years. Even though the original investment costs of the Terminal were considered not to be induced by Ryanair, FFHG's calculation took into account the expected additional investment costs for the Terminal.

Source: PWC Report 2006, p. 34 and FFHG's profitability assessment of the 2002 Ryanair agreement 21 May 2001.

- (466) While FFHG's profitability assessment submitted by Germany did not include a projection for the whole period covered by the 2002 Ryanair agreement, it was clear that the 2002 Ryanair agreement was expected to be profitable from the first year of Ryanair's operation. Even though a MEO would normally conduct a calculation for the overall duration of an agreement, in the present case, due to the fact that the agreement was expected to generate positive contribution as from the first year — even if the number of passengers and the expected revenue would remain stable (while in fact they were expected to increase) — FFHG could reasonably expect that the agreement would provide an overall positive contribution to its profitability (see recital 471).
- (467) The incremental revenue taken into account in that profitability assessment includes aeronautical revenue and other non-aeronautical revenue as set out in the 2002 Ryanair agreement, as well as duty free and shopping revenue. The key value driver of the forecasted revenues was the expected passenger traffic. With regard to the latter, FFHG expected to handle approximately 392 137 Ryanair passengers in 2002 ⁽¹⁰⁸⁾. That traffic forecast was even exceeded by the actual passenger development at the airport (see Table 1).
- (468) Even if, as stated by Lufthansa, the New Route Support would have been underestimated in the profitability assessment FFHG, the higher marketing support would have been balanced by the higher revenue from aeronautical and non aeronautical revenue due to a larger volume of passengers.
- (469) The incremental costs taken into account include costs of groundhandling, carried out by an external ground-handling company, costs for additional staff to be hired, costs for marketing and new route development and security checks. In addition, also depreciation and costs of financing for investments directly induced by Ryanair were taken into account. Those investments were estimated to amount to approximately DM [...] million and concern the extension of the passenger terminal. Even though the Terminal was considered not to be induced by Ryanair, FFHG's calculation took into account the expected additional investment costs for the Terminal.
- (470) While FFHG's profitability assessment as submitted by Germany did not discount future payments to the date on which the 2002 Ryanair agreement was concluded, it is clear that the agreement was expected to be profitable. The Commission notes that the assumption underlying the *ex ante* calculation, taking into account the prevailing market conditions at the time when that calculation was conducted, were reasonable. In particular, the expected passenger volume was even exceeded by the actual passenger development at the airport (see Table 1) and resulted in higher aeronautical and non aeronautical revenues.

⁽¹⁰⁸⁾ This was based on the following calculation: [...] flights in 2002 * [...] passengers per flight = 392 137 Ryanair passengers. This assumption was based on approximately [...] daily flight operated by Ryanair.

- (471) The Commission notes that the management of FFHG, taking into account all incremental costs and revenues stemming from the activity of Ryanair at the airport, expected that the 2002 Ryanair agreement would generate over its duration a positive contribution to the profitability of Frankfurt Hahn airport with a NPV amounting to at least DM [...] million (discount rate = [...] %) ⁽¹⁰⁹⁾. The Commission notes that, given the actual passenger development at Frankfurt Hahn airport, the NPV calculated on the basis of the 2002 Ryanair agreement appears to underestimate the actual incremental profitability of that agreement.
- (472) Moreover, given that the 2002 Ryanair agreement was expected (not only to cover all incremental costs but) to positively contribute to FFHG's profitability, also the overall business of Frankfurt Hahn airport was expected to become more profitable during the duration of the 2002 Ryanair agreement.

Oxera's profitability assessment of the 2002 Ryanair agreement

- (473) In addition, Ryanair also submitted a profitability assessment conducted by Oxera on the basis of information available at the time the 2002 Ryanair agreement was concluded (which was provided by the airport and Ryanair). The results of that calculation are summarised in Table 17. On the basis of Oxera's MEIT of the 2002 Ryanair agreement, the Commission conducted a sensitivity analysis with regard to the non-aeronautical revenue taken into account in the assessment.
- (474) Even if the non-aeronautical revenue had been reduced by 20 % on average — in order to carry out a sensitivity assessment of the assumed non-aeronautical revenues — the NPV of the 2002 Ryanair agreement would have amounted to EUR [...] million, while leaving all other assumptions constant (see Table 28).

Table 28

Adjusted Oxera's profitability assessment of the 2002 Ryanair agreement (reduction of the non-aeronautical revenue by 20 %)

[...]

Conclusion

- (475) Having analysed Oxera's profitability assessment of the 2002 Ryanair agreement and the expectations of FFHG at the time of the conclusion of that agreement, the Commission is satisfied that the agreement could reasonably be considered as contributing to the profitability of Frankfurt Hahn airport (taking into account the prevailing market conditions at that time), in that the expected incremental revenues were higher than the expected incremental costs. As the 2002 Ryanair agreement thus complied with the MEO principle, it did not confer an advantage to Ryanair.
- (476) As one of the cumulative criteria pursuant to Article 107(1) of the Treaty is not fulfilled, the Commission considers that the 2002 Ryanair agreement does not constitute State aid within the meaning of Article 107(1) TFEU.

8.2.5. MEASURE 10: 2005 RYANAIR AGREEMENT

- (477) On 4 November 2005, an amendment to the 2002 Ryanair agreement was agreed, the 'Agreement Ryanair/ Flughafen Frankfurt-Hahn GmbH Delivery of aircraft 6 to 18 — year 2005 to year 2012'. On 18 November 2005, the conclusion of the 2005 Ryanair agreement was approved by the supervisory board of FFHG. The 2005 Ryanair agreement is valid until [...].

⁽¹⁰⁹⁾ Profitability assessment based on the 2002 profit contribution of the 2002 Ryanair agreement:
[...]

- (478) Germany also submitted that the 2005 Ryanair agreement is in line with the MEO principle. To support that, Germany provided a MEOT conducted by PWC. The MEOT of PWC compares two scenarios in order to determine the incremental impact of the 2005 Ryanair agreement: (i) an *ex ante* business plan of FFHG with Ryanair's engagement and (ii) an alternative scenario with an *ex ante* business plan of FFHG without Ryanair's engagement. The incremental cash flow is calculated as the difference between the two scenarios (as summarised in Table 29).

Table 29

MEOT of the 2005 Ryanair agreement

[...]

Source: PWC Report 2006, page 88 and 89.

- (479) The Commission considers that the incremental cash flow identified as the difference between the two scenarios takes into account all incremental costs and revenues induced by the presence of Ryanair at the airport. In addition, that profitability calculation takes into account also the investments induced by the presence of Ryanair at the airport. According to the supplementary MEOT conducted by PWC following the 2008 opening decision, a total amount of EUR [...] million of investments can be attributed to Ryanair, whereas the remaining EUR [...] million concern the development of the airport's freight infrastructure (namely. EUR [...] million in total).
- (480) The Commission notes that the management of FFHG, taking into account all incremental costs and revenues stemming from the activity of Ryanair at the airport, expected that the 2005 Ryanair agreement would generate over its duration a positive contribution to the profitability of Frankfurt Hahn airport with a NPV amounting to at least EUR [...] million (discount rate = [...] %) ⁽¹¹⁰⁾.
- (481) In that context, the Commission notes that taking into account the prevailing market conditions and the significant growth of low cost carriers since 2000, the assumptions underpinning the *ex ante* business plan appear to be realistic. At the same time, given the long planning horizon of the actual passenger development at Frankfurt Hahn airport the NPV calculated on the basis a [...] % discount rate might not appropriately take into account the risks potentially affecting the underlying assumptions.
- (482) Hence, the Commission has conducted a sensitivity assessment of the discount rate (see Table 30). When applying a [...] % discount rate the NPV still amounts to EUR [...] million. Moreover, even if one were to consider that a [...] % discount rate would still not allow to remedy any uncertainty regarding long-term passenger forecasts, it needs to be taken into account that the agreement was expected to generate positive contribution to the profitability of FFHG as from the first year onwards and that there appeared to be no compelling reason, given the overall market development, for FFHG to expect a decrease in subsequent years.

Table 30

MEOT of the 2005 Ryanair agreement — Sensitivity assessment of the discount rate

[...]

⁽¹¹⁰⁾ The Commission has learned that the Land Rhineland-Palatinate also concluded marketing agreements with Ryanair. These agreements, however, were not included in the measures in respect of which the Commission initiated the formal investigation procedure in 2008 and are therefore not included in the analysis in this Decision, which is without prejudice to any future action that the Commission might wish to take with respect to these agreements.

Conclusion

- (483) In view of the conducted incremental profitability analysis, the Commission concludes that the 2005 Ryanair agreement was in line with the MEO principle, as it incrementally contributed, from an *ex ante* perspective and taking into account the prevailing market conditions, to the profitability of the airport manager. Thus, the Commission concludes that FFHG's decision to enter into the 2005 Ryanair agreement did not confer any economic advantage to the airline that it would not have obtained under normal market conditions.
- (484) As one of the cumulative criteria pursuant to Article 107(1) of the Treaty is not fulfilled, the Commission considers that the 2005 Ryanair agreement between Frankfurt Hahn airport and Ryanair does not constitute State aid within the meaning of Article 107(1) of the Treaty ⁽¹¹¹⁾.

8.2.6. MEASURE 11: 2006 SCHEDULE OF AIRPORT CHARGES

- (485) The 2006 schedule of airport charges entered into force on 1 June 2006 and replaced the 2001 schedule of airport charges. It follows however the same basic principles as the 2001 schedule of airport charges. The changes compared to the 2001 schedule concern the take-off and landing charges, the passenger fee, and marketing support for the starting-up of a new route and the generated traffic volume depending on the number of total passengers (departing and arriving passengers transported by the airline).
- (486) Germany argued that no advantage was conferred on Ryanair through the 2006 schedule of airport charges. Firstly, Germany justified the different passenger charges, on the ground that those were created in order to give an incentive to other low cost carriers while covering the operational costs of the airport. A reduction of charges according to the volume of passengers, Germany argued, is a common behaviour at national and international airports. Since the threshold for acquiring rebates was very low, namely 100 000 passengers per year, those rebates were also open to smaller airlines.
- (487) To support that, Germany submitted an *ex ante* profitability assessment comparing a scenario with the introduction of the 2006 schedule of airport charges with a scenario without the introduction of that schedule, as summarised in Table 31. The Commission considers, that taking into account the prevailing market conditions and the actual operating results of FFHG at the time, the profitability calculation was based on realistic assumptions.

Table 31

Profitability assessment of the 2006 schedule of airport charges

In 1 000 EUR	2006	2007	2008	2009	2010	2011
EBITDA with the 2006 schedule of airport charges	[...]	[...]	[...]	[...]	[...]	[...]
EBITDA without the 2006 schedule of airport charges	[...]	[...]	[...]	[...]	[...]	[...]
Incremental impact of the 2006 schedule of airport charges	[...]	[...]	[...]	[...]	[...]	[...]

Source: PWC Report, 2006, page 57.

⁽¹¹¹⁾ The Commission has learned that the Land Rhineland-Palatinate concluded marketing agreements with Ryanair. Those agreements, however, were not included in the measures in respect of which the Commission initiated the formal investigation procedure in 2008 and are therefore not included in the analysis in this Decision, which is without prejudice to any future action that the Commission might wish to take with respect to these agreements.

- (488) As stated in Section 8.2.1, arrangements concluded between airlines and an airport can be deemed to satisfy the MEOT when they incrementally contribute, from an *ex ante* point of view, to the profitability of the airport. The airport should demonstrate that, when setting up an arrangement with an airline (for example, an individual contract or an overall scheme of airport charges), it is capable of covering all costs stemming from the arrangement, over the duration of the arrangement, with a reasonable profit margin on the basis of sound medium-term prospects.
- (489) Moreover, in order to assess whether an arrangement concluded by an airport with an airline satisfies the MEOT, expected non-aeronautical revenues stemming from the airline's activity must be taken into consideration together with airport charges, net of any rebates, marketing support or incentive scheme). Similarly, all expected costs incrementally incurred by the airport in relation to the airline's activity at the airport must be taken into account. Such incremental costs may encompass all categories of expenses or investments, such as incremental personnel, equipment and investment costs induced by the presence of the airline at the airport. For instance, if the airport needs to expand or build a new terminal or other facilities mainly to accommodate the needs of a specific airline, such costs should be taken into consideration when calculating the incremental costs. By contrast, costs which the airport would have to incur anyway independently from the arrangement with the airline should not be taken into account in the MEOT.
- (490) As regards the profitability assessment carried out by FFHG prior the introduction of the 2006 schedule of airport charges, the Commission considers that all incremental costs and revenues induced by the introduction of this schedule were taken into consideration and were based on reasonable assumptions taking into account the prevailing market conditions and the actual results of FFHG. The 2006 schedule of airport charges was not limited in time, hence it was sufficient for the airport operator to calculate the overall profitability of the 2006 schedule of airport charges for several consecutive years. Moreover, FFHG could any time modify the schedule of airport charges, in the even it was proven that the revenue generated was insufficient to cover the incremental costs induced by the airlines using that schedule. In addition, as Ryanair has concluded an individual agreement, the schedule did not apply to the main airline (with a passenger share of around 90 %), but was applied to the remaining airlines with a passenger share of around 10 %. Hence, the incremental costs of the 2006 schedule of airport charges were very limited and the FFHG expected to be able to better use its resources.
- (491) While the *ex ante*-analysis undertaken by FFHG and submitted by Germany did not discount the future payments to the date on which the 2006 schedule of airport charges was put into effect, it is clear that the schedule was expected to be profitable from the first year onwards.
- (492) Moreover, given the high fixed costs and very limited incremental costs relating to the provision of services under the 2006 schedule of airport charges, those forecasts were not sensitive to the assumptions regarding the overall traffic development.

Conclusion

- (493) In view of the conducted incremental profitability calculation, the Commission concludes that the introduction of 2006 schedule of airport charges was in line with the MEO principle, as it incrementally contributed, from an *ex ante* point of view, to the profitability of the airport. In particular, all costs of the airport stemming from the introduction of the 2006 schedule of airport charges were covered by the revenues (both aeronautical and non-aeronautical activities) stemming from the introduction of that schedule, with a reasonable profit margin. Moreover, the costs directly attributable to individual agreements with specific airlines were reasonably expected to be exceeded by the revenues attributable to the presence of those airlines (see Section 8.2.5). Hence, the 2006 schedule of airport charges could reasonably be expected (taking into account the prevailing market conditions at the time of its introduction) to contribute to the overall profitability of the airport in the long term.
- (494) Thus, the Commission concludes that the 2006 schedule of airport charges does not confer an economic advantage on the airlines that they would not have obtained under normal market conditions. Moreover, it was open to all potential users of the airport on transparent and non-discriminatory terms. Therefore, the 2006 schedule of airport charges does not constitute State aid within the meaning of Article 107(1) of the Treaty.

9. LAWFULNESS OF THE AID

- (495) Pursuant to Article 108(3) of the Treaty, Member States must notify any plans to grant or alter aid, and must not put the proposed measures into effect until the notification procedure has resulted in a final decision.
- (496) As the measures number 1, 2, 3, 4, 5, 6 and 12 have already been put at the disposal of FFHG or irrevocably granted with an entitlement for FFHG to receive the respective funds, the Commission considers that Germany has not respected the prohibition of Article 108(3) of the Treaty ⁽¹¹²⁾.

10. LEGAL ASSESSMENT — COMPATIBILITY OF AID

10.1. THE APPLICABILITY OF THE 2014 AND 2005 AVIATION GUIDELINES

- (497) Article 107(3) of the Treaty provides for certain exemptions to the general rule set out in Article 107(1) of the Treaty that State aid is not compatible with the internal market. In particular, Article 107(3)(c) of the Treaty stipulates that: ‘aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest’, may be considered to be compatible with the internal market.
- (498) In that regard, the 2014 Aviation Guidelines provide a framework for assessing whether aid to airports may be declared compatible pursuant to Article 107(3)(c) of the Treaty.
- (499) According to the 2014 Aviation Guidelines, the Commission considers that the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid ⁽¹¹³⁾ applies to unlawful investment aid to airports. In that respect, if the unlawful investment aid was granted before 4 April 2014, the Commission will apply the compatibility rules in force at the time when the unlawful investment aid was granted. Accordingly, the Commission will apply the principles set out in the 2005 Aviation Guidelines in the case of unlawful investment aid to airports granted before 4 April 2014 ⁽¹¹⁴⁾.
- (500) According to the 2014 Aviation Guidelines, the Commission also considers that the provisions of the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid should not apply to cases of illegal operating aid to airports granted prior to 4 April 2014. Instead, the Commission will apply the principles set out in the 2014 Aviation Guidelines to all cases concerning operating aid to airports (pending notifications and unlawful non-notified aid) even if the aid was granted before 4 April 2014 and the beginning of the transitional period ⁽¹¹⁵⁾.
- (501) The Commission has already concluded in recital 496 that the measures under assessment constitute unlawful State aid granted before 4 April 2014.

10.2. DISTINCTION BETWEEN INVESTMENT AND OPERATING AID

- (502) In view of the provisions of the 2014 Aviation Guidelines referred to in recitals 499 and 500, the Commission has to determine whether the measures in question constitute unlawful investment or operating aid.
- (503) According to point 25(18) of the 2014 Aviation Guidelines, investment aid is defined as ‘aid to finance fixed capital assets; specifically, to cover the “capital costs funding gap”’. Moreover, according to that provision investment aid can relate both to an upfront payment (that is to say cover upfront investment costs) and to aid paid out in the form of periodic instalments (to cover capital costs, in terms of annual depreciation and costs of financing).

⁽¹¹²⁾ Case T-109/01 *Fleuren Compost v Commission* [2004] ECR II-127.

⁽¹¹³⁾ OJ C 119, 22.5.2002, p. 22.

⁽¹¹⁴⁾ Point 173 of the 2014 Aviation Guidelines.

⁽¹¹⁵⁾ Point 172 of the 2014 Aviation Guidelines.

- (504) Operating aid, on the other hand, means aid covering all or part of the operating costs of an airport, defined as 'the underlying costs of the provision of airport services, including categories such as costs of personnel, contracted services, communications, waste, energy, maintenance, rent, administration, etc., but excluding the capital costs, marketing support or any other incentives granted to airlines by the airport, and costs falling within a public policy remit' ⁽¹¹⁶⁾.
- (505) In the light of those definitions, it can be considered that the capital increases and direct grants which were linked to investment projects constitute investment aid in favour of FFHG.
- (506) In contrast, the part of the annual loss transfers used to cover FFHG's annual operating losses ⁽¹¹⁷⁾ of FFHG, net of the costs included in the EBITDA that fall within the public policy remit as established in Section 8.1.4.1 constitute operating aid in favour of FFHG.
- (507) Finally, the part of the annual loss transfers covering losses of FFHG that were not already included in the EBITDA (that is the annual depreciation of assets, costs of financing, etc.), minus costs falling within the public policy remit as established in Section 8.1.4.1, constitute investment aid.
- (508) As explained earlier, it all cases only support granted after the Aéroports de Paris judgment on 12 December 2000 will be considered.

10.3. COMPATIBILITY OF THE INVESTMENT AID PURSUANT TO THE 2005 AVIATION GUIDELINES

- (509) According to point 61 of the 2005 Aviation Guidelines, the Commission must examine whether the following cumulative conditions are met:
- (a) the construction and operation of the infrastructure meets a clearly defined objective of common interest (regional development, accessibility, etc.);
 - (b) the infrastructure is necessary and proportional to the objective which has been set;
 - (c) the infrastructure has satisfactory medium-term prospects for use, in particular as regards the use of existing infrastructure;
 - (d) all potential users of the infrastructure have access to it in an equal and non-discriminatory manner; and
 - (e) the development of trade is not affected to an extent contrary to the Union interest.
- (510) In addition, State aid to airports — as any other State aid measure — must have an incentive effect and be necessary and proportional in relation to the aimed legitimate objective in order to be compatible.
- (511) Germany submitted that the investment aid in favour of FFHG complies with all the compatibility criteria contained in the 2005 Aviation Guidelines.

(a) *The aid contributes to a clearly defined objective of common interest*

- (512) The investment aid in favour of FFHG aimed at financing the further conversion of the former US military base into a civilian airport and substantially developing the infrastructure of the airport. Those measures provided a significant contribution to the regional development and connectivity of the Hunsrück region, and the creation of new jobs in an area economically hit by the closure of the US military base as well as the decongestion of Frankfurt Main airport.

⁽¹¹⁶⁾ Point 25(22) of the 2014 Aviation Guidelines.

⁽¹¹⁷⁾ Expressed as *Earnings Before Interest, Taxes, Depreciation and Amortisation* ('EBITDA').

- (513) The Hunsrück region, as pointed out by Germany, is surrounded by a number of areas (such as Landkreis Birkenfeld), which were marked as regions in need of support in the framework of the 'Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur'. Indeed, in the period under consideration, Landkreis Birkenfeld was at least partly considered to be a region with a Gross Domestic Product (GDP) below the Union average ⁽¹¹⁸⁾.
- (514) The Commission considers that the development of Frankfurt Hahn airport also contributed significantly to the creation of new jobs in the Hunsrück region. As shown by Germany, taking into account all parts of the airport activities, Frankfurt Hahn airport created 3 063 jobs in the Hunsrück region in 2012 out of which 74 % were full-time positions and 90 % of those employees also live in that region.
- (515) Moreover, the development of Frankfurt Hahn airport had also positive indirect, induced and catalysing effects on the creation of jobs in the region as well as regional development in general through an increasing number of economic and touristic activities. According to the information provided by Germany, Frankfurt Hahn airport contributes significantly to the development of incoming (~ 33 % of passengers corresponding to approximately 1 million passengers in 2005) and outgoing tourism (~ 67 % of passengers) in the Land Rhineland-Palatinate. As pointed out by Germany, 88 % of the incoming passengers stay at least one night in the region and generated approximately 5,7 million overnight stays in 2005. Since 88 % of incoming tourists from Frankfurt Hahn stay at least one night and more than 80 % of those even stay two to 10 days, they generate a total turnover of about EUR 133,7 million per year. Moreover, incoming tourism generated around 11 000 jobs in Rhineland-Palatinate.
- (516) The aided investments at issue also helped to improve the accessibility of the area. Nevertheless, the duplication of unprofitable airports (or the creation of additional unused capacity) does not contribute to an objective of common interest. In this case, the Commission takes the view that the investment aid does not lead to such a duplication which would diminish the medium-term prospects for the use of existing infrastructure at other, neighbouring airports. Indeed, there are no other airports within 100 kilometres or 60 minutes travelling time from Frankfurt Hahn airport. The closest airports to Frankfurt Hahn are Frankfurt Main airport, which is located at 115 kilometres distance or 1 hour 15 minutes traveling time by car, and Luxembourg airport, which is located 1 hour and 30 minutes travelling time (111 kilometres) away.
- (517) Frankfurt Main airport is an international hub airport with a wide variety of destinations and is predominantly served by network carriers offering connecting traffic, whereas Frankfurt Hahn airport serves low-cost point-to-point flights. Traffic at Frankfurt Main airport has continuously increased since 2000, from 49,4 million passengers in 2000 to approximately 58 million in 2012. However, during that period growth has been affected by congestion problems and capacity constraints. As pointed out by Germany, the capacity limits of Frankfurt Main airport were constantly exceeded. Therefore, according to Germany, especially in the light of its 24 hour operating licence, Frankfurt Hahn airport played an important role in providing additional capacity in order to relieve the congestion at Frankfurt Main airport. In fact, until 2009 Fraport was the majority shareholder of FFHG, the operator of Frankfurt Hahn airport (2,7 million passengers in 2013, around 4 million passengers in 2007 at its peak) and the operator of Frankfurt-Main airport (58 million passengers and 2,1 million freight), and was as such pursuing a diversification strategy.
- (518) Luxembourg airport, which is the nearest airport to Frankfurt Hahn but still around 111 kilometres or 1 hour 30 minutes traveling time by car away, had around 1,7 million passengers in 2008 and experienced a rapid growth to 2,2 million in 2013. Even though Luxembourg airport is slightly smaller than Frankfurt Hahn airport in terms of passenger traffic, its freight activity is substantially larger with 674 000 tonnes in 2013. It offers a variety of scheduled flights to European capitals and charter flights to leisure destinations. That selection of destinations to a large extent meets the needs of the employees of the financial and international institutions located in Luxembourg.
- (519) Saarbrücken airport is located around 128 kilometres away from Frankfurt Hahn airport which amounts to over 2 hours traveling time by car. In addition, Frankfurt Hahn is served mainly by low-cost carriers (Ryanair) and freight constitutes a rather important element in its business model whereas Saarbrücken airport offers mainly scheduled flights to national destinations and has only limited air freight transport.

⁽¹¹⁸⁾ Commission Decision of 8 November 2006 in State aid case N459/2006 — Germany — Guidelines on National Regional aid for 2007-2013 — National regional State aid map: Germany (OJ C 295, 5.12.2006, p. 6).

- (520) With regard to Zweibrücken airport, Germany emphasised that the distance of 127 km to Frankfurt Hahn airport translates into a travelling time of 1 hour and 27 minutes by car or around 4 hours by train. Moreover, Germany submitted that, looking at passenger and air freight traffic between 2005 and 2012, no relationship of substitution between the airports can be deduced.
- (521) The Commission observes that there is a certain overlap in the activities of both Frankfurt Hahn and Zweibrücken airports, as Zweibrücken airport also engaged in handling air freight and the destinations served by Zweibrücken airport are predominantly for charter traffic. In that regard, the Commission notes that freight is usually more mobile than passenger transport ⁽¹¹⁹⁾. In general, a catchment area for freight airports is considered to have a radius of at least around 200 kilometres and 2 hours travelling time. Comments from the industry suggest that up to a half-day of trucking time (that is to say, up to 12 hours driving time by trucks) would in general be acceptable for freight forwarders to transport their goods ⁽¹²⁰⁾. Moreover, charter traffic is also, in general, less time sensitive and may accept traveling times of up to 2 hours by car.
- (522) At the same time it should be noted that, before Zweibrücken entered the market in 2006, Frankfurt Hahn airport was already a well-established airport with more than 3 million passengers and channelling 123 000 tonnes of freight. In view of the historical development of the two airports, their geographical location and the free capacity available at Frankfurt Hahn airport at the time when Zweibrücken airport entered the commercial aviation market in 2006, the Commission concludes that it is rather the opening of Zweibrücken airport which constituted an unnecessary duplication of infrastructure.
- (523) Therefore, the Commission concludes that the investments into Frankfurt Hahn airport do not constitute a duplication of existing non-profitable infrastructure. On the contrary, Frankfurt Hahn airport has played an important role in decongesting Frankfurt Main airport without limiting the latter's plans to expand. Without the investments into Frankfurt Hahn airport there was in fact a risk that the region would be underserved in terms of its transport needs.
- (524) In the light of the considerations in recitals 512 to 523, the Commission therefore concludes that the investment aid directed at the construction and operation of infrastructure at Frankfurt Hahn airport meets a clearly defined objective of common interest, namely regional economic development, creation of jobs and improvement of the accessibility of the region.

(b) *The infrastructure is necessary and proportionate to the objective*

- (525) According to Germany, the investments were undertaken according to the needs (and were thus proportionate) and the constructed infrastructure was necessary for the airport in order to serve the connectivity and the development of the region and to decongest Frankfurt Main airport.
- (526) Based on the information provided by Germany, the Commission agrees that the financed investments were necessary and proportionate to the objective of common interest. Indeed, without those investments the conversion of the former U.S. base into a fully functioning civil aviation airport could not have been completed. The construction of passenger and freight facilities, aprons and modernisation of taxiways had to be carried out in order to further develop civil flight operations. Hence, the constructed infrastructure was necessary for the airport in order to serve the connectivity and the development of the region.
- (527) Also, the infrastructure project was undertaken only to the extent it was necessary to attain the goals set: while the infrastructure was built for a maximum passenger traffic of around 4 to 5 million passengers and 500 000 tonnes of freight, the traffic statistics displayed in Tables 1 and 2 show that the passenger traffic steadily increased until 2007 to reach a record of 4 million passengers (following by a decline to 2,7 million in 2013 for the reasons set out in recital 532) and that the freight volume increased to more than 500 000 tonnes of freight in 2011. This means that the expected traffic demand largely corresponded to the actual demand and that the investments were not disproportionately large.

⁽¹¹⁹⁾ For example, Leipzig/Halle airport was in competition with Vatry airport (France) for the establishment of the DHL European hub. See *Leipzig/Halle judgment*, paragraph 93.

⁽¹²⁰⁾ Response of Liège airport to the public consultation on the 2014 Aviation Guidelines.

- (528) While it is important to avoid that the investment constitutes a duplication of an existing unprofitable infrastructure, that is not the case here. As already explained in recitals 516 to 523, there are no other airports within 100 kilometres distance and 60 minutes travelling time, and even if a wider catchment area was to be considered there are no duplications effects. The closest airport is Frankfurt Main airport, which Frankfurt Hahn airport was intended to decongest.
- (529) In the light of those considerations, the Commission considers that this compatibility condition is met.

(c) *The infrastructure has satisfactory medium-term prospects for use*

- (530) Germany submitted that before the decision to further develop the airport infrastructure was taken, traffic forecast studies were conducted by external experts in order to identify the traffic potential for Frankfurt Hahn airport.
- (531) The information submitted shows that at that time the external experts forecasted significant growth from 0,3 million passengers in 2000 to up to 3,8 million passengers by 2010 (see Figures 2, 3 and 4). With regard to freight development, the experts projected a development from 151 000 tonnes in 2001 to up to 386 000 tonnes in 2010 (see Figure 5), with the growth in the freight business between 2006 and 2010 coming from the freight flights diverted from Frankfurt Main airport due to curfew. However, those projections could only be fulfilled if the investments were undertaken to the planned extent.
- (532) The Commission notes that those traffic forecasts (see recital 531) were confirmed by the actual traffic development at Frankfurt Hahn airport (see Tables 1 and 2). In 2007 Frankfurt Hahn airport served around 4 million passengers. Following a period of significant growth, air traffic in Germany and the Union in recent years has been negatively affected by the economic and financial crisis in 2008/09, which resulted in a decrease in passenger air transport in Germany in 2009. The passenger development at Frankfurt Hahn airport was further impacted by the introduction of an air passenger tax in Germany in 2011. Currently Frankfurt Hahn airport serves around 2,7 million passengers p.a. With regard to freight, Frankfurt Hahn airport handled 565 000 tonnes of freight in 2011. Due to the bankruptcy of one of its clients, the airport processed only 447 000 tonnes in 2013.
- (533) In the light of those considerations, it can therefore be concluded that Frankfurt Hahn airport is already using most of its capacity and that the medium-term prospects for the use of the capacity were satisfactory.

(d) *Access to the infrastructure in an equal and non-discriminatory manner*

- (534) All potential users of the infrastructure have access to the airport on equal and non-discriminatory terms. Indeed, the schedule of airport charges applicable at Frankfurt Hahn airport is publicly available and open to all potential and current users of the airport in a transparent and non-discriminatory manner. Any differences in airport charges actually paid for the use of the infrastructure were based on commercially justified differentiation ⁽¹²¹⁾.
- (535) Hence, the Commission considers that this condition is satisfied.

(e) *Trade is not affected contrary to common interest*

- (536) According to point 39 of the 2005 Aviation Guidelines the category of an airport can provide an indication of the extent to which airports are competing with one another and therefore also the extent to which public funding granted to an airport may distort competition.

⁽¹²¹⁾ Commission decision of 1 October 2014 in State aid case SA.21211 — Germany — Frankfurt Hahn airport and Ryanair, not yet published in the Official Journal.

- (537) Within the standard catchment area of Frankfurt Hahn airport (1 hour travelling time by car or 100 kilometres distance) there are no other commercially exploited airports. Even if one were to extend the catchment area, the Commission considers that the aid does not create undue negative effects on competition and trade between the Member States.
- (538) As far as Frankfurt Main airport (the closest airport at around 115 kilometres distance and 1 hour 15 minutes travelling time) is concerned, the investments at Frankfurt Hahn airport did not result in negative substitution effects. In fact, before getting involved in Frankfurt Hahn airport, Fraport was already the operator of Frankfurt Main airport, but was nevertheless investing into Frankfurt Hahn airport with a view to de-congesting Frankfurt Main airport as a future capacity overload was foreseeable for that hub. In particular, the ban on night flights at Frankfurt Main airport was one of the main factors to be taken into consideration as Frankfurt Hahn airport had a 24 hour operating license.
- (539) Even though Frankfurt Hahn experienced significant growth in the period from 2000 until 2007 (Tables 1 and 2) shows that in comparison to Frankfurt Main the traffic share remained very limited. From 2000 to 2003 Frankfurt Main airport experienced steady passenger growth from 48 million in 2000 to 54,2 million in 2007. Due to the economic crisis, Frankfurt Main experienced a slight decrease to 50,9 million in 2009, followed by a rapid increase to 58 million. With regard to the freight activities, Frankfurt Main airport experienced steady growth from 1,6 million to 2,2 million tonnes in 2013.
- (540) As for other airports, the Commission has already explained that the investments at Frankfurt Hahn airport had no significant impact on competition and trade between the Member States⁽¹²²⁾. That also applies to Zweibrücken airport, given that it is rather the latter that constitutes an unnecessary duplication of infrastructure (and would thus be responsible for any distortive effect on competition).
- (541) In addition, contrary to Frankfurt Main and Luxembourg airports Frankfurt Hahn airport is not served by a train connection. Overall, no substitution effect on rail transport can be expected.
- (542) In view of the considerations in recitals 536 to 541, the Commission considers that any undue negative effects on competition and trade between Member States are limited to the minimum.

(f) *Incentive effect, necessity and proportionality*

- (543) The Commission must establish whether the State aid granted to Frankfurt Hahn Airport has changed the behaviour of the beneficiary in such a way that it engaged in activity contributing to the achievement of the objective of common interest that (i) it would not have carried out without the aid, or (ii) it would have carried out in a more restricted or different manner. In addition, the aid is considered to be proportionate only if the same result could not be reached with less aid and less distortion. That means that the amount and intensity of the aid must be limited to the minimum needed for the aided activity to take place.
- (544) According to the information submitted by Germany, without the aid the investment could not have been realised. Germany submitted that the aid was necessary as it compensated only the costs of financing and a lower amount would have led to lower levels of investment.
- (545) Indeed, according to the financial results summarised in Tables 3 and 4 the airport is still loss-making and not able to finance its investment costs. Therefore, it can be concluded that the aid was necessary to make investments in order to decongest the airport infrastructure and to meet the current requirements for modern airport infrastructure. Without the aid, Frankfurt Hahn airport would not have been able to meet the expected demand of airlines, passengers and freight forwarders and the level of the economic activity of the airport would have been reduced.

⁽¹²²⁾ As regards Frankfurt Main and Luxembourg airport, the Commission further notes that the business travel segment occupies a significant market share at these airports, while it only represents a comparatively limited share at Frankfurt Hahn airport.

- (546) It should also be noted that the public support was granted in a period when FFHG realised very significant investments into the infrastructure (more than EUR 220 million in 2001-2012). It follows that the investment aid covers only a fraction of the overall investment costs.
- (547) The Commission therefore considers that the aid measure at stake had an incentive effect, that the amount of aid was limited to the minimum necessary for the aided activity to take place, and was thus proportionate.

Conclusion

- (548) On the basis of the above, the Commission concludes that the investment aid granted to Frankfurt Hahn airport is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty as it complies with the compatibility conditions laid down in point 61 of the 2005 Aviation Guidelines.

10.4. COMPATIBILITY OF OPERATING AID PURSUANT TO THE 2014 AVIATION GUIDELINES

- (549) Section 5.1 of the 2014 Aviation Guidelines sets out the criteria that the Commission will apply in assessing the compatibility of operating aid with the internal market pursuant to Article 107(3)(c) of the Treaty. According to point 172 of the 2014 Aviation Guidelines, the Commission will apply those criteria to all cases concerning operating aid, including pending notifications and unlawful non-notified aid cases.
- (550) According to point 137 of the 2014 Aviation Guidelines, unlawful operating aid granted before the date of the publication of the 2014 Aviation Guidelines may be declared compatible with the internal market to the full extent of uncovered operating costs provided that the following cumulative conditions are met:
- (a) *contribution to a well-defined objective of common interest*: that condition is fulfilled, inter alia, if the aid increases the mobility of citizens of the Union and connectivity of the regions or facilitates regional development ⁽¹²³⁾;
 - (b) *need for State intervention*: the aid must be targeted towards situations where such aid can bring about a material improvement that the market itself cannot deliver ⁽¹²⁴⁾;
 - (c) *existence of incentive effect*: that condition is fulfilled if it is likely that, in the absence of operating aid, and taking into account the possible presence of investment aid and the level of traffic, the level of economic activity of the airport concerned would be significantly reduced ⁽¹²⁵⁾;
 - (d) *proportionality of the aid amount (aid limited to the minimum necessary)*: in order to be proportionate, operating aid to airports must be limited to the minimum necessary for the aided activity to take place ⁽¹²⁶⁾;
 - (e) *avoidance of undue negative effects on competition and trade* ⁽¹²⁷⁾.

(a) **Contribution to a well-defined objective of common interest**

- (551) According to Section 5.1.2(a) of the 2014 Aviation Guidelines, in order to give airports time to adjust to new market realities and to avoid any disruptions in the air traffic and connectivity of the regions, operating aid to airports will be considered to contribute to the achievement of an objective of common interest, if it: (i) increases the mobility of Union citizens and connectivity of regions by establishing access points for intra-Union flights; (ii) combats air traffic congestion at major Union hub airports; or (iii) facilitates regional development.

⁽¹²³⁾ Points 137, 113 and 114 of the 2014 Aviation Guidelines.

⁽¹²⁴⁾ Points 137 and 116 of the 2014 Aviation Guidelines.

⁽¹²⁵⁾ Points 137 and 124 of the 2014 Aviation Guidelines.

⁽¹²⁶⁾ Points 137 and 125 of the 2014 Aviation Guidelines.

⁽¹²⁷⁾ Points 137 and 131 of the 2014 Aviation Guidelines.

- (552) In the light of the considerations in recitals 512 to 519, the Commission considers that the continued operation of Frankfurt-Hahn airport increased the mobility of Union citizens and connectivity of regions by establishing an access point for intra-Union flights in the Hunsrück region. In addition, the continued operation of the airport facilitated the regional development of the Hunsrück region and the creation of new jobs. Moreover, the operation and development of Frankfurt-Hahn airport also served to decongest Frankfurt Main airport.
- (553) The Commission therefore concludes that the measure at stake meets a clearly defined objective of common interest.

(b) *Need for State intervention*

- (554) According to Section 5.1.2(b) of the 2014 Aviation Guidelines, in order to assess whether State aid is effective in achieving an objective of common interest, it is necessary to identify the problem to be addressed. In that respect, any State aid to an airport must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself.
- (555) The Commission notes that Frankfurt Hahn airport is a regional airport with approximately 2,7 million passengers p.a. which experience in the period under investigation a significant growth in passengers (see Table 1). It has high fixed operating costs and under present market conditions it is not able to cover its own operating costs. Therefore, there is a need for State intervention (see point 89 of the 2014 Aviation Guidelines).

(c) *Appropriateness of the aid measures*

- (556) According to Section 5.1.2(c) of the 2014 Aviation Guidelines, any aid measure to an airport must be an appropriate policy instrument to address the objective of common interest. The Member State must, therefore, demonstrate that no other less distortive policy instruments or aid instruments could have allowed the same objective to be reached.
- (557) According to Germany, the aid measures at stake are appropriate to address the intended objective of common interest that could not have been achieved by another less distortive policy instrument.
- (558) In this case the aid amount corresponded to the uncovered operating losses (see Table 4) actually incurred and was limited to the minimum necessary as it was granted only as to the extent of actually incurred operating losses. No other policy measure would allow the airport to continue its operation. Hence, the compensation of losses is limited to the minimum and does not provide for any profits.
- (559) In view of recitals 557 and 558, the Commission considers that the measures at stake were appropriate to reach the desired objective of common interest.

(d) *Existence of incentive effect*

- (560) According to Section 5.1.2(d) of the 2014 Aviation Guidelines, the operating aid has an incentive effect if it is likely that, in the absence of operating aid, the level of economic activity of the airport would be significantly reduced. That assessment needs to take into account the presence of investment aid and the level of traffic at the airport.
- (561) Without the aid the scale of the operations at Frankfurt-Hahn airport would be severely impacted and reduced, leading eventually to the market exit of the airport due to uncovered operating losses.
- (562) Therefore, the Commission considers that the aid measures at stake had an incentive effect.

(e) **Proportionality of the aid amount (aid limited to a minimum)**

- (563) According to Section 5.1.2(e) of the 2014 Aviation Guidelines, in order to be proportionate, operating aid to airports must be limited to the minimum necessary for the aided activity to take place.
- (564) In this case, the aid amount was limited to the extent of uncovered operating losses, as it compensated only the costs actually incurred.
- (565) Therefore, the Commission considers that the operating aid amount in this case was proportionate and limited to the minimum necessary for the aided activity to take place.

(f) **Avoidance of undue negative effects on competition and trade between Member States**

- (566) According to Section 5.1.2(f) of the 2014 Aviation Guidelines, when assessing the compatibility of operating aid account will be taken of the distortions of competition and the effects on trade.
- (567) Within the standard catchment area of Frankfurt Hahn airport (1 hour travelling time by car or 100 kilometres distance) there are no commercially exploited airports. Even if this standard catchment area was to be further extended to other airports in the proximity of Frankfurt Hahn airport, as demonstrated in recitals 537 and 541 there are no undue negative effects on competition between the airports located in the proximity of Frankfurt Hahn airport (that is Frankfurt Main, Luxembourg and Saarbrücken airports).
- (568) In view of the above, the Commission considers that any undue negative effects on competition and trade between Member States due to the operating aid granted in favour of FFHG are limited to the minimum.

Conclusion

- (569) In light of the considerations in recitals 551 to 568, the Commission concludes that the measures are compatible with the internal market on the basis of Article 107(3)(c) of the Treaty.

11. CONCLUSION

11.1. FINANCING OF THE AIRPORT

- (570) **Measure 1: 2001 PLTA:** In the light of the considerations in recitals 291 to (302), the Commission concludes that at the time the 2001 PLTA was put into place the public authorities could legitimately consider that a PLTA to cover annual losses of FFHG did not constitute State aid.
- (571) **Measure 2: 2001 capital increase:** The 2001 capital increase of EUR 27 million by Fraport and Land Rhineland-Palatinate constitutes State aid within the meaning of Article 107(1) of the Treaty.
- (572) **Measure 3: 2004 capital increase and Measure 4: 2004 PLTA:** The 2004 capital increase granted by Fraport and the 2004 PLTA do not constitute State aid within the meaning of Article 107(1) of the Treaty. Even if they would constitute State aid, that aid can be deemed compatible on the basis of Article 107(3)(c) of the Treaty.

- (573) The 2004 capital increase by the Länder Rhineland-Palatinate and Hesse in favour of FFHG constitutes State aid within the meaning of Article 107(1) of the Treaty.
- (574) **Measure 5: Compensation of FFHG for tasks falling within the public policy remit (security checks) and Measure 6: Direct grants from Land Rhineland-Palatinate:** The Commission considers that the public funding granted to FFHG in the form of direct grants granted after 12 December 2000 constitutes State aid within the meaning of Article 107(1) of the Treaty.
- (575) **Measure 12: Equity increase:** As the equity increase is intended to finance infrastructure measures which according to Germany by the decision to undertake those investments by the public shareholders, FFHG was entitled to received that funding, the Commission considers that the equity increase has to be assessed in the context of FFHG's public support. In that regard, and in the light of the considerations in Section 8.1.1, the Commission concludes that FFHG has been engaged in an economic activity as from the date of the *Aéroports de Paris* judgment (12 December 2000) onward and constitutes an undertaking within the meaning of Article 107(1) of the Treaty.
- (576) Moreover, in line with the considerations in Sections 8.1.1, 8.1.3 and 8.1.4, which apply equally to that measure, the Commission considers that the equity injection constitutes State aid within the meaning of Article 107(1) of the Treaty, as it involves State resources, it is imputable to the State and confers an selective economic advantage on FFHG that distorts or threatens to distort competition and trade between Member States.
- (577) As the measures have already been put at the disposal of FFHG or irrevocably granted with an entitlement for FFHG to receive those funds, the Commission considers that Germany has not respected the prohibition of Article 108(3) of the Treaty.
- (578) In view of recitals 512 to 545, the Commission concludes that the investment aid granted to Frankfurt Hahn airport is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty as it complies with the compatibility conditions laid down in point 61 of the 2005 Aviation Guidelines.
- (579) In light of the considerations in recitals 551 to 568, the Commission concludes that the measures are compatible with the internal market on the basis of Article 107(3)(c) of the Treaty.

11.2. AGREEMENTS WITH RYANAIR AND THE SCHEDULE OF AIRPORT CHARGES

- (580) **Measures 7, 9 and 10: 1999, 2002 and 2005 Ryanair agreement:** Having analysed the agreements and the information available to FFHG at the time of the conclusion of those agreements, the Commission is satisfied that FFHG could reasonably expect the agreements to contribute to the profitability of Frankfurt Hahn airport, in that the expected incremental revenues were higher than the expected incremental costs. As the agreements thus complied with the MEO principle, they did not confer an advantage to Ryanair.
- (581) **Measures 8 and 11: 2001 and 2006 schedule of airport charges:** In view of the *ex ante* profitability analysis conducted by FFHG the Commission considers that the 2001 and 2006 schedules of airport charges do not confer an economic advantage on the airlines which they would not have obtained under normal market conditions.
- (582) As one of the cumulative criteria pursuant to Article 107(1) of the Treaty is not fulfilled, the Commission considers that the 1999, 2002 and 2005 Ryanair agreements between Frankfurt Hahn airport and Ryanair and the 2001 and 2006 schedules of airport charges do not constitute State aid within the meaning of Article 107(1) of the Treaty.
- (583) The Commission notes that Germany accepts the adoption of the decision in English only,

HAS ADOPTED THIS DECISION:

Article 1

1. The State aid, unlawfully put into effect by Germany in breach of Article 108(3) of the Treaty in favour of *Flughafen Frankfurt Hahn GmbH* between 2001 and 2012 by means of capital increases in 2001 amounting to EUR 27 million, capital increases in 2004 amounting to EUR 22 million and direct grants by *Land Rhineland-Palatinate* (to the extent that those grants were not purely related to public policy remit activities and did not to cover investments irrevocably decided prior 12 December 2000) is compatible with the internal market.

2. The capital increase in 2004 by *Fraport AG* and the profit and loss transfer agreement of 2004 do not constitute aid within the meaning of Article 107(1) of the Treaty.

Article 2

1. The agreement between *Ryanair* and *Flughafen Frankfurt Hahn GmbH*, which entered into force on 1 April 1999, does not constitute aid within the meaning of Article 107(1) of the Treaty.

2. The agreement between *Ryanair* and *Flughafen Frankfurt Hahn GmbH* dated 14 February 2002 does not constitute aid within the meaning of Article 107(1) of the Treaty.

3. The 'Agreement Ryanair/Flughafen Frankfurt-Hahn GmbH — Delivery of aircraft 6 to 18 — year 2005 to year 2012' of 4 November 2005 does not constitute aid within the meaning of the Article 107(1) of the Treaty.

Article 3

The schedules of airport charges, which entered into force on 1 October 2001 and on 1 June 2006, do not constitute aid within the meaning of the Article 107(1) of the Treaty.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 October 2014.

For the Commission

Joaquín ALMUNIA

Vice-President

COMMISSION DELEGATED DECISION (EU) 2016/790**of 13 January 2016****amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and the titles of training courses***(notified under document C(2016) 1)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ⁽¹⁾, and in particular Article 21a(4) thereof,

Whereas:

- (1) Annex V to Directive 2005/36/EC contains lists of the evidence of formal qualifications of doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects.
- (2) Several Member States have notified to the Commission of updates to legislative, regulatory and administrative provisions with regard to the issuing of evidence of formal qualifications of Doctor of Medicine, Nurse responsible for general care, Dentists, Veterinary Surgeons, Midwife, Pharmacist and Architect. The Commission considers that the notified legislative, regulatory and administrative provisions are in conformity with conditions set out in Chapter III of Title III of Directive 2005/36/EC. It is therefore necessary to update Annex V to Directive 2005/36/EC.
- (3) For reasons of clarity and legal certainty, it is necessary to replace all of the relevant points of Annex V to Directive 2005/36/EC on the evidence of formal qualifications and the titles of training courses.
- (4) Directive 2005/36/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex V to Directive 2005/36/EC is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 January 2016.

For the Commission
Elżbieta BIENKOWSKA
Member of the Commission

⁽¹⁾ OJ L 255, 30.9.2005, p. 22.

ANNEX

Annex V to Directive 2005/36/EC is amended as follows:

1. Points 5.1.1 to 5.1.4 are replaced by the following:

‘5.1.1. Evidence of formal qualifications in basic medical training

Country	Evidence of formal qualifications	Body awarding the qualifications	Certificate accompanying the qualifications	Reference date
België/Belgique/ Belgien	Diplôme de “médecin”/Master in de geneeskunde	— Les universités/De universiteiten — Le Jury compétent d’enseignement de la Communauté française/De bevoegde Examencommissie van de Vlaamse Gemeenschap		20.12.1976
България	Диплома за висше образование на образователно-квалификационна степен “магистър” по Медицина и професионална квалификация “Магистър-лекар”	Университет		1.1.2007
Česká republika	Diplom o ukončení studia ve studijním programu všeobecné lékařství (doktor medicíny, MUDr.)	Lékařská fakulta univerzity v České republice		1.5.2004
Danmark	Bevis for kandidatuddannelsen i medicin (cand.med.)	Universitet	— Autorisation som læge, udstedt af Sundhedsstyrelsen og — Tilladelse til selvstændigt virke som læge (dokumentation for gennemført praktisk uddannelse), udstedt af Sundhedsstyrelsen	20.12.1976
Deutschland	— Zeugnis über die Ärztliche Prüfung — Zeugnis über die Ärztliche Staatsprüfung und Zeugnis über die Vorbereitungszeit als Medizinalassistent, soweit diese nach den deutschen Rechtsvorschriften noch für den Abschluss der ärztlichen Ausbildung vorgesehen war	Zuständige Behörden		20.12.1976
Eesti	Arstikraad Degree in Medicine (MD) Diplom arstiteaduse õppekava läbimise kohta	Tartu Ülikool		1.5.2004

Country	Evidence of formal qualifications	Body awarding the qualifications	Certificate accompanying the qualifications	Reference date
Ελλάδα	Πτυχίο Ιατρικής	— Ιατρική Σχολή Πανεπιστημίου, — Σχολή Επιστημών Υγείας, Τμήμα Ιατρικής Πανεπιστημίου		1.1.1981
España	Título de Licenciado en Medicina y Cirugía	— Ministerio de Educación y Cultura		1.1.1986
	Título de Graduado/a en Medicina	— El rector de una Universidad — El rector de una Universidad		1.1.1986
France	Diplôme de fin de deuxième cycle des études médicales	Universités		20.12.1976
Hrvatska	Diploma “doktor medicine/ doktorica medicine”	Medicinski fakulteti sveučilišta u Republici Hrvatskoj		1.7.2013
Ireland	Primary qualification	Competent examining body	Certificate of experience	20.12.1976
Italia	Diploma di laurea in medicina e chirurgia	Università	Diploma di abilitazione all'esercizio della medicina e chirurgia	20.12.1976
Κύπρος	Πιστοποιητικό Εγγραφής Ιατρού	Ιατρικό Συμβούλιο		1.5.2004
Latvija	ārsta diploms	Universitātes tipa augstskola		1.5.2004
Lietuva	1. Aukštojo mokslo diplomas, nurodantis suteiktą gydytojo kvalifikaciją 2. Magistro diplomas (medicinos magistro kvalifikacinis laipsnis ir gydytojo kvalifikacija)	Universitetas	1. Internatūros pažymėjimas, nurodantis suteiktą medicinos gydytojo profesinę kvalifikaciją 2. Internatūros pažymėjimas (medicinos gydytojo profesinė kvalifikacija)	1.5.2004
Luxembourg	Diplôme d'Etat de docteur en médecine, chirurgie et accouchements	Jury d'examen d'Etat	Certificat de stage	20.12.1976
Magyarország	Okleveles orvosdoktor oklevél (dr. med)	Egyetem		1.5.2004
Malta	Lawrja ta' Tabib tal-Medicina u l-Kirurgija	Universita' ta' Malta	Ċertifikat ta' registrazzjoni mahruġ mill-Kunsill Mediku	1.5.2004
Nederland	Getuigenschrift van met goed gevolg afgelegd artsexamen	Faculteit Geneeskunde		20.12.1976

Country	Evidence of formal qualifications	Body awarding the qualifications	Certificate accompanying the qualifications	Reference date
Österreich	Urkunde über die Verleihung des akademischen Grades Doktor der gesamten Heilkunde (bzw. Doctor medicinae universae, Dr.med.univ.)	Medizinische Fakultät einer Universität, bzw Medizinische Universität		1.1.1994
Polska	Dyplom ukończenia studiów wyższych na kierunku lekarskim z tytułem "lekarza"	szkoły wyższe	Świadectwo złożenia Lekarskiego Egzaminu Państwowego ⁽¹⁾ ⁽³⁾ /Świadectwo złożenia Lekarskiego Egzaminu Końcowego ⁽²⁾ ⁽³⁾	1.5.2004
Portugal	Carta de Curso de licenciatura em medicina	Universidades	Certificado emitido pela Ordem dos Médicos	1.1.1986
România	Diplomă de licență de doctor medic	Universități		1.1.2007
Slovenija	Diploma, s katero se podeljuje strokovni naslov "doktor medicine/doktorica medicine"	Univerza	Potrdilo o Opravljenem Strokovnem Izpitu za Poklic Zdravnik/Zdravnica	1.5.2004
Slovensko	DIPLOM všeobecné lekárstvo doktor všeobecného lékařstva ("MUDr.")	Univerzita		1.5.2004
Suomi/Finland	Lääketieteen lisensiaatin tutkinto/Medicine licentiatexamen	Yliopisto		1.1.1994
Sverige	Läkarexamen	Universitet eller högskola	Bevis om legitimation som läkare, utfärdat av Socialstyrelsen	1.1.1994
United Kingdom	Primary qualification	Competent examining body	Certificate of experience	20.12.1976

⁽¹⁾ Until 2012.

⁽²⁾ As of 2013.

⁽³⁾ Until 1 October 2017, the evidence of formal qualifications should also be accompanied by a certificate of completion of a post-graduate internship ("staž podyplomowy").

5.1.2. Evidence of formal qualifications of specialised doctors

Country	Evidence of formal qualifications	Body awarding the qualifications	Reference date
België/Belgique/Belgie	Bijzondere beroepstitel van geneesheer-specialist/Titre professionnel particulier de médecin spécialiste	Minister bevoegd voor Volksgezondheid/Ministre de la Santé publique	20.12.1976
България	Свидетелство за призната специалност	Университет	1.1.2007

Country	Evidence of formal qualifications	Body awarding the qualifications	Reference date
Česká republika	Diplom o specializaci	Ministerstvo zdravotnictví	1.5.2004
Danmark	Bevis for tilladelse til at betegne sig som speciallæge	Sundhedsstyrelsen	20.12.1976
Deutschland	Fachärztliche Anerkennung	Landesärztekammer	20.12.1976
Eesti	Residentuuri lõpetamist tõendav tunnistus Residentuuri lõputunnistus eriarstiabi erialal	Tartu Ülikool	1.5.2004
Ελλάδα	Τίτλος Ιατρικής Ειδικότητας	1. Περιφέρεια 2. Νομαρχιακή Αυτοδιοίκηση 3. Νομαρχία	1.1.1981
España	Título de Especialista	Ministerio de Educación y Cultura	1.1.1986
France	1. Certificat d'études spéciales de médecine accompagné du diplôme d'Etat de docteur en médecine 2. Attestation de médecin spécialiste qualifié accompagnée du diplôme d'Etat de docteur en médecine 3. Diplôme d'études spécialisées ou diplôme d'études spécialisées complémentaires qualifiant de médecine accompagné du diplôme d'Etat de docteur en médecine	1. Universités 2. Conseil de l'Ordre des médecins 3. Universités	20.12.1976
Hrvatska	Diploma o specijalističkom usavršavanju	Ministarstvo nadležno za zdravstvo	1.7.2013
Ireland	Certificate of Specialist doctor	Competent authority	20.12.1976
Italia	Diploma di medico specialista	Università	20.12.1976
Κύπρος	Πιστοποιητικό Αναγνώρισης Ειδικότητας	Ιατρικό Συμβούλιο	1.5.2004
Latvija	"Sertifikāts"-kompetentu iestāžu izsniegts dokuments, kas apliecina, ka persona ir nokārtojusi sertifikācijas eksāmenu specialitātē	Latvijas Ārstu biedrība Latvijas Ārstniecības personu profesionālo organizāciju savienība	1.5.2004
Lietuva	1. Rezidentūros pažymėjimas, nurodantis suteiktą gydytojo specialisto profesinę kvalifikaciją 2. Rezidentūros pažymėjimas (gydytojo specialisto profesinę kvalifikaciją)	Universitetas	1.5.2004

Country	Evidence of formal qualifications	Body awarding the qualifications	Reference date
Luxembourg	Certificat de médecin spécialiste	Ministre de la Santé publique	20.12.1976
Magyarország	Szakorvosi bizonyítvány	Nemzeti Vizsgabizottság	1.5.2004
Malta	Ċertifikat ta' Speċjalista Mediku	Kumitat ta' Approvazzjoni dwar Speċjalisti	1.5.2004
Nederland	Bewijs van inschrijving in een Specialistenregister Diploma geneeskundig specialist	— Medische Specialisten Registratie Commissie (MSRC) van de Koninklijke Nederlandsche Maatschappij tot bevordering der Geneeskunst — Sociaal-Geneskundigen Registratie Commissie (SGRC) van de Koninklijke Nederlandsche Maatschappij tot Bevordering der Geneeskunst — Registratiecommissie Geneeskundig Specialisten (RGS) van de Koninklijke Nederlandsche Maatschappij tot Bevordering der Geneeskunst ⁽¹⁾	20.12.1976
Österreich	Facharzt Diplom	Österreichische Ärztekammer	1.1.1994
Polska	Dyplom uzyskania tytułu specjalisty	Centrum Egzaminów Medycznych	1.5.2004
Portugal	Titulo de especialista	Ordem dos Médicos	1.1.1986
România	Certificat de medic specialist	Ministerul Sănătății	1.1.2007
Slovenija	Potrtilo o opravljenem specialističnem izpitu	1. Ministrstvo za zdravje 2. Zdravniška zbornica Slovenije	1.5.2004
Slovensko	Diplom o špecializácii	1. Slovenská zdravotnícka univerzita 2. Univerzita Komenského v Bratislave 3. Univerzita Pavla Jozefa Šafárika v Košiciach	1.5.2004
Suomi/Finland	Erikoislääkäarin tutkinto/Specialläkar-examen	Yliopisto	1.1.1994
Sverige	Bevis om specialkompetens som läkare, utfärdat av Socialstyrelsen	Socialstyrelsen	1.1.1994
United Kingdom	Certificate of Completion of training	Postgraduate Medical Education and Training Board General Medical Council	20.12.1976 1.4.2010

⁽¹⁾ As of January 2013.

5.1.3. Titles of training courses in specialised medicine

	Anaesthetics	General surgery
	Minimum period of training: 3 years	Minimum period of training: 5 years
Country	Title	Title
Belgique/België/Belgien	Anesthésie-réanimation/Anesthesie-reanimatie	Chirurgie/Heelkunde
България	Анестезиология и интензивно лечение	Хирургия
Česká republika	Anesteziologie a intenzivní medicína	Chirurgie
Danmark	Anæstesiologi	Kirurgi
Deutschland	Anästhesiologie	(Allgemeine) Chirurgie
Eesti	Anestesioloogia	Üldkirurgia
Ελλάδα	Αναισθησιολογία	Χειρουργική
España	Anestesiología y Reanimación	Cirugía general y del aparato digestivo
France	Anesthésie-réanimation	Chirurgie générale
Hrvatska	Anesteziologija, reanimatologija i intenzivna medicina	Opća kirurgija
Ireland	Anaesthesia	General surgery
Italia	Anestesia, rianimazione e terapia intensiva	Chirurgia generale
Κύπρος	Αναισθησιολογία	Γενική Χειρουργική
Latvija	Anesteziologija un reanimatologija	Ķirurgija
Lietuva	Anesteziologija reanimatologija	Chirurgija
Luxembourg	Anesthésie-réanimation	Chirurgie générale
Magyarország	Aneszteziológia és intenzív terápia	Sebészet
Malta	Anesteżija u Kura Intensiva	Kirurgija Ġenerali
Nederland	Anesthesiologie	Heelkunde
Österreich	Anästhesiologie und Intensivmedizin	— Chirurgie — Allgemeinchirurgie und Viszeralchirurgie (!)
Polska	Anestezjologia i intensywna terapia	Chirurgia ogólna
Portugal	Anestesiologia	Cirurgia geral

	Anaesthetics	General surgery
	Minimum period of training: 3 years	Minimum period of training: 5 years
Country	Title	Title
România	Anestezie și terapie intensivă	Chirurgie generală
Slovenija	Anesteziologija, reanimatologija in periooperativna intenzivna medicina	Splošna kirurgija
Slovensko	Anestéziológia a intenzívna medicína	Chirurgia
Suomi/Finland	Anestesiologia ja tehohoito/Anesthesiologi och intensivvård	Yleiskirurgia/Allmän kirurgi
Sverige	Anestesi och intensivvård	Kirurgi
United Kingdom	Anaesthetics	General surgery

(1) As of June 2015

	Neurological surgery	Obstetrics and Gynaecology
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Neurochirurgie	Gynécologie — obstétrique/Gynaecologie — verloskunde
България	Неврохирургия	Акушерство и гинекология
Česká republika	Neurochirurgie	Gynekologie a porodnictví
Danmark	Neurokirurgi	Gynækologi og obstetrik
Deutschland	Neurochirurgie	Frauenheilkunde und Geburtshilfe
Eesti	Neurokirurgia	Sünnitusabi ja günekoloogia
Ελλάδα	Νευροχειρουργική	Μαιευτική-Γυναικολογία
España	Neurocirugía	Obstetricia y ginecología
France	Neurochirurgie	Gynécologie — obstétrique
Hrvatska	Neurokirurgija	Ginekologija i opstetricija
Ireland	Neurosurgery	Obstetrics and gynaecology
Italia	Neurochirurgia	Ginecologia e ostetricia
Κύπρος	Νευροχειρουργική	Μαιευτική — Γυναικολογία

	Neurological surgery	Obstetrics and Gynaecology
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Latvija	Neiroķirurgija	Ginekoloģija un dzemdniecība
Lietuva	Neurochirurgija	Akušerija ginekologija
Luxembourg	Neurochirurgie	Gynécologie — obstétrique
Magyarország	Idegsebészet	Szülészet-nőgyógyászat
Malta	Newroķirurgija	Ostetriċja u Ġinekoloġija
Nederland	Neurochirurgie	Obstetrie en Gynaecologie
Österreich	Neurochirurgie	Frauenheilkunde und Geburtshilfe
Polska	Neurochirurgia	Położnictwo i ginekologia
Portugal	Neurocirurgia	Ginecologia e obstetricia
România	Neurochirurgie	Obstetrică-ginecologie
Slovenija	Nevroķirurgija	Ginekologija in porodništvo
Slovensko	Neurochirurgia	Gynekológia a pôrodníctvo
Suomi/Finland	Neurokirurgia/Neuroķirurgi	Naistentaudit ja synnytykset/Kvinnosjukdomar och förlossningar
Sverige	Neuroķirurgi	Obstetrik och gynekologi
United Kingdom	Neurosurgery	Obstetrics and gynaecology

	General (internal) medicine	Ophthalmology
	Minimum period of training: 5 years	Minimum period of training: 3 years
Country	Title	Title
Belgique/België/Belgien	Médecine interne/Inwendige geneeskunde	Ophthalmologie/Oftalmologie
България	Вътрешни болести	Очни болести
Česká republika	Vnitřní lékařství	Oftalmologie
Danmark		Oftalmologi
Deutschland	Innere Medizin	Augenheilkunde

	General (internal) medicine	Ophthalmology
	Minimum period of training: 5 years	Minimum period of training: 3 years
Country	Title	Title
Eesti	Sisehaigused	Oftalmoloogia
Ελλάδα	Παθολογία	Οφθαλμολογία
España	Medicina interna	Oftalmología
France	Médecine interne	Ophtalmologie
Hrvatska	Opća interna medicina	Oftalmologija i optometrija
Ireland	General (Internal) Medicine	Ophthalmic surgery Ophthalmology ⁽¹⁾
Italia	Medicina interna	Oftalmologia
Κύπρος	Παθολογία	Οφθαλμολογία
Latvija	Internā medicīna	Oftalmoloģija
Lietuva	Vidaus ligos	Oftalmologija
Luxembourg	Médecine interne	Ophtalmologie
Magyarország	Belgyógyászat	Szemészet
Malta	Medicina Interna	Oftalmologija
Nederland	Interne geneeskunde	Oogheekunde
Österreich	Innere Medizin	Augenheilkunde und Optometrie
Polska	Choroby wewnętrzne	Okulistyka
Portugal	Medicina interna	Oftalmologia
România	Medicină internă	Oftalmologie
Slovenija	Interna medicina	Oftalmologija
Slovensko	Vnútorné lekárstvo	Oftalmológia
Suomi/Finland	Sisätaudit/Inre medicin	Silmätaudit/Ögonsjukdomar
Sverige	Internmedicin	Ögonsjukdomar (oftalmologi)
United Kingdom	General (internal) medicine	Ophthalmology

⁽¹⁾ As of 1991/1992

	Otorhinolaryngology	Paediatrics
	Minimum period of training: 3 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Oto-rhino-laryngologie/Otorhinolaryngologie	Pédiatrie/Pediatrie
България	Ушно-носно-гърлени болести	Педиатрия
Česká republika	Otorinolaryngologie	Dětské lékařství
Danmark	Oto-rhino-laryngologi	Pædiatri
Deutschland	Hals-Nasen-Ohrenheilkunde	Kinder— und Jugendmedizin
Eesti	Otorinolarüngoloogia	Pediaatria
Ελλάδα	Ωτορινολαρυγγολογία	Παιδιατρική
España	Otorrinolaringología	Pediatría y sus áreas específicas
France	Oto-rhino-laryngologie et chirurgie cervico-faciale	Pédiatrie
Hrvatska	Otorinolarinologija	Pedijatrija
Ireland	Otolaryngology	Paediatrics
Italia	Otorinolarinogoiatria	Pediatria
Κύπρος	Ωτορινολαρυγγολογία	Παιδιατρική
Latvija	Otolaringoloģija	Pedijatrija
Lietuva	Otorinolarinologija	Vaikų ligos
Luxembourg	Oto-rhino-laryngologie	Pédiatrie
Magyarország	Fül-orr-gégegyógyászat	Csecsemő— és gyermekgyógyászat
Malta	Otorinolarinologija	Pedjatrija
Nederland	Keel-, neus— en oorheelkunde	Kindergeneeskunde
Österreich	— Hals-, Nasen— und Ohrenkrankheiten — Hals-, Nasen— und Ohrenheilkunde ⁽¹⁾	Kinder— und Jugendheilkunde
Polska	Otorynolaryngologia	Pediatria
Portugal	Otorrinolaringologia	Pediatria
România	Otorinolarinologie	Pediatrie

	Otorhinolaryngology	Paediatrics
	Minimum period of training: 3 years	Minimum period of training: 4 years
Country	Title	Title
Slovenija	Otorinolaringológija	Pedijatrija
Slovensko	Otorinolaryngológia	Pediatria
Suomi/Finland	Korva-, nenä— ja kurkkutaudit/Öron-, näs— och halssjukdomar	Lastentaudit/Barnsjukdomar
Sverige	Öron-, näs— och halssjukdomar (oto-rhino-laryngologi)	Barn— och ungdomsmedicin
United Kingdom	Otolaryngology	Paediatrics

(¹) As of June 2015

	Respiratory medicine	Urology
	Minimum period of training: 4 years	Minimum period of training: 5 years
Country	Title	Title
Belgique/België/Belgien	Pneumologie	Urologie
България	Пневмология и фтизиатрия	Урология
Česká republika	Pneumologie a ftizeologie	Urologie
Danmark	Intern medicin: langesygdomme	Urologi
Deutschland	— Pneumologie — Innere Medizin und Pneumologie (¹)	Urologie
Eesti	Pulmonoloogia	Uroloogia
Ελλάδα	Φυματιολογία— Πνευμονολογία	Ουρολογία
España	Neumología	Urología
France	Pneumologie	Chirurgie urologique
Hrvatska	Pulmologija	Urologija
Ireland	Respiratory medicine	Urology
Italia	Malattie dell'apparato respiratorio	Urologia
Κύπρος	Πνευμονολογία — Φυματιολογία	Ουρολογία
Latvija	Ftiziopneimonoloģija	Uroloģija
Lietuva	Pulmonologija	Urologija

	Respiratory medicine	Urology
	Minimum period of training: 4 years	Minimum period of training: 5 years
Country	Title	Title
Luxembourg	Pneumologie	Urologie
Magyarország	Tüdőgyógyászat	Urológia
Malta	Medicina Respiratorja	Urologija
Nederland	Longziekten en tuberculose	Urologie
Österreich	— Lungenkrankheiten — Innere Medizin und Pneumologie ⁽²⁾	Urologie
Polska	Choroby płuc	Urologia
Portugal	Pneumologia	Urologia
România	Pneumologie	Urologie
Slovenija	Pnevmologija	Urologija
Slovensko	Pneumológia a ftizeológia	Urológia
Suomi/Finland	Keuhkosairaudet ja allergologia/Lungsjukdomar och allergologi	Urologia/Urologi
Sverige	Lungsjukdomar (pneumologi)	Urologi
United Kingdom	Respiratory medicine	Urology

(1) As of July 2011

(2) As of June 2015

	Orthopaedics	Pathological anatomy
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Chirurgie orthopédique/Orthopedische heelkunde	Anatomie pathologique/Pathologische anatomie
България	Ортопедия и травматология	Обща и клинична патология
Česká republika	Ortopedie	Patologie
Danmark	Ortopædisk kirurgi	Patologisk anatomi og cytology
Deutschland	— Orthopädie (und Unfallchirurgie) — Orthopädie und Unfallchirurgie ⁽¹⁾	Pathologie
Eesti	Ortopeedia	Patoloogia

	Orthopaedics	Pathological anatomy
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Ελλάδα	Ορθοπαιδική	Παθολογική Ανατομική
España	Cirugía ortopédica y traumatología	Anatomía patológica
France	Chirurgie orthopédique et traumatologie	Anatomie et cytologie pathologiques
Hrvatska	Ortopedija i traumatologija	Patologija
Ireland	Trauma and orthopaedic surgery	Histopathology
Italia	Ortopedia e traumatologia	Anatomia patologica
Κύπρος	Ορθοπαιδική	Παθολογοανατομία — Ιστολογία
Latvija	Traumatoloģija un ortopēdija	Patoloģija
Lietuva	Ortopedija traumatologija	Patologija
Luxembourg	Orthopédie	Anatomie pathologique
Magyarország	Ortopédia és traumatológia	Patológia
Malta	Kirurgija Ortopedika	Istopatoloģija
Nederland	Orthopedie	Pathologie
Österreich	— Orthopädie und Orthopädische Chirurgie — Orthopädie und Traumatologie ⁽²⁾	— Pathologie — Klinische Pathologie und Molekularpathologie ⁽²⁾ — Klinische Pathologie und Neuropathologie
Polska	Ortopedia i traumatologia narządu ruchu	Patomorfologia
Portugal	Ortopedia	Anatomia patologica
România	Ortopedie și traumatologie	Anatomie patologică
Slovenija	Ortopedska kirurgija; Travmatologija	Patologija
Slovensko	Ortopédia	Patologická anatómia
Suomi/Finland	Ortopedia ja traumatologia/Ortopedi och traumatologi	Patologia/Patologi
Sverige	Ortopedi	Klinisk patologi
United Kingdom	Trauma and orthopaedic surgery	Histopathology

(1) As of May 2006

(2) As of June 2015

	Neurology	Psychiatry
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Neurologie	Psychiatrie, particulièrement de l'adulte/Psychiatrie, meer bepaald in de volwassenpsychiatrie
България	Нервни болести	Психиатрия
Česká republika	Neurologie	Psychiatrie
Danmark	Neurologi	Psykiatri
Deutschland	Neurologie	Psychiatrie und Psychotherapie
Eesti	Neuroloogia	Psühhiaatria
Ελλάδα	Νευρολογία	Ψυχιατρική
España	Neurología	Psiquiatría
France	Neurologie	Psychiatrie
Hrvatska	Neurologija	Psihijatrija
Ireland	Neurology	Psychiatry
Italia	Neurologia	Psichiatria
Κύπρος	Νευρολογία	Ψυχιατρική
Latvija	Neiroloģija	Psihiatrija
Lietuva	Neurologija	Psichiatrija
Luxembourg	Neurologie	Psychiatrie
Magyarország	Neurológia	Pszichiátria
Malta	Newroloġija	Psikjatrija
Nederland	Neurologie	Psychiatrie
Österreich	Neurologie	Psychiatrie und Psychotherapeutische Medizin
Polska	Neurologia	Psichiatria
Portugal	Neurologia	Psiquiatria
România	Neurologie	Psihiatrie
Slovenija	Nevrologija	Psihiatrija

	Neurology	Psychiatry
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Slovensko	Neurológia	Psychiatria
Suomi/Finland	Neurologia/Neurologi	Psykiatria/Psykiatri
Sverige	Neurologi	Psykiatri
United Kingdom	Neurology	General psychiatry

	Diagnostic radiology	Radiotherapy
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Radiodiagnostic/Röntgendiagnose	Radiothérapie-oncologie/Radiotherapie-oncologie
България	Образна диагностика	Лъчелечение
Česká republika	Radiologie a zobrazovací metody	Radiační onkologie
Danmark	Radiologi	Klinisk Onkologi
Deutschland	(Diagnostische) Radiologie	Strahlentherapie
Eesti	Radioloogia	Onkoloogia
Ελλάδα	Ακτινοδιαγνωστική	Ακτινοθεραπευτική — Ογκολογία
España	Radiodiagnóstico	Oncología radioterápica
France	Radiodiagnostic et imagerie médicale	Oncologie option oncologie radiothérapique
Hrvatska	Klinička radiologija	Onkologija i radioterapija
Ireland	Radiology	Radiation oncology
Italia	Radiodiagnostica	Radioterapia
Κύπρος	Ακτινολογία	Ακτινοθεραπευτική Ογκολογία
Latvija	Diagnostiskā radioloģija	Terapeitiskā radioloģija
Lietuva	Radiologija	Onkologija radioterapija
Luxembourg	Radiodiagnostic	Radiothérapie
Magyarország	Radiológia	Sugárterápia

	Diagnostic radiology	Radiotherapy
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Malta	Radjoloġija	Onkoloġija u Radjoterapija
Nederland	Radiologie	Radiotherapie
Österreich	Radiologie	Strahlentherapie-Radioonkologie
Polska	Radiologia i diagnostyka obrazowa	Radioterapia onkologiczna
Portugal	Radiodiagnóstico	Radioterapia
România	Radiologie-imagistică medicală	Radioterapie
Slovenija	Radiologija	Radioterapija in onkologija
Slovensko	Rádiológia	Radiačná onkológia
Suomi/Finland	Radiologia/Radiologi	Syöpätaudit/Cancersjukdomar
Sverige	Medicinsk radiologi	Tumörsjukdomar (allmän onkologi)
United Kingdom	Clinical radiology	Clinical oncology

	Plastic surgery	Clinical biology
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Chirurgie plastique, reconstructrice et esthétique/Plastische, reconstructieve en esthetische heelkunde	Biologie clinique/Klinische biologie
България	Пластично-възстановителна и естетична хирургия	Клинична лаборатория
Česká republika	Plastická chirurgie	
Danmark	Plastikkirurgi	
Deutschland	— Plastische (und Ästhetische) Chirurgie — Plastische und Ästhetische Chirurgie (¹)	Laboratoriumsmedizin (²)
Eesti	Plastika— ja rekonstruktiivkirurgia	Laborimeditisiin
Ελλάδα	Πλαστική Χειρουργική	
España	Cirugía plástica, estética y reparadora	Análisis clínicos

	Plastic surgery	Clinical biology
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
France	Chirurgie plastique, reconstructrice et esthétique	Biologie médicale
Hrvatska	Plastična, rekonstrukcijska i estetska kirurgija	
Ireland	Plastic, reconstructive and aesthetic surgery	
Italia	Chirurgia plastica, ricostruttiva ed estetica	Patologia clinica
Κύπρος	Πλαστική Χειρουργική	
Latvija	Plastiskā ķirurģija	
Lietuva	Plastinė ir rekonstrukcinė chirurgija	Laboratorinė medicina
Luxembourg	Chirurgie plastique	Biologie clinique
Magyarország	Plasztikai (égési) sebészet	Orvosi laboratóriumi diagnosztika
Malta	Kirurgija Plastika	
Nederland	Plastische chirurgie	
Österreich	Plastische, Ästhetische und Rekonstruktive Chirurgie Plastische, Rekonstruktive und Ästhetische Chirurgie ⁽³⁾	Medizinische Biologie
Polska	Chirurgia plastyczna	Diagnostyka laboratoryjna
Portugal	Cirurgia plástica, estética e reconstitutiva	Patologia clínica
România	Chirurgie plastică, estetică și microchirurgie reconstructivă	Medicină de laborator
Slovenija	Plastična, rekonstrukcijska in estetska kirurgija	
Slovensko	Plastická chirurgia	Laboratórna medicína
Suomi/Finland	Plastiikkakirurgia/Plastikkirurgi	
Sverige	Plastikkirurgi	
United Kingdom	Plastic surgery	

⁽¹⁾ As of 2006⁽²⁾ As of 2012⁽³⁾ As of June 2015

	Microbiology-bacteriology	Biological chemistry
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		
България	Микробиология	Биохимия
Česká republika	Lékařská mikrobiologie	Klinická biochemie
Danmark	Klinisk mikrobiologi	Klinisk biokemi
Deutschland	— Mikrobiologie (Virologie) und Infektionsepidemiologie — Mikrobiologie, Virologie und Infektionsepidemiologie ⁽³⁾	Laboratoriumsmedizin ⁽¹⁾
Eesti		
Ελλάδα	— Ιατρική Βιοπαθολογία — Μικροβιολογία	
España	Microbiología y parasitología	Bioquímica clínica
France		
Hrvatska	Klinička mikrobiologija	
Ireland	Microbiology	Chemical pathology
Italia	Microbiologia e virologia	Biochimica clinica
Κύπρος	Μικροβιολογία	
Latvija	Mikrobioloģija	
Lietuva		
Luxembourg	Microbiologie	Chimie biologique
Magyarország	Orvosi mikrobiológia	
Malta	Mikrobijoloġija	Patoloġija Kimika
Nederland	Medische microbiologie	Klinische chemie ⁽²⁾
Österreich	— Hygiene und Mikrobiologie — Klinische Mikrobiologie und Hygiene ⁽⁴⁾ — Klinische Mikrobiologie und Virologie ⁽⁴⁾	Medizinische und Chemische Labordiagnostik
Polska	Mikrobiologia lekarska	
Portugal		

	Microbiology-bacteriology	Biological chemistry
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
România		
Slovenija	Klinična mikrobiologija	Medicinska biokemija
Slovensko	Klinická mikrobiológia	Klinická biochémia
Suomi/Finland	Kliininen mikrobiologia/Klinisk mikrobiologi	Kliininen kemia/Klinisk kemi
Sverige	Klinisk bakteriologi	Klinisk kemi
United Kingdom	Medical microbiology and virology	Chemical pathology

(¹) Until 2012

(²) Dates of repeal within the meaning of Article 27(3): 4 April 2000

(³) As of May 2006

(⁴) As of June 2015

	Immunology	Thoracic surgery
	Minimum period of training: 4 years	Minimum period of training: 5 years
Country	Title	Title
Belgique/België/Belgien		Chirurgie thoracique/Heelkunde op de thorax (¹)
България	Клинична имунология	Гръдна хирургия Кардиохирургия
Česká republika	Alergologie a klinická imunologie	Hrudní chirurgie
Danmark	Klinisk immunologi	Thoraxkirurgi
Deutschland		Thoraxchirurgie
Eesti		Torakaalkirurgia
Ελλάδα		Χειρουργική Θώρακος
España	Inmunología	— Cirugía torácica — Cirugía cardiovascular
France		Chirurgie thoracique et cardiovasculaire
Hrvatska	Alergologija i klinička imunologija	
Ireland	Immunology (clinical and laboratory)	Cardiothoracic surgery
Italia		— Chirurgia toracica — Cardiochirurgia

	Immunology	Thoracic surgery
	Minimum period of training: 4 years	Minimum period of training: 5 years
Country	Title	Title
Κύπρος	Ανοσολογία	Χειρουργική Θώρακος
Latvija	Imunoloģija	Torakālā ķirurģija
Lietuva		Krūtinės chirurgija
Luxembourg	Immunologie	Chirurgie thoracique
Magyarország	Allergológia és klinikai immunológia	Mellkassebészet
Malta	Immunoloġija	Kirurgija Kardjo-Toraciċa
Nederland		Cardio-thoracale chirurgie
Österreich	— Immunologie — Klinische Immunologie ⁽²⁾	Thoraxchirurgie
Polska	Immunologia kliniczna	Chirurgia klatki piersiowej
Portugal		Cirurgia cardiotorácica
România		Chirurgie toracică
Slovenija		Torakalna kirurgija
Slovensko	Klinická imunológia a alergológia	Hrudníková chirurgia
Suomi/Finland		Sydän-ja rintaelinkirurgia/Hjärt— och thoraxkirurgi
Sverige	Klinisk immunologi	Thoraxkirurgi
United Kingdom	Immunology	Cardo-thoracic surgery

⁽¹⁾ Dates of repeal within the meaning of Article 27(3): 1 January 1983

⁽²⁾ As of June 2015

	Paediatric surgery	Vascular surgery
	Minimum period of training: 5 years	Minimum period of training: 5 years
Country	Title	Title
Belgique/België/Belgien		Chirurgie des vaisseaux/Bloedvatenheelkunde ⁽¹⁾
България	Детска хирургия	Съдова хирургия
Česká republika	Dětská chirurgie	Cévní chirurgie
Danmark		Karkirurgi

	Paediatric surgery	Vascular surgery
	Minimum period of training: 5 years	Minimum period of training: 5 years
Country	Title	Title
Deutschland	Kinderchirurgie	Gefäßchirurgie
Eesti	Lastekirurgia	Kardiovaskulaarkirurgia
Ελλάδα	Χειρουργική Παιδών	Αγγειοχειρουργική
España	Cirugía pediátrica	Angiología y cirugía vascular
France	Chirurgie infantile	Chirurgie vasculaire
Hrvatska	Dječja kirurgija	Vaskularna kirurgija
Ireland	Paediatric surgery	
Italia	Chirurgia pediatrica	Chirurgia vascolare
Κύπρος	Χειρουργική Παιδών	Χειρουργική Αγγείων
Latvija	Bērnu ķirurģija	Asinsvadu ķirurģija
Lietuva	Vaikų chirurgija	Kraujagyslių chirurgija
Luxembourg	Chirurgie pédiatrique	Chirurgie vasculaire
Magyarország	Gyermekebészet	Érsebészet
Malta	Kirurgija Pedjatrika	Kirurgija Vaskolari
Nederland		
Österreich	Kinder— und Jugendchirurgie	Allgemeinchirurgie und Gefäßchirurgie
Polska	Chirurgia dziecięca	Chirurgia naczyniowa
Portugal	Cirurgia pediátrica	Angologia/Cirurgia vascular
România	Chirurgie pediatrică	Chirurgie vasculară
Slovenija		Kardiovaskularna kirurgija
Slovensko	Detská chirurgia	Cievna chirurgia
Suomi/Finland	Lastenkirurgia/Barnkirurgi	Verisuonikirurgia/Kärlkirurgi
Sverige	Barn— och ungdomskirurgi	
United Kingdom	Paediatric surgery	Vascular surgery

(¹) Dates of repeal within the meaning of Article 27(3): 1 January 1983

	Cardiology	Gastroenterology
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Cardiologie	Gastro-entérologie/Gastro-enterologie
България	Кардиология	Гастроентерология ⁽¹⁾
Česká republika	Kardiologie	Gastroenterologie
Danmark	Intern medicin: kardiologi	Intern medicin: gastroenterology og hepatologi
Deutschland	— Innere Medizin und Schwerpunkt Kardiologie — Innere Medizin und Kardiologie ⁽²⁾	— Innere Medizin und Schwerpunkt Gastroenterologie — Innere Medizin und Gastroenterologie ⁽²⁾
Eesti	Kardioloogia	Gastroenteroloogia
Ελλάδα	Καρδιολογία	Γαστρεντερολογία
España	Cardiología	Aparato digestivo
France	Cardiologie et maladies vasculaires	Gastro-entérologie et hépatologie
Hrvatska	Kardiologija	Gastroenterologija
Ireland	Cardiology	Gastro-enterology
Italia	Malattie dell'apparato cardiovascolare	Gastroenterologia
Κύπρος	Καρδιολογία	Γαστρεντερολογία
Latvija	Kardioloģija	Gastroenteroloģija
Lietuva	Kardiologija	Gastroenterologija
Luxembourg	Cardiologie et angiologie	Gastro-enterologie
Magyarország	Kardiológia	Gasztroenterológia
Malta	Kardjologija	Gastroenteroloġija
Nederland	Cardiologie	Maag-darm-leverziekten
Österreich	Innere Medizin und Kardiologie	Innere Medizin und Gastroenterologie und Hepatologie
Polska	Kardiologia	Gastrenterologia
Portugal	Cardiologia	Gastrenterologia
România	Cardiologie	Gastroenterologie

	Cardiology	Gastroenterology
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Slovenija	Kardiologija in vaskularna medicina	Gastroenterologija
Slovensko	Kardiologija	Gastroenterologija
Suomi/Finland	Kardiologia/Kardiologi	Gastroenterologia/Gastroenterologi
Sverige	Kardiologi	Medicinsk gastroenterologi och hepatologi
United Kingdom	Cardiology	Gastroenterology

(¹) Until 14 September 2010

(²) As of October 2009

	Rheumatology	General Haematology
	Minimum period of training: 4 years	Minimum period of training: 3 years
Country	Title	Title
Belgique/België/Belgien	Rhumathologie/reumatologie	
България	Ревматология	Клинична хематология
Česká republika	Revmatologie	Hematologie a transfúzní lékařství
Danmark	Intern medicin: reumatologi	Intern medicin: hæmatologi
Deutschland	— Innere Medizin und Schwerpunkt Rheumatologie — Innere Medizin und Rheumatologie (¹)	— Innere Medizin und Schwerpunkt Hämatologie und Onkologie — Innere Medizin und Hämatologie und Onkologie (¹)
Eesti	Reumatoloogia	Hematoloogia
Ελλάδα	Ρευματολογία	Αιματολογία
España	Reumatología	Hematología y hemoterapia
France	Rhumatologie	
Hrvatska	Reumatologija	Hematologija
Ireland	Rheumatology	Haematology (clinical and laboratory)
Italia	Reumatologia	Ematologia
Κύπρος	Ρευματολογία	Αιματολογία
Latvija	Reimatoloģija	Hematoloģija
Lietuva	Reumatologija	Hematologija

	Rheumatology	General Haematology
	Minimum period of training: 4 years	Minimum period of training: 3 years
Country	Title	Title
Luxembourg	Rhumatologie	Hématologie
Magyarország	Reumatológia	Hematológia
Malta	Rewmatologija	Ematologija
Nederland	Reumatologie	
Österreich	Innere Medizin und Rheumatologie	Innere Medizin und Hämatologie und inter-nistische Onkologie
Polska	Reumatologia	Hematologia
Portugal	Reumatologia	Imuno-hemoterapia
România	Reumatologie	Hematologie
Slovenija	Revmatologija	Hematologija
Slovensko	Reumatológia	Hematológia a transfúziológia
Suomi/Finland	Reumatologia/Reumatologi	Kliininen hematologia/Klinisk hematologi
Sverige	Reumatologi	Hematologi
United Kingdom	Rheumatology	Haematology

(¹) As of October 2009

	Endocrinology	Physiotherapy
	Minimum period of training: 3 years	Minimum period of training: 3 years
Country	Title	Title
Belgique/België/Belgien		Médecine physique et réadaptation/Fysische geneeskunde en revalidatie
България	Ендокринология и болести на обмяната	Физикална и рехабилитационна медицина
Česká republika	Diabetologie a endokrinologie	Rehabilitační a fyzikální medicína
Danmark	Intern medicin: endokrinologi	
Deutschland	— Innere Medizin und Schwerpunkt Endokrinologie und Diabetologie — Innere Medizin und Endokrinologie und Diabetologie (¹)	Physikalische und Rehabilitative Medizin
Eesti	Endokrinoloogia	Taastusravi ja füsiaatria

	Endocrinology	Physiotherapy
	Minimum period of training: 3 years	Minimum period of training: 3 years
Country	Title	Title
Ελλάδα	Ενδοκρινολογία	Φυσική Ιατρική και Αποκατάσταση
España	Endocrinología y nutrición	Medicina física y rehabilitación
France	Endocrinologie — diabète — maladies métaboliques	Médecine physique et de réadaptation
Hrvatska	Endokrinologija i dijabetologija	Fizikalna medicina i rehabilitacija
Ireland	Endocrinology and diabetes mellitus	
Italia	Endocrinologia e malattie del ricambio	Medicina fisica e riabilitazione
Κύπρος	Ενδοκρινολογία	Φυσική Ιατρική και Αποκατάσταση
Latvija	Endokrinoloģija	Rehabilitoloģija Fiziskā rehabilitācija Fizikālā medicīna
Lietuva	Endokrinologija	Fizinė medicina ir reabilitacija
Luxembourg	Endocrinologie, maladies du métabolisme et de la nutrition	Rééducation et réadaptation fonctionnelles
Magyarország	Endokrinológia	Fizikális medicina és rehabilitációs orvoslás
Malta	Endokrinoloġija u Dijabete	
Nederland		Revalidatiegeneeskunde
Österreich	Innere Medizin und Endokrinologie und Diabetologie	Physikalische Medizin und Allgemeine Rehabilitation
Polska	Endokrynologia	Rehabilitacja medyczna
Portugal	Endocrinologia/Nutrição	Medicina física e de reabilitação
România	Endocrinologie	Reabilitare Medicală
Slovenija		Fizikalna in rehabilitacijska medicina
Slovensko	Endokrinológia	Fyziatria, balneológia a liečebná rehabilitácia
Suomi/Finland	Endokrinologia/Endokrinologi	Fysiatría/Fysiatri
Sverige	Endokrina sjukdomar	Rehabiliteringsmedicin
United Kingdom	Endocrinology and diabetes mellitus	

(1) As of October 2009

	Neuropsychiatry	Dermato-venereology
	Minimum period of training: 5 years	Minimum period of training: 3 years
Country	Title	Title
Belgique/België/Belgien	Neuropsychiatrie ⁽¹⁾	Dermato-vénéréologie/Dermato-venereologie
България		Кожни и венерически болести
Česká republika		Dermatovenerologie
Danmark		Dermato-venerologi
Deutschland	Nervenheilkunde (Neurologie und Psychiatrie)	Haut— und Geschlechtskrankheiten
Eesti		Dermatoveneroloogia
Ελλάδα	Νευρολογία — Ψυχιατρική	Δερματολογία — Αφροδισιολογία
España		Dermatología médico-quirúrgica y venereología
France	Neuropsychiatrie ⁽²⁾	Dermatologie et vénéréologie
Hrvatska		Dermatologija i venerologija
Ireland		
Italia	Neuropsychiatria ⁽³⁾	Dermatologia e venerologia
Κύπρος	Νευρολογία — Ψυχιατρική	Δερματολογία — Αφροδισιολογία
Latvija		Dermatoloģija un veneroloģija
Lietuva		Dermatovenerologija
Luxembourg	Neuropsychiatrie ⁽⁴⁾	Dermato-vénéréologie
Magyarország		Bőrgyógyászat
Malta		Dermato-venerejoloġija
Nederland	Zenuw — en zielsziekten ⁽⁵⁾	Dermatologie en venerologie
Österreich	Neurologie und Psychiatrie ⁽⁶⁾	Haut— und Geschlechtskrankheiten
Polska		Dermatologia i wenerologia
Portugal		Dermatovenereologia
România		Dermatovenerologie
Slovenija		Dermatovenerologija
Slovensko	Neuropsychiatria	Dermatovenerológia

	Neuropsychiatry	Dermato-venereology
	Minimum period of training: 5 years	Minimum period of training: 3 years
Country	Title	Title
Suomi/Finland		Ihotaudit ja allergologia/Hudsjukdomar och allergologi
Sverige		Hud— och könssjukdomar
United Kingdom		

Dates of repeal within the meaning of Article 27(3):

(¹) 1 August 1987 except for persons having commenced training prior to that date

(²) 31 December 1971

(³) 31 October 1999

(⁴) Evidence of qualifications is no longer awarded for training commenced after 5 March 1982

(⁵) 9 July 1984

(⁶) 31 March 2004

	Radiology	Child psychiatry
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		Psychiatrie, particulièrement en psychiatrie infanto-juvénile/Psychiatrie, meer bepaald in de kinder— en jeugdpsychiatrie
България	Радиобиология	Детска психиатрия
Česká republika		Dětská a dorostová psychiatrie
Danmark		Børne— og ungdomspsykiatri
Deutschland	Radiologie	Kinder — und Jugendpsychiatrie und —psychotherapie
Eesti		
Ελλάδα	Ακτινολογία — Ραδιολογία	Παιδοψυχιατρική
España	Electroradiología (¹)	
France	Electro-radiologie (²)	Pédopsychiatrie (⁷)
Hrvatska	Klinička radiologija	Dječja i adolescentna psihijatrija
Ireland		Child and adolescent psychiatry
Italia	Radiologia (³)	Neuropsichiatria infantile
Κύπρος		Παιδοψυχιατρική
Latvija		Bērnu psihiatrija
Lietuva		Vaikų ir paauglių psichiatrija

	Radiology	Child psychiatry
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Luxembourg	Électroradiologie ⁽⁴⁾	Psychiatrie infantile
Magyarország	Radiológia	Gyermekek— és ifjúsági pszichiátria
Malta		
Nederland	Radiologie ⁽⁵⁾	
Österreich	Radiologie ⁽⁶⁾	— Kinder— und Jugendpsychiatrie — Kinder— und Jugendpsychiatrie und Psychotherapeutische Medizin ⁽⁸⁾
Polska		Psychiatria dzieci i młodzieży
Portugal	Radiologia	Psiquiatria da infância e da adolescência
România		Psihiatrie pediatrică
Slovenija	Radiologija	Otroška in mladostniška psihiatrija
Slovensko		Detská psychiatria
Suomi/Finland		Lastenpsykiatria/Barnpsykiatri
Sverige		Barn— och ungdomspsykiatri
United Kingdom		Child and adolescent psychiatry

— Dates of repeal within the meaning of Article 27(3):

⁽¹⁾ 1 February 1984

⁽²⁾ 3 December 1971

⁽³⁾ 31 October 1993

⁽⁴⁾ Evidence of qualifications is no longer awarded for training commenced after 5 March 1982

⁽⁵⁾ 8 July 1984

⁽⁶⁾ 31 March 2004

⁽⁷⁾ 1 January 1991

⁽⁸⁾ As of June 2015

	Geriatrics	Renal diseases
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Gériatrie/Geriatrie	
България	Гериатрична медицина	Нефрология
Česká republika	Geriatric	Nefrologie
Danmark	Intern medicin: geriatri	Intern medicin: nefrologi

	Geriatrics	Renal diseases
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Deutschland		— Innere Medizin und Schwerpunkt Nephrologie — Innere Medizin und Nephrologie ⁽¹⁾
Eesti		Nefroloogia
Ελλάδα		Νεφρολογία
España	Geriatría	Nefrología
France		Néphrologie
Hrvatska		Nefrologija
Ireland	Geriatric medicine	Nephrology
Italia	Geriatría	Nefrologia
Κύπρος	Γηριατρική	Νεφρολογία
Latvija		Nefroloģija
Lietuva	Geriatrija	Nefrologija
Luxembourg	Gériatrie	Néphrologie
Magyarország	Geriatría	Nefrológia
Malta	Ġerjatrija	Nefroloġija
Nederland	Klinische geriatrie	
Österreich		Innere Medizin und Nephrologie
Polska	Geriatría	Nefrologia
Portugal		Nefrologia
România	Geriatric și gerontologie	Nefrologie
Slovenija		Nefrologija
Slovensko	Geriatría	Nefrológia
Suomi/Finland	Geriatría/Geriatrí	Nefrologia/Nefrologi
Sverige	Geriatrík	Medicinska njursjukdomar (nefrologi)
United Kingdom	Geriatric medicine	Renal medicine

⁽¹⁾ As of October 2009

	Communicable diseases	Community medicine
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		
България	Инфекциозни болести	Социална медицина и здравен мениджмънт комунална хигиена
Česká republika	Infekční lékařství	Hygiena a epidemiologie
Danmark	Intern medicin: infektionsmedicin	Samfundsmedicin
Deutschland		Öffentliches Gesundheitswesen
Eesti	Infektsioonhaigused	
Ελλάδα		Κοινωνική Ιατρική
España		Medicina preventiva y salud pública
France		Santé publique et médecine sociale
Hrvatska	Infektologija	Javnozdravstvena medicina
Ireland	Infectious diseases	Public health medicine
Italia	Malattie infettive	Igiene e medicina preventiva
Κύπρος	Λοιμώδη Νοσήματα	— Υγειονομία
		— Κοινοτική Ιατρική
Latvija	Infektoloģija	
Lietuva	Infektologija	
Luxembourg	Maladies contagieuses	Santé publique
Magyarország	Infektológia	Megelőző orvostan és népegészségtan
Malta	Mard Infettiv	Saħħa Pubblika
Nederland		Maatschappij en gezondheid
Österreich	Innere Medizin und Infektiologie	— Sozialmedizin — Public Health ⁽¹⁾
Polska	Choroby zakaźne	Zdrowie publiczne, epidemiologia
Portugal	Doenças infecciosas	Saúde pública
România	Boli infecțioase	Sănătate publică și management

	Communicable diseases	Community medicine
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Slovenija	Infektologija	Javno zdravje
Slovensko	Infektológia	Verejné zdravotníctvo
Suomi/Finland	Infektiosairaudet/Infektionssjukdomar	Terveystieteiden tutkimus/Hälsöförhållanden
Sverige	Infektionssjukdomar	Socialmedicin
United Kingdom	Infectious diseases	Public health medicine

(¹) As of June 2015

	Pharmacology	Occupational medicine
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		Médecine du travail/Arbeidsgeneeskunde
България	Клинична фармакология и терапия Фармакология	Трудова медицина
Česká republika	Klinická farmakologie	Pracovní lékařství
Danmark	Klinisk farmakologi	Arbejdsmedicin
Deutschland	Pharmakologie und Toxikologie	Arbeitsmedizin
Eesti		
Ελλάδα		Ιατρική της Εργασίας
España	Farmacología clínica	Medicina del trabajo
France		Médecine du travail
Hrvatska	Klinička farmakologija s toksikologijom	Medicina rada i športa
Ireland	Clinical pharmacology and therapeutics	Occupational medicine
Italia	Farmacologia	Medicina del lavoro
Κύπρος		Ιατρική της Εργασίας
Latvija		Arodslimības
Lietuva		Darbo medicina

	Pharmacology	Occupational medicine
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Luxembourg		Médecine du travail
Magyarország	Klinikai farmakológia	Foglalkozás-orvostan (üzemorvostan)
Malta	Farmakologija Klinika u t-Terapewtika	Medicina Okkupazzjonali
Nederland		— Arbeid en gezondheid, bedrijfsgeneeskunde — Arbeid en gezondheid, verzekeringsgeneeskunde
Österreich	Pharmakologie und Toxikologie	— Arbeitsmedizin — Arbeitsmedizin und angewandte Physiologie ⁽¹⁾
Polska	Farmakologia kliniczna	Medycyna pracy
Portugal		Medicina do trabalho
România	Farmacologie clinică	Medicina muncii
Slovenija		Medicina dela, prometa in športa
Slovensko	Klinická farmakológia	Pracovné lekárstvo
Suomi/Finland	Kliininen farmakologia ja lääkehoito/Klinisk farmakologi och läkemedelsbehandling	Työterveyshuolto/Företagshälsovård
Sverige	Klinisk farmakologi	Yrkes— och miljömedicin
United Kingdom	Clinical pharmacology and therapeutics	Occupational medicine

⁽¹⁾ As of June 2015

	Allergology	Nuclear medicine
	Minimum period of training: 3 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		Médecine nucléaire/Nucleaire geneeskunde
България	Клинична алергология	Якларна медицина
Česká republika	Alergologie a klinická imunologie	Nukleární medicína
Danmark		Klinisk fysiologi og nuklearmedicin
Deutschland		Nuklearmedizin

	Allergology	Nuclear medicine
	Minimum period of training: 3 years	Minimum period of training: 4 years
Country	Title	Title
Eesti		
Ελλάδα	Αλλεργιολογία	Πυρηνική Ιατρική
España	Alergología	Medicina nuclear
France		Médecine nucléaire
Hrvatska	Alergologija i klinička imunologija	Nuklearna medicina
Ireland		
Italia	Allergologia ed immunologia clinica	Medicina nucleare
Κύπρος	Αλλεργιολογία	Πυρηνική Ιατρική
Latvija	Alergoloģija	
Lietuva	Alergologija ir klinikinė imunologija	
Luxembourg		Médecine nucléaire
Magyarország	Allergológia és klinikai immunológia	Nukleáris medicina
Malta		Mediċina Nukleari
Nederland	Allergologie ⁽¹⁾	Nucleaire geneeskunde
Österreich		Nuklearmedizin
Polska	Alergologia	Medycyna nuklearna
Portugal	Imuno-alergologia	Medicina nuclear
România	Alergologie și imunologie clinică	Medicină nucleară
Slovenija		Nuklearna medicina
Slovensko	Klinická imunológia a alergológia	Nukleárna medicína
Suomi/Finland		Kliininen fysiologia ja isotooppilääketiede/ Klinisk fysiologi och nukleärmedicin
Sverige	Allergisjukdomar	Nukleärmedicin
United Kingdom		Nuclear medicine

⁽¹⁾ Dates of repeal within the meaning of Article 27(3): 12 August 1996

	Maxillo-facial surgery (basic medical training)	Biological haematology
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		
България	Лицево-челюстна хирургия	Трансфузионна хематология
Česká republika	Maxilofaciální chirurgie	
Danmark		
Deutschland		
Eesti		
Ελλάδα		
España	Cirugía oral y maxilofacial	
France	Chirurgie maxillo-faciale et stomatologie	Hématologie
Hrvatska	Maksilofacijalna kirurgija	
Ireland		
Italia	Chirurgia maxillo-facciale	
Κύπρος		
Latvija	Mutes, sejas un žokļu ķirurģija	
Lietuva	Veido ir žandikaulių chirurgija	
Luxembourg	Chirurgie maxillo-faciale	Hématologie biologique
Magyarország	Szájsebészet ⁽¹⁾	
Malta		
Nederland		
Österreich	Mund— Kiefer — und Gesichtschirurgie ⁽²⁾	
Polska	Chirurgia szczekowo-twarzowa	
Portugal	Cirurgia maxilo-facial	Hematologia clinica
România		
Slovenija	Maxilofacialna kirurgija	

	Maxillo-facial surgery (basic medical training)	Biological haematology
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Slovensko	Maxilofaciálna chirurgia	
Suomi/Finland		
Sverige		
United Kingdom		

Dates of repeal within the meaning of Article 27(3):

(¹) 30 September 2007

(²) 28 February 2013

	Stomatology	Dermatology
	Minimum period of training: 3 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		
България		
Česká republika		
Danmark		
Deutschland		
Eesti		
Ελλάδα		
España	Estomatología	
France	Stomatologie	
Hrvatska		
Ireland		Dermatology
Italia	Odontostomatologia (¹)	
Κύπρος		
Latvija		
Lietuva		
Luxembourg	Stomatologie	
Magyarország		

	Stomatology	Dermatology
	Minimum period of training: 3 years	Minimum period of training: 4 years
Country	Title	Title
Malta		Dermatologija
Nederland		
Österreich		
Polska		
Portugal	Estomatologia	
România		
Slovenija		
Slovensko		
Suomi/Finland		
Sverige		
United Kingdom		Dermatology

(¹) Dates of repeal within the meaning of Article 27(3): 31 December 1994

	Venerology	Tropical medicine
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		
България		
Česká republika		
Danmark		
Deutschland		
Eesti		
Ελλάδα		
España		
France		
Hrvatska		
Ireland	Genito-urinary medicine	Tropical medicine

	Venerology	Tropical medicine
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Italia		Medicina tropicale
Κύπρος		
Latvija		
Lietuva		
Luxembourg		
Magyarország		Trópusi betegségek
Malta	Medicina Uro-ġenetali	
Nederland		
Österreich		— Spezifische Prophylaxe und Tropenmedizin — Klinische Immunologie und Spezifische Prophylaxe und Tropenmedizin ⁽¹⁾
Polska		Medycyna transportu
Portugal		Medicina tropical
România		
Slovenija		
Slovensko		Tropická medicína
Suomi/Finland		
Sverige		
United Kingdom	Genito-urinary medicine	Tropical medicine

⁽¹⁾ As from June 2015

	Gastroenterological surgery	Accident and emergency medicine
	Minimum period of training: 5 years	Minimum period of training: 5 years
Country	Title	Title
Belgique/België/Belgien	Chirurgie abdominale/Heelkunde op het abdomen ⁽¹⁾	
България	Гастроентерологична хирургия	Спешна медицина
Česká republika		— Traumatologie — Urgentní medicína

	Gastroenterological surgery	Accident and emergency medicine
	Minimum period of training: 5 years	Minimum period of training: 5 years
Country	Title	Title
Danmark		
Deutschland	Visceralchirurgie	
Eesti		
Ελλάδα		
España		
France	Chirurgie viscérale et digestive	
Hrvatska	Abdominalna kirurgija	Hitna medicina
Ireland		Emergency medicine
Italia	Chirurgia dell'apparato digerente	Medicina d'emergenza-urgenza ⁽²⁾
Κύπρος		
Latvija		
Lietuva	Abdominalinė chirurgija	
Luxembourg	Chirurgie gastro-entérologique	
Magyarország		Oxyológia és sürgősségi orvostan
Malta		Medicina tal-Accidenti u l-Emergenza
Nederland		
Österreich		
Polska		Medycyna ratunkowa
Portugal		
România		Medicină de urgență
Slovenija	Abdominalna kirurgija	Urgentna medicina
Slovensko	Gastroenterologická chirurgia	— Úrazová chirurgia — Urgentná medicína
Suomi/Finland	Gastroenterologinen kirurgia/Gastroenterologisk kirurgi	Akuuttilääketiede/Akutmedicin
Sverige		
United Kingdom		Emergency medicine

⁽¹⁾ Dates of repeal within the meaning of Article 27(3); 1 January 1983

⁽²⁾ As of 17.2.2006

	Clinical neurophysiology	Dental, oral and maxillo-facial surgery (basic medical and dental training) ⁽¹⁾
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien		Stomatologie et chirurgie orale et maxillo-faciale/Stomatologie en mond-, kaak— en aangezichtschirurgie
България		Дентална, орална и лицево-челюстна хирургия
Česká republika		
Danmark		
Deutschland		— Mund-, Kiefer— und Gesichtschirurgie — Mund-Kiefer-Gesichtschirurgie ⁽²⁾
Eesti		
Ελλάδα		Στοματική και Γναθοπροσωπική Χειρουργική ⁽³⁾
España	Neurofisiología clínica	
France		
Hrvatska		
Ireland	Clinical neurophysiology	Oral and maxillo-facial surgery
Italia		
Κύπρος		Στοματο-Γναθο-Προσωποχειρουργική
Latvija		
Lietuva		
Luxembourg		Chirurgie dentaire, orale et maxillo-faciale
Magyarország		Arc-állcsont-szájsebészet
Malta	Newrofizjoloġija Klinika	Kirurgija tal-ġhadam tal-wieċ
Nederland		
Österreich		Mund-, Kiefer— und Gesichtschirurgie
Polska		
Portugal		
România	Chirurgie Orală și Maxilo-facială ⁽⁴⁾	
Slovenija		

	Clinical neurophysiology	Dental, oral and maxillo-facial surgery (basic medical and dental training) ⁽¹⁾
	Minimum period of training: 4 years	Minimum period of training: 4 years
Country	Title	Title
Slovensko		
Suomi/Finland	Kliininen neurofysiologia/Klinisk neurofysiologi	Suu— ja leukakirurgia/Oral och maxillofacial kirurgi
Sverige	Klinisk neurofysiologi	
United Kingdom	Clinical neurophysiology	Oral and maxillo-facial surgery

(¹) Training leading to the award of evidence of formal qualifications as a specialist in dental, oral and maxillo-facial surgery (basic medical and dental training) assumes completion and validation of basic medical studies (Article 24) and, in addition, completion and validation of basic dental studies (Article 34)

(²) As of 2006

(³) As of 10.7.2014

(⁴) As of 2009

	Medical oncology	Medical genetics
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Belgique/België/Belgien	Oncologie médicale/Medische oncologie	
България	Медицинска онкология	Медицинска генетика
Česká republika	Klinická onkologie	Lékařská genetika
Danmark		Klinisk genetik
Deutschland		Humangenetik
Eesti		Meditsiinigeneetika
Ελλάδα	Παθολογική Ογκολογία	
España	Oncología Médica	
France	Oncologie	Génétique médicale
Hrvatska		
Ireland	Medical oncology	Clinical genetics
Italia	Oncologia medica	Genetica medica
Κύπρος	Ακτινοθεραπευτική Ογκολογία	
Latvija	Onkoloģija ķīmijterapija	Medicīnas ģenētika
Lietuva	Chemoterapinė onkologija	Genetika

	Medical oncology	Medical genetics
	Minimum period of training: 5 years	Minimum period of training: 4 years
Country	Title	Title
Luxembourg	Oncologie médicale	Médecine génétique
Magyarország	Klinikai onkológia	Klinikai genetika
Malta		
Nederland		Klinische genetica
Österreich		Medizinische Genetik
Polska	Onkologia kliniczna	Genetyka kliniczna
Portugal	Oncologia médica	Genética médica
România	Oncologie medicala	Genetica medicala
Slovenija	Internistična onkologija	Klinična genetika
Slovensko	Klinická onkológia	Lekárska genetika
Suomi/Finland		Perinnöllisyyslääketiede/Medicinsk genetik
Sverige		
United Kingdom	Medical oncology	Clinical genetics

5.1.4. Evidence of formal qualifications of general practitioner

Country	Evidence of formal qualifications	Professional title	Reference date
België/Belgique/ Belgien	Bijzondere beroepstitel van huisarts/Ti-tre professionnel particulier de mé-decin généraliste	Huisarts/Médecin généraliste	31.12.1994
България	Свидетелство за призната специалност по Обща медицина	Лекар-специалист по Обща медицина	1.1.2007
Česká republika	Diplom o specializaci všeobecné prak-tické lékařství	Všeobecný praktický lékař	1.5.2004
Danmark	Bevis for tilladelse til at betegne sig som speciallæge i almen medicin	Alment praktiserende læge/Speciallæge i almen medicin	31.12.1994
Deutschland	Zeugnis über die spezifische Ausbil-dung in der Allgemeinmedizin	Facharzt/Fachärztin für Allgemeinme-dizin	31.12.1994
Eesti	Residentuuri lõpetamist tõendav tun-nistus Diplom peremeditsiini erialal	Perearst	1.5.2004

Country	Evidence of formal qualifications	Professional title	Reference date
Ελλάδα	Τίτλος ιατρικής ειδικότητας γενικής ιατρικής	Ιατρός με ειδικότητα γενικής ιατρικής	31.12.1994
España	Título de especialista en medicina familiar y comunitaria	Especialista en medicina familiar y comunitaria	31.12.1994
France	Diplômes d'études spécialisées de médecine générale accompagnés du diplôme d'Etat de docteur en médecine	Médecin qualifié en médecine générale	31.12.1994
Hrvatska	Diploma o specijalističkom usavršavanju	specijalist obiteljske medicine	1.7.2013
Ireland	Certificate of specific qualifications in general medical practice	General medical practitioner	31.12.1994
Italia	— Attestato di formazione specifica in medicina generale — Diploma di formazione specifica in medicina generale	Medico di medicina generale	31.12.1994
Κύπρος	Τίτλος Ειδικότητας Γενικής Ιατρικής	Ιατρός Γενικής Ιατρικής	1.5.2004
Latvija	Ģimenes ārsta sertifikāts	Ģimenes (vispārējās prakses) ārsts	1.5.2004
Lietuva	1. Šeimos gydytojo rezidentūros pažymėjimas 2. Rezidentūros pažymėjimas (šeimos gydytojo profesinė kvalifikacija)	Šeimos medicinos gydytojas Šeimos gydytojas	1.5.2004
Luxembourg	Diplôme de formation spécifique en médecine générale	Médecin généraliste	31.12.1994
Magyarország	Háziorvostan szakorvosa bizonyítvány	Háziorvostan szakorvosa	1.5.2004
Malta	Tabib tal-familja	Medicina tal-familja	1.5.2004
Nederland	Certificaat van inschrijving in een specialistenregister van huisartsen Diploma geneeskundig specialist	Huisarts, Verpleeghuisarts en arts voor verstandelijk gehandicapte Registratie Commissie (HVRC) Registratiecommissie Geneeskundig Specialisten (RGS) van de Koninklijke Nederlandsche Maatschappij tot Bevordering der Geneeskunst ⁽¹⁾	31.12.1994
Österreich	Diplom über die besondere Ausbildung in der Allgemeinmedizin	Arzt für Allgemeinmedizin	31.12.1994
Polska	Dyplom uzyskania tytułu specjalisty w dziedzinie medycyny rodzinnej	Specjalista w dziedzinie medycyny rodzinnej	1.5.2004
Portugal	Título de especialista em medicina geral e familiar	Especialista em medicina geral e familiar	31.12.1994

Country	Evidence of formal qualifications	Professional title	Reference date
România	Certificat de medic specialist medicină de familie	Medic specialist medicină de familie	1.1.2007
Slovenija	Potrdilo o opravljenem specialističnem izpitu iz družinske medicine	Specialist družinske medicine/Specialistka družinske medicine	1.5.2004
Slovensko	Diplom o špecializácii v odbore "všeobecné lekárstvo"	Všeobecný lekár	1.5.2004
Suomi/Finland	Todistus yleislääketieteen erityiskoulutuksesta/Bevis om särskild allmänläkarutbildning	Yleislääketieteen erityiskoulutuksen suorittanut laillistettu lääkäri/Legitimerad läkare som har fullgjort särskild allmänläkarutbildning	1.1.1994
Sverige	Bevis om specialistkompetens i allmänmedicin	Specialist i allmänmedicin	31.12.1994
United Kingdom	Certificate of completion of training	General practitioner	31.12.1994

(¹) As of January 2013.'

2. Point 5.2.2 is replaced by the following:

'5.2.2. Evidence of formal qualifications of nurses responsible for general care

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
België/Belgique/ Belgien	<ul style="list-style-type: none"> — Diploma gegradueerde verpleger/verpleegster/Diplôme d'infirmier(ère) gradué(e)/Diplom eines (einer) graduierten Krankenpflegers (-pflegerin) — Diploma in de ziekenhuisverpleegkunde/Brevet d'infirmier(ère) hospitalier (ère)/Brevet eines (einer) Krankenpflegers (-pflegerin) — Brevet van verpleegassistent(e)/Brevet d'hospitalier (ère)/Brevet einer Pflegeassistentin 	<ul style="list-style-type: none"> — De erkende opleidingsinstututen/Les établissements d'enseignement reconnus/ Die anerkannten Ausbildungsanstalten — De bevoegde Examencommissie van de Vlaamse Gemeenschap/Le Jury compétent d'enseignement de la Communauté française/ Der zuständige Prüfungsausschuß der Deutschsprachigen Gemeinschaft 	<ul style="list-style-type: none"> — Hospitalier(ère)/Verpleegassistent(e) — Infirmier(ère) hospitalier (ère)/Ziekenhuisverpleger (-verpleegster) 	29.6.1979

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
България	Диплома за висше образование на образователно-квалификационна степен “Бакалавър” с професионална квалификация “Медицинска сестра”	Университет	Медицинска сестра	1.1.2007
Česká republika	1. Diplom o ukončení studia ve studijním programu ošetrovatelství ve studijním oboru všeobecná sestra (bakalář, Bc.) 2. Diplom o ukončení studia ve studijním oboru diplomovaná všeobecná sestra (diplomovaný specialista, DiS.), accompanied by the following certificate: — Vysvědčení o absolutoriu	1. Vysoká škola zřízená nebo uznaná státem 2. Vyšší odborná škola zřízená nebo uznaná státem	— Všeobecná sestra — Všeobecný ošetrovatel	1.5.2004
Danmark	Bevis for uddannelsen til professionsbachelor i sygepleje	Professionshøjskole	Sygeplejerske	29.6.1979
Deutschland	Zeugnis über die staatliche Prüfung in der Krankenpflege	Staatlicher Prüfungsausschuss	Gesundheits— und Krankenpflegerin/Gesundheits— und Krankenpfleger	29.6.1979
Eesti	1. Diplom õe erialal 2. Õe põhikoolituse diplom 3. Õe põhiõpe diplom	1. Tallinna Meditsiiniikool Tartu Meditsiiniikool Kohtla-Järve Meditsiiniikool 2. Tallinna Tervishoiu Kõrgkool 3. Tartu Tervishoiu Kõrgkool	õde	1.5.2004
Ελλάδα	1. Πτυχίο Νοσηλευτικής Παν/μίου Αθηνών 2. Πτυχίο Νοσηλευτικής Τεχνολογικών Εκπαιδευτικών Ιδρυμάτων (Τ.Ε.Ι.) 3. Πτυχίο Αξιωματικών Νοσηλευτικής 4. Πτυχίο Αδελφών Νοσοκόμων πρώην Ανωτέρων Σχολών Υπουργείου Υγείας και Πρόνοιας 5. Πτυχίο Αδελφών Νοσοκόμων και Επισκεπτριών πρώην Ανωτέρων Σχολών Υπουργείου Υγείας και Πρόνοιας	1. Πανεπιστήμιο Αθηνών 2. Τεχνολογικά Εκπαιδευτικά Ιδρύματα Υπουργείο Εθνικής Παιδείας και Θρησκευμάτων 3. Υπουργείο Εθνικής Άμυνας 4. Υπουργείο Υγείας και Πρόνοιας 5. Υπουργείο Υγείας και Πρόνοιας	Διπλωματούχος ή πτυχιούχος νοσοκόμος, νοσηλεύτης ή νοσηλεύτρια	1.1.1981

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
	6. Πτυχίο Τμήματος Νοσηλευτικής 7. Πτυχίο Τμήματος Νοσηλευτικής Πανεπιστημίου Πελοποννήσου	6. ΚΑΤΕΕ Υπουργείου Εθνικής Παιδείας και Θρησκευμάτων 7. Πανεπιστήμιο Πελοποννήσου		
España	Título de Diplomado universitario en Enfermería	— Ministerio de Educación y Cultura — El rector de una Universidad	Enfermero/a diplomado/a	1.1.1986
	Titulo de Graduado/a en Enfermería	— El rector de una Universidad	Graduado/a en Enfermería	1.1.1986
France	— Diplôme d'Etat d'infirmier (ère) — Diplôme d'Etat d'infirmier (ère) délivré en vertu du décret no 99-1147 du 29 décembre 1999	Le ministère de la santé	Infirmier(ère)	29.6.1979
Hrvatska	1. Svjedodžba “medicinska sestra opće njege/medicinski tehničar opće njege” 2. Svjedodžba “prvostupnik (baccalaureus) sestrinstva/prvostupnica (baccalaurea) sestrinstva”	1. Srednje strukovne škole koje izvide program za stjecanje kvalifikacije “medicinska sestra opće njege/medicinski tehničar opće njege” 2. Medicinski fakulteti sveučilišta u Republici Hrvatskoj Sveučilišta u Republici Hrvatskoj Veleučilišta u Republici Hrvatskoj	1. medicinska sestra opće njege/medicinski tehničar opće njege 2. prvostupnik (baccalaureus) sestrinstva/prvostupnica (baccalaurea) sestrinstva	1.7.2013
Ireland	1. Certificate of Registered General Nurse ⁽¹⁾ 2. B.Sc. in Nursing Studies (General) approved by the NMBI ⁽²⁾ 3. B.Sc. in Children's and General (Integrated) Nursing approved by the NMBI ⁽²⁾	1. An Bórd Altranais (The Nursing Board) [up to 1 October 2012]; Bórd Altranais agus Cnáimhseachais na hÉireann (The Nursing and Midwifery Board of Ireland) [from 2 October 2012] 2. Third-level Institution delivering the B.Sc. in Nursing Studies approved by the NMBI [as of September 2002] 3. Third-level Institution delivering the B.Sc. in Children's and General (Integrated) Nursing approved by the NMBI [as of September 2006]	Registered General Nurse (RGN)	29.6.1979

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Italia	1. Diploma di infermiere professionale 2. Diploma di laurea in infermieristica	1. Scuole riconosciute dallo Stato 2. Università	1. Infermiere professionale 2. Infermiere	29.6.1979
Κύπρος	Δίπλωμα Γενικής Νοσηλευτικής Πτυχίο Νοσηλευτικής Τεχνολογικού Πανεπιστημίου Κύπρου Πτυχίο Νοσηλευτικής Ευρωπαϊκού Πανεπιστημίου Κύπρου Πτυχίο Νοσηλευτικής Πανεπιστημίου Λευκωσίας — BSc in Nursing Πτυχίο Γενικής Νοσηλευτικής	Νοσηλευτική Σχολή Τεχνολογικό Πανεπιστήμιο Κύπρου Ευρωπαϊκό Πανεπιστήμιο Κύπρου Πανεπιστήμιο Λευκωσίας University of Nicosia Σχολή Επιστημών Υγείας, Πανεπιστήμιο Frederick	Εγγεγραμμένος Νοσηλευτής Νοσηλευτής(τρια) Γενικής Νοσηλευτικής	1.5.2004
Latvija	1. Diploms par māsas kvalifikācijas iegūšanu 2. Māsas diploms	1. Māsu skolas 2. Universitātes tipa augstskola pamatojoties uz Valsts eksāmenu komisijas lēmumu	Māsa	1.5.2004
Lietuva	1. Aukštojo mokslo diplomas, nurodantis suteiktą bendrosios praktikos slaugytojo profesinę kvalifikaciją 2. Aukštojo mokslo diplomas (neuniversitetinės studijos), nurodantis suteiktą bendrosios praktikos slaugytojo profesinę kvalifikaciją 3. Bakalauro diplomas (slaugos bakalauro kvalifikacinis laipsnis ir bendrosios praktikos slaugytojo profesinė kvalifikacija) 4. Profesinio bakalauro diplomas (slaugos profesinio bakalauro kvalifikacinis laipsnis ir bendrosios praktikos slaugytojo profesinė kvalifikacija)	1. Universitetas 2. Kolegija 3. Universitetas 4. Kolegija	Bendrosios praktikos slaugytojas	1.5.2004
Luxembourg	— Diplôme d'Etat d'infirmier — Diplôme d'Etat d'infirmier hospitalier gradué	Ministère de l'éducation nationale, de la formation professionnelle et des sports	Infirmier	29.6.1979

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Magyarország	1. Ápoló bizonyítvány 2. Ápoló oklevél 3. Okleveles ápoló oklevél	1. Szakképző iskola 2. Felsőoktatási intézmény 3. Felsőoktatási intézmény	Ápoló	1.5.2004
Malta	Lawrja jew diploma fl-istudji tal-infermerija	Universita "ta' Malta"	Infermier Registrat tal-Ewwel Livell	1.5.2004
Nederland	1. Diploma's verpleger A, verpleegster A, verpleegkundige A 2. Diploma verpleegkundige MBOV (Middelbare Beroepsopleiding Verpleegkundige) 3. Diploma verpleegkundige HBOV (Hogere Beroepsopleiding Verpleegkundige) 4. Diploma beroepsonderwijs verpleegkundige — Kwalificatieniveau 4 5. Diploma hogere beroepsopleiding verpleegkundige — Kwalificatieniveau 5	1. Door een van overheidswege benoemde examencommissie 2. Door een van overheidswege benoemde examencommissie 3. Door een van overheidswege benoemde examencommissie 4. Door een van overheidswege aangewezen opleidingsinstelling 5. Door een van overheidswege aangewezen opleidingsinstelling	Verpleegkundige	29.6.1979
Österreich	1. Diplom über die Ausbildung in der all-gemeinen Gesundheits— und Krankenpflege 2. Diplom als "Diplomierte Krankenschwester, Diplomierter Krankenpfleger" 3. Diplom über den Abschluss des Fachhochschul-Bachelorstudiengangs "Gesundheits— und Krankenpflege"	1. Schule für allgemeine Gesundheits— und Krankenpflege 2. Allgemeine Krankenpflegeschule 3. Fachhochschulrat/Fachhochschule	— Diplomierte Gesundheits— und Krankenschwester — Diplomierter Gesundheits— und Krankenpfleger	1.1.1994
Polska	— Dyplom ukończenia studiów wyższych na kierunku pielęgniarstwo z tytułem "magister pielęgniarstwa" — Dyplom ukończenia studiów wyższych zawodowych na kierunku/specjalności pielęgniarstwo z tytułem "licencjat pielęgniarstwa"	Instytucja prowadząca kształcenie na poziomie wyższym uznana przez właściwe władze	Pielęgniarka	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Portugal	<ol style="list-style-type: none"> 1. Diploma do curso de enfermagem geral 2. Diploma/carta de curso de bacharelato em enfermagem 3. Diploma/Carta de curso de licenciatura em enfermagem 	<ol style="list-style-type: none"> 1. Escolas de Enfermagem 2. Escolas Superiores de Enfermagem 3. Escolas Superiores de Enfermagem; Escolas Superiores de Saúde 	Enfermeiro	1.1.1986
România	<ol style="list-style-type: none"> 1. Diplomă de absolvire de asistent medical generalist cu studii superioare de scurtă durată 2. Diplomă de licență de asistent medical generalist cu studii superioare de lungă durată 3. Certificat de competențe profesionale (de asistent medical generalist) 	<ol style="list-style-type: none"> 1. Universități 2. Universități 3. Ministerul Educației Naționale 	Asistent medical generalist	1.1.2007
Slovenija	Diploma, s katero se podeljuje strokovni naslov "diplomirana medicinska sestra/diplomirani zdravstvenik"	<ol style="list-style-type: none"> 1. Univerza 2. Visoka strokovna šola 	Diplomirana medicinska sestra/Diplomirani zdravstvenik	1.5.2004
Slovensko	<ol style="list-style-type: none"> 1. DIPLOM ošetrovatel'stvo "magister" ("Mgr.") 2. DIPLOM ošetrovatel'stvo "bakalár" ("Bc.") 3. DIPLOM diplomovaná všeobecná sestra 	<ol style="list-style-type: none"> 1. Vysoká škola/Univerzita 2. Vysoká škola/Univerzita 3. Stredná zdravotnícka škola 	Sestra	1.5.2004
Suomi/Finland	<ol style="list-style-type: none"> 1. Sairaanhoidajan tutkinto/Sjukskötarexamen 2. Sosiaali— ja terveystieteiden ammattikorkeakoulututkinto, sairaanhoidaja (AMK)/Yrkeshögskoleexamen inom hälsovård och det sociala området, sjukskötare (YH) 	<ol style="list-style-type: none"> 1. Terveystieteiden oppilaitokset/Hälsövärdsläroanstalter 2. Ammattikorkeakoulut/Yrkeshögskolor 	Sairaanhoidaja/Sjukskötare	1.1.1994

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Sverige	Sjuksköterskeexamen	Universitet eller högskola	Sjuksköterska	1.1.1994
United Kingdom	A qualification approved by the Nursing and Midwifery Council or one of its predecessor bodies as attesting to the completion of training required for general nurses by article 31 and the standard of proficiency as required for registration as a Registered Nurse — Adult in its register ⁽³⁾	Education institutions approved by the Nursing and Midwifery Council or one of its predecessor bodies	Registered Nurse — Adult	29.6.1979

⁽¹⁾ This evidence of formal qualification entitles the holder to automatic recognition when it is issued to the nationals of Member States who obtained qualification in Ireland.

⁽²⁾ This information on the evidence of qualifications was included to ensure that graduates trained in Ireland would be entitled to automatic recognition without the need for actual registration in Ireland, such registration not being part of the qualification process.

⁽³⁾ This information on the evidence of qualifications replaces previous entries for the UK in order to ensure that graduates trained in the United Kingdom would be entitled to automatic recognition of their qualification without the need for actual registration, such registration not being part of the qualification process.

3. Points 5.3.2 and 5.3.3 are replaced by the following:

‘5.3.2. Evidence of basic formal qualifications of dental practitioners

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Professional title	Reference date
België/Belgique/ Belgien	Diploma van tandarts/Diplôme licencié en science dentaire	— De universiteiten/ Les universités — De bevoegde Examencommissie van de Vlaamse Gemeenschap/Le Jury compétent d’enseignement de la Communauté française		Licentiaat in de tandheelkunde/Licencié en science dentaire	28.1.1980
България	Диплома за висше образование на образователно-квалификационна степен “Магистър” по “Дентална медицина” с професионална квалификация “Магистър-лекар по дентална медицина”	Университет		Лекар по дентална медицина	1.1.2007
Česká republika	Diplom o ukončení studia ve studijním programu zubní lékařství (doktor zubního lékařství, MDDr.)	Lékařská fakulta univerzity v České republice		Zubní lékař	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Professional title	Reference date
Danmark	Bevis for kandidatuddannelsen i odontologi (cand.odont.)	Universitet	1. Autorisation som tandlæge, udstedt af Sundhedsstyrelsen 2. Tilladelse til selvstændig virke som tandlæge	Tandlæge	28.1.1980
Deutschland	Zeugnis über die Zahnärztliche Prüfung	Zuständige Behörden		Zahnarzt	28.1.1980
Eesti	Hambaarstikraad Degree in Dentistry (DD) Diplom hambaarstiteaduse õppekava läbimise kohta	Tartu Ülikool		Hambaarst	1.5.2004
Ελλάδα	Πτυχίο Οδοντιατρικής	Πανεπιστήμιο		Οδοντίατρος ή χειρουργός οδοντίατρος	1.1.1981
España	Título de Licenciado en Odontología Título de Graduado/a en Odontología	El rector de una universidad El rector de una Universidad		Licenciado en Odontología Graduado/a en Odontología	1.1.1986 1.1.1986
France	Diplôme d'Etat de docteur en chirurgie dentaire	Universités		Chirurgien-dentiste	28.1.1980
Hrvatska	Diploma “doktor dentalne medicine/doktorica dentalne medicine”	Fakulteti sveučilišta u Republici Hrvatskoj		doktor dentalne medicine/doktorica dentalne medicine	1.7.2013
Ireland	— Bachelor in Dental Science (B.Dent. Sc.) — Bachelor of Dental Surgery (BDS) — Licentiate in Dental Surgery (LDS)	— Universities — Royal College of Surgeons in Ireland		— Dentist — Dental practitioner — Dental surgeon	28.1.1980
Italia	Diploma di laurea in Odontoiatria e Protesi Dentaria	Università	Diploma di abilitazione all'esercizio della professione di odontoiatra	Odontoiatra	28.1.1980
Κύπρος	Πιστοποιητικό Εγγραφής Οδοντίατρου	Οδοντιατρικό Συμβούλιο		Οδοντίατρος	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Professional title	Reference date
Latvija	Zobārsta diploms	Universitātes tipa augstskola	Sertifikāts — kompetentas iestādes izsniegts dokuments, kas apliecina, ka persona ir nokārtojusi sertifikācijas eksāmenu zobārstniecībā	Zobārsts	1.5.2004
Lietuva	1. Aukštojo mokslo diplomas, nurodantis suteiktą gydytojo odontologo kvalifikaciją 2. Magistro diplomas (odontologijos magistro kvalifikacinis laipsnis ir gydytojo odontologo kvalifikacija)	Universitetas	1. Internatūros pažymėjimas, nurodantis suteiktą gydytojo odontologo profesinę kvalifikaciją 2. Internatūros pažymėjimas (gydytojo odontologo profesinė kvalifikacija)	Gydytojas odontologas	1.5.2004
Luxembourg	Diplôme d'Etat de docteur en médecine dentaire	Jury d'examen d'Etat		Médecin-dentiste	28.1.1980
Magyarország	Okleveles fogorvos doktor oklevél (doctor medicinae dentariae, dr. med. dent)	Egyetem		Fogorvos	1.5.2004
Malta	Lawrja fil— Kirurġija Dentali	Universita` ta Malta		Kirurgu Dentali	1.5.2004
Nederland	Universitair getuigscrift van een met goed gevolg afgelegd tandartsexamen	Faculteit Tandheelkunde		Tandarts	28.1.1980
Österreich	Bescheid über die Verleihung des akademischen Grades "Doktor der Zahnheilkunde"	— Medizinische Universität — Medizinische Fakultät der Universität		Zahnarzt	1.1.1994
Polska	Dyplom ukończenia studiów wyższych na kierunku lekarsko-dentystycznym lekarz-kim z tytułem "lekarz dentysta"	Szkoły wyższe	Świadectwo złożenia Lekarsko — Dentystycznego Egzaminu Państwowego ⁽¹⁾ ⁽³⁾ / Świadectwo złożenia Lekarsko-Dentystycznego Egzaminu Końcowego ⁽²⁾ ⁽³⁾	Lekarz dentysta	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Professional title	Reference date
Portugal	<ul style="list-style-type: none"> — Carta de curso de licenciatura em medicina dentária — Mestrado integrado em medicina dentária 	<ul style="list-style-type: none"> — Faculdades — Institutos Superiores 		Médico dentista	1.1.1986 24.3.2006
România	Diplomă de licență de medic dentist	— Universități		Medic dentist	1.10.2003
Slovenija	Diploma, s katero se podeljuje strokovni naslov “doktor dentalne medicine/doktorica dentalne medicine”	— Univerza	Potrđilo o opravljenu strokovnem izpitu za poklic doktor dentalne medicine/doktorica dentalne medicine	Doktor dentalne medicine/Doktorica dentalne medicine	1.5.2004
Slovensko	DIPLOM zubné lekárstvo doktor zubného lekárstva (“MDDr.”)	Univerzita		Zubný lekár	1.5.2004
Suomi/Finland	Hammaslääketieteen lisensiaatin tutkinto/Odontologie licentiatexamen	<ul style="list-style-type: none"> — Helsingin yliopisto/Helsingfors universitet — Oulun yliopisto — Itä-Suomen yliopisto — Turun yliopisto 	Sosiaali— ja terveysalan lupa— ja valvontaviraston päätös käytännön palvelun hyväksymisestä/Beslut av Tillstånds— och tillsynsverket för social— och hälsovården om godkännande av praktisk tjänstgöring	Hammaslääkäri/Tandläkare	1.1.1994
Sverige	Tandläkarexamen	Universitet eller högskola	Bevis om legitimation som tandläkare, utfärdat av Socialstyrelsen	Tandläkare	1.1.1994
United Kingdom	<ul style="list-style-type: none"> — Bachelor of Dental Surgery (BDS or B.Ch.D.) — Licentiate in Dental Surgery 	<ul style="list-style-type: none"> — Universities — Royal Colleges 		<ul style="list-style-type: none"> — Dentist — Dental practitioner — Dental surgeon 	28.1.1980

(1) Until 2012.

(2) As of 2013.

(3) Until 1 October 2016, the evidence of formal qualifications should also be accompanied by a certificate of completion of the post-graduate internship (“staż podyplomowy”).

5.3.3. Evidence of formal qualifications of specialised dentists

Oral surgery

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Reference date
België/ Belgique/ Belgien			
България	Свидетелство за призната специалност по "Орална хирургия"	Факултет по дентална медицина към Медицински университет	1.1.2007
Česká republika	Diplom o specializaci (v oboru orální a maxilofaciální chirurgie)	1. Institut postgraduálního vzdělávání ve zdravotnictví 2. Ministerstvo zdravotnictví	19.7.2007
Danmark	Bevis for tilladelse til at betegne sig som specialtandlæge i tand-, mund- og kæbekirurgi	Sundhedsstyrelsen	28.1.1980
Deutschland	Fachzahnärztliche Anerkennung für Oralchirurgie/Mundchirurgie	Landeszahnärztekammer	28.1.1980
Eesti			
Ελλάς	Τίτλος Οδοντιατρικής ειδικότητας της Γναθοχειρουργικής (up to 31 December 2002)	— Περιφέρεια — Νομαρχιακή Αυτοδιοίκηση — Νομαρχία	1.1.2003
España			
France			
Hrvatska			
Ireland	Certificate of specialist dentist in oral surgery	Competent authority recognised for this purpose by the competent minister	28.1.1980
Italia	Diploma di specialista in Chirurgia Orale	Università	21.5.2005
Κύπρος	Πιστοποιητικό Αναγνώρισης του Ειδικού Οδοντίατρου στην Στοματική Χειρουργική	Οδοντιατρικό Συμβούλιο	1.5.2004
Latvija			
Lietuva	1. Rezidentūros pažymėjimas, nurodantis suteiktą burnos chirurgo profesinę kvalifikaciją 2. Rezidentūros pažymėjimas (burnos chirurgo profesinę kvalifikaciją)	Universitetas	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Reference date
Luxembourg			
Magyarország	Dento-alveoláris sebészet szakorvosa bizonyítvány	Nemzeti Vizsgabizottság	1.5.2004
Malta	Ċertifikat ta' speċjalista dentali fil-Kirurgija tal-halq	Kumitat ta' Approvazzjoni dwar Speċjalisti	1.5.2004
Nederland	Bewijs van inschrijving als kaakchirurg in het Specialistenregister	Registratiecommissie Tandheelkundige Specialismen (RTS) van de Koninklijke Nederlandse Maatschappij tot bevordering der Tandheekunde	28.1.1980
Österreich			
Polska	Dyplom uzyskania tytułu specjalisty w dziedzinie chirurgii stomatologicznej	Centrum Egzaminów Medycznych	1.5.2004
Portugal	Título de Especialista em Cirurgia Oral	Ordem dos Médicos Dentistas (OMD)	4.6.2008
România	Certificatul de specialist în Chirurgie dento-alveolară	Ministerul Sănătății	17.12.2008
Slovenija	Potrđilo o opravljenem specialističnem izpitu iz oralne kirurgije	1. Ministrstvo za zdravje 2. Zdravniška zbornica Slovenije	1.5.2004
Slovensko	Diplom o špecializácii v špecializačnom odbore maxilofaciálna chirurgia	— Slovenská zdravotnícka univerzita — Univerzita Pavla Jozefa Šafárika v Košiciach	17.12.2008
Suomi/Finland	Erikoishammaslääkärin tutkinto, suuja leukakirurgia / Specialtandläkareexamen, oral och maxillofacial kirurgi	Yliopisto	1.1.1994
Sverige	Bevis om specialistkompetens i oral kirurgi	Socialstyrelsen	1.1.1994
United Kingdom	Certificate of completion of specialist training in oral surgery	Competent authority recognised for this purpose	28.1.1980

Orthodontics

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Reference date
België/ Belgique/ Belgien	Titre professionnel particulier de dentiste spécialiste en orthodontie/ Bijzondere beroepstitel van tandarts specialist in de orthodontie	Ministre de la Santé publique/ Minister bevoegd voor Volksgezondheid	27.1.2005
България	Свидетелство за призната специалност по "Ортодонтия"	Факултет по дентална медицина към Медицински университет	1.1.2007

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Reference date
Česká republika	Diplom o specializaci (v oboru ortodoncie)	1. Institut postgraduálního vzdělávání ve zdravotnictví 2. Ministerstvo zdravotnictví	19.7.2007
Danmark	Bevis for tilladelse til at betegne sig som specialtandlæge i ortodonti	Sundhedsstyrelsen	28.1.1980
Deutschland	Fachzahnärztliche Anerkennung für Kieferorthopädie	Landeszahnärztekammer	28.1.1980
Eesti	Residentuuri lõputunnistus ortodontia erialal Ortodontia residentuuri lõpetamist tõendav tunnistus	Tartu Ülikool	1.5.2004
Ελλάς	Τίτλος Οδοντιατρικής ειδικότητας της Ορθοδοντικής	— Περιφέρεια — Νομαρχιακή Αυτοδιοίκηση — Νομαρχία	1.1.1981
España			
France	Titre de spécialiste en orthodontie	Conseil National de l'Ordre des chirurgiens dentistes	28.1.1980
Hrvatska			
Ireland	Certificate of specialist dentist in orthodontics	Competent authority recognised for this purpose by the competent minister	28.1.1980
Italia	Diploma di specialista in Ortognatodonzia	Università	21.5.2005
Κύπρος	Πιστοποιητικό Αναγνώρισης του Ειδικού Οδοντιάτρου στην Ορθοδοντική	Οδοντιατρικό Συμβούλιο	1.5.2004
Latvija	“Sertifikāts” – kompetentas iestādes izsniegts dokuments, kas apliecina, ka persona ir nokārtojusi sertifikācijas eksāmenu ortodontijā	Latvijas Ārstu biedrība	1.5.2004
Lietuva	1. Rezidentūros pažymėjimas, nurodantis suteiktą gydytojo ortodonto profesinę kvalifikaciją 2. Rezidentūros pažymėjimas (gydytojo ortodonto profesinė kvalifikacija)	Universitetas	1.5.2004
Luxembourg			

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Reference date
Magyarország	Fogszabályozás szakorvosa bizonyítvány	Nemzeti Vizsgabizottság	1.5.2004
Malta	Ċertifikat ta' speċjalista dentali fl-Ortodonzja	Kumitat ta' Approvazzjoni dwar Speċjalisti	1.5.2004
Nederland	Bewijs van inschrijving als orthodontist in het Specialistenregister	Registratiecommissie Tandheelkundige Specialismen (RTS) van de Koninklijke Nederlandse Maatschappij tot bevordering der Tandheelkunde	28.1.1980
Österreich			
Polska	Dyplom uzyskania tytułu specjalisty w dziedzinie ortodoncji	Centrum Egzaminów Medycznych	1.5.2004
Portugal	Título de Especialista em Ortodontia	Ordem dos Médicos Dentistas (OMD)	4.6.2008
România	Certificatul de specialist în Ortodonție și Ortopedie dento-facială	Ministerul Sănătății	17.12.2008
Slovenija	Potrđilo o opravljenem specialističnem izpitu iz čeljustne in zobne ortopedije	1. Ministrstvo za zdravje 2. Zdravniška zbornica Slovenije	1.5.2004
Slovensko	Diplom o špecializácii v špecializačnom odbore čelustná ortopédia	Slovenská zdravotnícka univerzita	17.12.2008
Suomi/Finland	Erikoishammaslääkärin tutkinto, hampaiston oikomishoito/ Specialtand-läkarexamen, tandreglering	Yliopisto	1.1.1994
Sverige	Bevis om specialistkompetens i ortodonti	Socialstyrelsen	1.1.1994
United Kingdom	Certificate of Completion of specialist training in orthodontics	Competent authority recognised for this purpose	28.1.1980

4. Point 5.4.2 is replaced by the following:

'5.4.2. Evidence of formal qualifications of veterinary surgeons

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
België/Belgique/ Belgien	Diploma van dierenarts/Diplôme de docteur en médecine vétérinaire	— De universiteiten/Les universités — De bevoegde Examencommissie van de Vlaamse Gemeenschap/Le Jury compétent d'enseignement de la Communauté française		21.12.1980

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
България	<p>Диплома за висше образование на образователно-квалификационна</p> <p>степен магистър по специалност Ветеринарна медицина с професионална квалификация Ветеринарен лекар</p>	<p>— Лесотехнически университет София Факултет Ветеринарна медицина</p> <p>— Тракийски университет Стара Загора, Ветеринарно-медицински факултет</p>		1.1.2007
Česká republika	<p>— Diplom o ukončení studia ve studijním programu veterinární lékařství (doktor veterinární medicíny, MVDr.)</p> <p>— Diplom o ukončení studia ve studijním programu veterinární hygiena a ekologie (doktor veterinární medicíny, MVDr.)</p>	Veterinární fakulta univerzity v České republice		1.5.2004
Danmark	Bevis for kandidatuddannelsen i veterinærmedicin (cand.med. vet.)	Københavns Universitet		21.12.1980
Deutschland	<p>— Zeugnis über das Ergebnis des Dritten Abschnitts der Tierärztlichen Prüfung und das Gesamtergebnis der Tierärztlichen Prüfung</p> <p>— Zeugnis über das Ergebnis der Tierärztlichen Prüfung und das Gesamtergebnis der Tierärztlichen Prüfung</p>	Der Vorsitzende des Prüfungsausschusses für die Tierärztliche Prüfung einer Universität oder Hochschule		<p>21.12.1980</p> <p>1.1.2006</p>
Eesti	<p>Diplom: täitnud veterinaarmeditsiini õppekava</p> <p>Loomaarstikraad</p> <p><i>Degree in Veterinary Medicine (DVM)</i></p>	<p>Eesti Põllumajandusülikool</p> <p>Eesti Maaülikool</p>		1.5.2004
Ελλάδα	Πτυχίο Κτηνιατρικής	<p>1. Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης</p> <p>2. Πανεπιστήμιο Θεσσαλίας</p>		1.1.1981
España	<p>Título de Licenciado en Veterinaria</p> <p>Título de Graduado/a en Veterinaria</p>	<p>— Ministerio de Educación y Cultura</p> <p>— El rector de una Universidad</p> <p>— El rector de una Universidad</p>		<p>1.1.1986</p> <p>1.1.1986</p>

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
France	Diplôme d'Etat de docteur vétérinaire	<ul style="list-style-type: none"> — L'Institut d'enseignement supérieur et de recherche en alimentation, santé animale, sciences agronomiques et de l'environnement (Vet Agro Sup); — L'Ecole nationale vétérinaire, agroalimentaire et de l'alimentation, Nantes-Atlantique (ONIRIS); — L'Ecole nationale vétérinaire d'Alfort; — L'Ecole nationale vétérinaire de Toulouse. 		21.12.1980
Hrvatska	Diploma "doktor veterinarske medicine/doktorica veterinarske medicine"	Veterinarski fakultet Sveučilišta u Zagrebu		1.7.2013
Ireland	<ul style="list-style-type: none"> — Diploma of Bachelor in/of Veterinary Medicine (MVB) — Diploma of Membership of the Royal College of Veterinary Surgeons (MRCVS) 			21.12.1980
Italia	Diploma di laurea in medicina veterinaria	Università	Diploma di abilitazione all'esercizio della medicina veterinaria	1.1. 1985
Κύπρος	Πιστοποιητικό Εγγραφής Κτηνιάτρου	Κτηνιατρικό Συμβούλιο		1.5.2004
Latvija	Veterinārārsta diploms	Latvijas Lauksaimniecības Universitāte		1.5.2004
Lietuva	<ol style="list-style-type: none"> 1. Aukštojo mokslo diplomas (veterinarijos gydytojo (DVM)) 2. Magistro diplomas (veterinarinės medicinos magistro kvalifikacinis laipsnis ir veterinarijos gydytojo profesinė kvalifikacija) 	<ol style="list-style-type: none"> 1. Lietuvos Veterinarijos Akademija 2. Lietuvos sveikatos mokslų universitetas 		1.5.2004
Luxembourg	Diplôme d'Etat de docteur en médecine vétérinaire	Jury d'examen d'Etat		21.12.1980
Magyarország	Okleveles állatorvos doktor oklevél (dr. vet)	Felsőoktatási intézmény		1.5.2004
Malta	Liċenzja ta' Kirurgu Veterinarju	Kunsill tal-Kirurġi Veterinarji		1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
Nederland	Getuigschrift van met goed gevolg afgelegd diergeneeskundig/veeartsenijkundig examen			21.12.1980
Österreich	— Diplom-Tierarzt — Magister medicinae veterinariae	Universität		1.1.1994
Polska	Dyplom lekarza weterynarii	1. Szkoła Główna Gospodarstwa Wiejskiego w Warszawie 2. Akademia Rolnicza we Wrocławiu ⁽¹⁾ 3. Uniwersytet Przyrodniczy we Wrocławiu ⁽²⁾ 4. Akademia Rolnicza w Lublinie ⁽³⁾ 5. Uniwersytet Przyrodniczy w Lublinie ⁽⁴⁾ 6. Uniwersytet Warmińsko-Mazurski w Olsztynie		1.5.2004
Portugal	— Carta de curso de licenciatura em medicina veterinária — Carta de mestrado integrado em medicina veterinária	Universidade		1.1.1986
România	Diplomă de licență de doctor medic veterinar	Universități		1.1.2007
Slovenija	Diploma, s katero se podeljuje strokovni naslov "doktor veterinarske medicine/doktorica veterinarske medicine"	Univerza	Spričevalo o opravljenem državnem izpitu s področja veterinarstva	1.5.2004
Slovensko	Vysokoškolský diplom o udelení akademického titulu "doktor veterinárskeho lekárstva" ("MVDr.")	Univerzita		1.5.2004
Suomi/Finland	Eläinlääketieteen lisensiaatin tutkinto/Veterinärmedicine licentiatexamen	Yliopisto		1.1.1994
Sverige	Veterinärexamen	Sveriges Lantbruksuniversitet		1.1.1994
United Kingdom	1. Bachelor of Veterinary Science (BVSc) 2. Bachelor of Veterinary Science (BVSc) 3. Bachelor of Veterinary Medicine (Vet MB)	1. University of Bristol 2. University of Liverpool 3. University of Cambridge		21.12.1980

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
	4. Bachelor of Veterinary Medicine and Surgery (BVM&S)	4. University of Edinburgh		
	5. Bachelor of Veterinary Medicine and Surgery (BVMS)	5. University of Glasgow		
	6. Bachelor of Veterinary Medicine (BvetMed)	6. University of London		
	7. Bachelor of Veterinary Medicine and Bachelor of Veterinary Surgery (B.V.M., B.V.S.)	7. University of Nottingham		

⁽¹⁾ Valid until 22.11.2006

⁽²⁾ As of 23.11.2006

⁽³⁾ Valid until 10.4.2008

⁽⁴⁾ As of 11.4.2008^{*}

5. Point 5.5.2 is replaced by the following:

‘5.5.2 Evidence of formal qualifications of midwives

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
België/Belgique/ Belgien	Diploma van vroedvrouw/Di- plôme d'accoucheuse	— De erkende opleidingsin- stituten/Les établissements d'enseignement — De bevoegde Examencom- missie van de Vlaamse Ge- meenschap/Le Jury compé- tent d'enseignement de la Communauté française	Vroedvrouw/Accoucheuse	23.1.1983
България	Диплома за висше образование на образователно-квалифи- кационна степен “Бакалавър” с професионална квалификация “Акушерка”	Университет	Акушерка	1.1.2007
Česká republika	1. Diplom o ukončení studia ve studijním programu ošetřovatelství ve studijním oboru porodní asistentka (bakalář, Bc.) 2. Diplom o ukončení studia ve studijním programu porodní asistence ve studij- ním oboru porodní asis- tentka (bakalář, Bc.) 3. Diplom o ukončení studia ve studijním oboru diplo- movaná porodní asistentka (diplomovaný specialista, DiS.)	1. Vysoká škola zřízená nebo uznaná státem 2. Vysoká škola zřízená nebo uznaná státem 3. Vyšší odborná škola zří- zená nebo uznaná státem	Porodní asistentka/porodní asistent	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Danmark	Bevis for uddannelsen til professionsbachelor i jordemoderkundskaab	Professionshøjskole	Jordemoder	23.1.1983
Deutschland	Zeugnis über die staatliche Prüfung für Hebammen und Entbindungspfleger	Staatlicher Prüfungsausschuss	— Hebamme — Entbindungspfleger	23.1.1983
Eesti	Diplom ämmaemanda erialal Ämmaemanda diplom	— Tallinna Meditsiinikool — Tartu Meditsiinikool — Tallinna Tervishoiu Kõrgkool — Tartu Tervishoiu Kõrgkool	Ämmaemand	1.5.2004
Ελλάδα	1. Πτυχίο Τμήματος Μαιευτικής Τεχνολογικών Εκπαιδευτικών Ιδρυμάτων (Τ.Ε.Ι.) 2. Πτυχίο του Τμήματος Μαιών της Ανωτέρας Σχολής Στελεχών Υγείας και Κοινων. Πρόνοιας (ΚΑΤΕΕ) 3. Πτυχίο Μαίας Ανωτέρας Σχολής Μαιών	1. Τεχνολογικά Εκπαιδευτικά Ιδρύματα (Τ.Ε.Ι.) 2. ΚΑΤΕΕ Υπουργείου Εθνικής Παιδείας και Θρησκευμάτων 3. Υπουργείο Υγείας και Πρόνοιας	Μαία Μαιευτής	23.1.1983
España	— Título de matrona — Título de asistente obstétrico (matrona) — Título de enfermería obstétrica-ginecológica	Ministerio de Educación y Cultura	— Matrona — Asistente obstétrico	1.1.1986
France	Diplôme de sage-femme	L'Etat	Sage-femme	23.1.1983
Hrvatska	Svjedodžba "prvostupnik (baccalaureus) primaljstva/sveučilišna prvostupnica (baccalaurea) primaljstva"	— Medicinski fakulteti sveučilišta u Republici Hrvatskoj — Sveučilišta u Republici Hrvatskoj — Veleučilišta i visoke škole u Republici Hrvatskoj	Prvostupnik (baccalaureus) Primaljstva/Prvostupnica (baccalaurea) primaljstva	1.7.2013
Ireland	1. Certificate in Midwifery ⁽¹⁾ 2. B.Sc. in Midwifery approved by the NMBI ⁽²⁾	1. An Bórd Altranais (The Nursing Board) [up to 1 October 2012]; Bórd Altranais agus Cnáimhseachais na hÉireann (The Nursing and Midwifery Board of Ireland, NMBI) [from 2 October 2012]. 2. A third-level Institution delivering a Midwifery education programmes approved by the NMBI	Registered Midwife (RM)	23.1.1983

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
	3. Higher/Post-graduate Diploma in Midwifery approved by the NMBI ⁽²⁾	3. third-level Institution delivering Higher/Post-graduate Diploma in Midwifery approved by the NMBI		
Italia	1. Diploma d'ostetrica 2. Laurea in ostetricia	1. Scuole riconosciute dallo Stato 2. Università'	Ostetrica	23.1.1983
Κύπρος	Δίπλωμα στο μεταβασικό πρόγραμμα Μαιευτικής	Νοσηλευτική Σχολή	Εγγεγραμμένη Μαία	1.5.2004
Latvija	Diploms par vecmātes kvalifikācijas iegūšanu	Māsu skolas	Vecmāte	1.5.2004
Lietuva	1. Aukštojo mokslo diplomas, nurodantis suteiktą bendrosios praktikos slaugytojo profesinę kvalifikaciją, ir profesinės kvalifikacijos pažymėjimas, nurodantis suteiktą akušerio profesinę kvalifikaciją — Pažymėjimas, liudijantis akušerio profesinę praktiką 2. Aukštojo mokslo diplomas (neuniversitetinės studijos), nurodantis suteiktą bendrosios praktikos slaugytojo profesinę kvalifikaciją, ir profesinės kvalifikacijos pažymėjimas, nurodantis suteiktą akušerio profesinę kvalifikaciją — Pažymėjimas, liudijantis akušerio profesinę praktiką 3. Aukštojo mokslo diplomas (neuniversitetinės studijos), nurodantis suteiktą akušerio profesinę kvalifikaciją 4. Bakalauro diplomas (slaugos bakalauro kvalifikacinis laipsnis ir bendrosios praktikos augytojo profesinė kvalifikacija) Ir Profesinės kvalifikacijos pažymėjimas (akušerio profesinė kvalifikacija)	1. Universitetas 2. Kolegija 3. Kolegija 4. Universitetas	Akušeris	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
	<p>5. Profesinio bakalauro diplomas (slaugos profesinio bakalauro kvalifikacinis laipsnis ir bendrosios praktikos slaugytojo profesinė kvalifikacija)</p> <p>Ir Profesinės kvalifikacijos pažymėjimas (akušerio profesinė kvalifikacija)</p> <p>6. Profesinio bakalauro diplomas</p> <p>(akušerijos profesinio bakalauro kvalifikacinis laipsnis ir akušerio profesinė kvalifikacija)</p>	<p>5. Kolegija</p> <p>6. Kolegija</p>		
Luxembourg	Diplôme de sage-femme	Ministère de l'éducation nationale, de la formation professionnelle et des sports	Sage-femme	23.1.1983
Magyarország	<p>1. Szülészniő bizonyítvány</p> <p>2. Szülészniő oklevél</p>	<p>1. Iskola/főiskola</p> <p>2. Felsőoktatási intézmény</p>	Szülészniő	1.5.2004
Malta	Lawrja jew diploma fl— Istudji tal-Qwiebel	Universita' ta' Malta	Qabla	1.5.2004
Nederland	Diploma van verloskundige	Door het Ministerie van Volksgezondheid, Welzijn en Sport erkende opleidings-instellingen	Verloskundige	23.1.1983
Österreich	<p>1. Hebammen-Diplom</p> <p>2. Diplom über den Abschluss des Fachhochschul-Bachelorstudiengangs "Hebamme"</p>	<p>1. — Hebammenakademie — Bundeshebammenlehranstalt</p> <p>2. Fachhochschulrat</p>	Hebamme	1.1.1994
Polska	<p>— Dyplom ukończenia studiów wyższych na kierunku położnictwo z tytułem "magister położnictwa"</p> <p>— Dyplom ukończenia studiów wyższych zawodowych na kierunku/specjalności położnictwo z tytułem "licencjat położnictwa"</p>	Instytucja prowadząca kształcenie na poziomie wyższym uznana przez właściwe władze (Higher education institution recognised by the competent authorities)	Położna	1.5.2004

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Professional title	Reference date
Portugal	<ol style="list-style-type: none"> 1. Diploma de enfermeiro especialista em enfermagem de saúde materna e obstétrica 2. Diploma/carta de curso de estudos superiores especializados em enfermagem de saúde materna e obstétrica 3. Diploma (do curso de pós-licenciatura) de especialização em enfermagem de saúde materna e obstétrica 	<ol style="list-style-type: none"> 1. Escolas de Enfermagem 2. Escolas Superiores de Enfermagem 3. — Escolas Superiores de Enfermagem — Escolas Superiores de Saúde 	Enfermeiro especialista em enfermagem de saúde materna e obstétrica	1.1.1986
România	Diplomă de licență de moașă	Universități	Moașă	1.1.2007
Slovenija	Diploma, s katero se podeljuje strokovni naslov "diplomirana babica/diplomirani babičar"	<ol style="list-style-type: none"> 1. Univerza 2. Visoka strokovna šola 	diplomirana babica/diplomirani babičar	1.5.2004
Slovensko	<ol style="list-style-type: none"> 1. DIPLOM pôrodná asistancia "bakalár" ("Bc.") 2. DIPLOM diplomovaná pôrodná asistentka 	<ol style="list-style-type: none"> 1. Vysoká škola/Univerzita 2. Stredná zdravotnícka škola 	Pôrodná asistentka	1.5.2004
Suomi/Finland	<ol style="list-style-type: none"> 1. Kätilön tutkinto/barnmorskeexamen 2. Sosiaali— ja terveystieteiden ammattikorkeakoulututkinto, kätilö (AMK)/yrkeshögskoleexamen inom hälsovård och det sociala området, barnmorska (YH) 	<ol style="list-style-type: none"> 1. Terveystieteiden tutkimuslaitokset/hälsöförhållningsanstalter 2. Ammattikorkeakoulut/Yrkeshögskolor 	Kätilö/Barnmorska	1.1.1994
Sverige	Barnmorskeexamen	Universitet eller högskola	Barnmorska	1.1.1994
United Kingdom	A qualification approved by the Nursing and Midwifery Council or its predecessor bodies as attesting to the completion of training as required for midwives by article 40 and the standard of proficiency as required for registration as a Registered Midwife in its register ⁽³⁾	Education institution approved by the Nursing and Midwifery Council or its predecessor bodies	Registered Midwife	23.1.1983

⁽¹⁾ This evidence of formal qualification entitles the holder to automatic recognition when it is issued to the nationals of Member States who obtained qualification in Ireland.

⁽²⁾ This information on the evidence of qualifications was included to ensure that graduates trained in Ireland would be entitled to automatic recognition without the need for actual registration in Ireland, such registration not being part of the qualification process.

⁽³⁾ This information on the evidence of qualifications was included to ensure that graduates trained in the United Kingdom would be entitled to automatic recognition of their qualification without the need for actual registration, such registration not being part of the qualification process.

6. Point 5.6.2 is replaced by the following:

‘5.6.2. Evidence of formal qualifications of pharmacists

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
België/ Belgique/ Belgien	Diploma van apotheker / Di- plôme de pharmacien	— De universiteiten/Les uni- versities — De bevoegde Examencom- missie van de Vlaamse Ge- meenschap/Le Jury compé- tent d'enseignement de la Communauté française		1.10.1987
България	Диплома за висше образование на образователно-квалифи- кационна степен “Магистър” по “Фармация” с професио- нална квалификация “Ма- гистър-фармацевт”	Университет		1.1.2007
Česká republika	Diplom o ukončení studia ve studijním programu farmacie (magistr, Mgr.)	Farmaceutická fakulta univerz- ity v České republice		1.5.2004
Danmark	Bevis for kandidatuddannelsen i farmaci (cand.pharm.) Bevis for kandidatuddannelsen i farmaci (cand.pharm.)	Det Farmaceutiske Fakultet, Københavns Universitet Syddansk Universitet		1.10.1987
Deutschland	Zeugnis über die Staatliche Pharmazeutische Prüfung	Zuständige Behörden		1.10.1987
Eesti	Diplom proviisori õppekava lõbimisest Farmaatsiamagister Master of Science in Pharmacy (MSc)	Tartu Ülikool		1.5.2004
Ελλάς	Άδεια άσκησης φαρμακευτικού επαγγέλματος	— Περιφέρεια — Νομαρχιακή Αυτοδιοίκηση		1.10.1987
España	Título de Licenciado en Farm- acia Título de Graduado/a en Farmacia	— Ministerio de Educación y Cultura — El rector de una universi- dad — El rector de una Universi- dad		1.10.1987 1.1.1986
France	— Diplôme d'Etat de pharma- cien — Diplôme d'Etat de docteur en pharmacie	Universités		1.10.1987

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
Hrvatska	Diploma 'magistar farmacije/ magistra farmacije'	— Farmaceutsko- biokemijski fakultet Sveučilišta u Zagrebu — Medicinski fakultet Sveučilišta u Splitu — Kemijsko- tehnološki fakultet Sveučilišta u Splitu		1.7. 2013
Ireland	1. Certificate of Registered Pharmaceutical Chemist ⁽¹⁾ Certificate of Registration as a Pharmacist ⁽¹⁾ 2. A degree in Pharmacy recognised by the Pharmaceutical Society of Ireland ⁽²⁾	1. Cumann Cógaiseoirí na hÉireann (Pharmaceutical Society of Ireland) 2. Universities delivering de- grees in pharmacy recog- nised by the Pharmaceuti- cal Society of Ireland	2. Notification from the Pharmaceutical Society of Ireland that the person named therein is the holder of a qualification appropriate for practicing as pharmacist	1.10.1987
Italia	Diploma o certificato di abilitazione all'esercizio della professione di farmacista ottenuto in seguito ad un esame di Stato	Università		1.11.1993
Κύπρος	Πιστοποιητικό Εγγραφής Φαρμακοποιού	Συμβούλιο Φαρμακευτικής		1.5.2004
Latvija	Farmaceita diploms	Universitātes tipa augstskola		1.5.2004
Lietuva	1. Aukštojo mokslo diplomas, nurodantis suteiktą vaistinin- kio profesinę kvalifikaciją 2. Magistro diplomas (farmacijos magistro kvalifikacinis laipsnis ir vaistinininko profesinė kvalifikacija)	Universitetas		1.5.2004
Luxembourg	Diplôme d'Etat de pharmacien	Jury d'examen d'Etat + visa du ministre de l'éducation nationale		1.10.1987
Magyarország	Okleveles gyógyszerész oklevél (magister pharmaciae, abbrev.: mag. Pharm)	Egyetem		1.5.2004
Malta	Lawrja fil-farmacija	Universita` ta' Malta		1.5.2004
Nederland	Getuigenschrift van met goed gevolg afgelegd apothekersexamen	Faculteit Farmacie		1.10.1987

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference date
Österreich	Staatliches Apothekerdiplom	Österreichische Apothekerkammer		1.10.1994
Polska	Dyplom ukończenia studiów wyższych na kierunku farmacja z tytułem magistra	1. Akademia Medyczna 2. Uniwersytet Medyczny 3. Collegium Medicum Uniwersytetu Jagiellońskiego		1.5.2004
Portugal	— Licenciatura em Farmácia — Carta de curso de licenciatura em Ciências Farmacêuticas	Instituição de Ensino Superior Universitário		1.10.1987
	Mestrado Integrado em Ciências Farmacêuticas			1.1.2007
România	Diplomă de licență de farmacist	Universități		1.1.2007
Slovenija	Diploma, s katero se podeljuje strokovni naziv "magister farmacije/magistra farmacije"	Univerza	Potrnilo o opravljenem strokovnem izpitu za poklic magister farmacije/magistra farmacije	1.5.2004
Slovensko	DIPLOM farmácia magister ("Mgr.")	Univerzita		1.5.2004
Suomi/Finland	Proviisorin tutkinto/Provisor-examen	Yliopisto		1.10.1994
Sverige	Apotekarexamen	Universitet och högskolor		1.10.1994
United Kingdom	1. Certificate of Registered Pharmacist ⁽³⁾ 2. A degree in pharmacy approved by either the General Pharmaceutical Council (formerly Royal Pharmaceutical Society of Great Britain) or the Pharmaceutical Society of Northern Ireland ⁽⁴⁾	Universities delivering pharmacy degrees approved by the General Pharmaceutical Council (formerly Royal Pharmaceutical Society of Great Britain) or the Pharmaceutical Society of Northern Ireland	Notification from the General Pharmaceutical Council or Pharmaceutical Society of Northern Ireland confirming successful completion of the approved pharmacy degree, 12 months practical training and a pass of the registration assessment.	1.10.1987

(1) This evidence of formal qualification entitles the holder to automatic recognition when it is issued to the nationals of Member States who obtained qualification in Ireland.

(2) This information on the evidence of qualifications was included to ensure that graduates trained in Ireland would be entitled to automatic recognition without the need for actual registration in Ireland. In such cases, the accompanying certificate testifies the completion of all qualifications requirements.

(3) This evidence of formal qualification entitles the holder to automatic recognition of their qualification when it is issued to the nationals of Member States who obtained qualification in the United Kingdom.

(4) This information on the evidence of qualifications was included to ensure that graduates trained in the United Kingdom would be entitled to automatic recognition of their qualification without the need for actual registration. In such cases, the accompanying certificate testifies the completion of all qualifications requirements.

7. Point 5.7.1 is replaced by the following:

‘5.7.1. Evidence of formal qualifications of architects recognised pursuant to Article 46

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
België/Belgique/ Belgien	1. Architect/Architecte	1. Nationale hogescholen voor architectuur/Ecoles nationales supérieures d'architecture		1988/1989
	2. Architect/Architecte	2. Hogere-architectuur-instituten/Instituts supérieurs d'architecture		
	3. Architect/Architecte	3. Provinciaal Hoger Instituut voor Architectuur te Hasselt/Ecole provinciale supérieure d'architecture de Hasselt		
	4. Architect/Architecte	4. Koninklijke Academies voor Schone Kunsten/Académies royales des Beaux-Arts		
	5. Architect/Architecte	5. Sint-Lucasscholen/Ecoles Saint-Luc		
	6. Burgerlijke ingenieur-architect	6. — Faculteiten Toegepaste Wetenschappen van de Universiteiten/Facultés des sciences appliquées des universités — “Faculté Polytechnique” van Mons		
	7. Burgerlijk Ingenieur — Architect (Ir. Arch.)	7. K.U. Leuven, faculteit ingenieurswetenschappen	Certificat de stage délivré par l'Ordre des Architectes/Stagegetuigschrift afgeleverd door de Orde van Architecten	2004/2005
	8. Burgerlijk Ingenieur — Architect (Ir. Arch.)	8. Vrije Universiteit Brussel, faculteit ingenieurswetenschappen	Certificat de stage délivré par l'Ordre des Architectes/Stagegetuigschrift afgeleverd door de Orde van Architecten	2004/2005
България	Магистър-Специалност архитектура	— Университет по архитектура, строителство и геодезия София, Архитектурен факултет	Свидетелство, издадено от компетентната Камара на архитектите, удостоверяващо изпълнението на предпоставките, необходими за регистрацията като архитект с пълна проектантска правоспособност в регистъра на архитектите	2010/2011
		— Варненски свободен университет “Черноризец Храбър”, Варна, Архитектурен факултет		2007/2008

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		— Висше строително училище "Любен Каравелов", Архитектурен факултет		2009/2010
Česká republika	Architektura a urbanismus	— Fakulta architektury, České vysoké učení technické (ČVUT) v Praze — Vysoké učení technické v Brně, Fakulta architektury	Osvědčení o splnění kvalifikačních požadavků pro samostatný výkon profese architekta vydané Českou komorou architektů	2007/2008
	Inženýr architekt (Ing. Arch.)	— Technická univerzita v Liberci, Fakulta umění a architektury		
	Magistr umění v oboru architektura (MgA.)	— Vysoká škola umělecko-průmyslová v Praze		
	Magistr umění v oboru Architektonická tvorba, MgA	— Akademie výtvarných umění v Praze		2007/2008
Danmark	Bevis for kandidatuddannelsen i arkitektur (cand. arch.)	— Kunstakademiets Arkitektskole i København — Arkitektskolen i Århus		1988/1989
Deutschland	Diplom-Ingenieur, Diplom-Ingenieur Univ.	— Universitäten (Architektur/Hochbau) — Technische Hochschulen (Architektur/Hochbau) — Technische Universitäten (Architektur/Hochbau) — Universitäten-Gesamthochschulen (Architektur/Hochbau) — Hochschulen für bildende Künste — Hochschulen für Künste	Bescheinigung einer zuständigen Architektenkammer über die Erfüllung der Qualifikationsvoraussetzungen im Hinblick auf eine Eintragung in die Architektenliste	1988/1989
	Diplom-Ingenieur, Diplom-Ingenieur FH	— Fachhochschulen (Architektur/Hochbau) — Universitäten-Gesamthochschulen (Architektur/Hochbau) bei entsprechenden Fachhochschulstudiengängen		

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	Master of Arts — M.A.	<ul style="list-style-type: none"> — Hochschule Bremen — University of applied Sciences, Fakultät Architektur, Bau und Umwelt — School of Architecture Bremen — Fachhochschule Münster (University of Applied Sciences) — Muenster School of Architecture — Georg-Simon-Ohm-Hochschule Nürnberg Fakultät Architektur — Hochschule Anhalt (University of Applied Sciences) Fachbereich Architektur, Facility Management und Geoinformation — Hochschule Regensburg (University of Applied Sciences), Fakultät für Architektur — Technische Universität München, Fakultät für Architektur — Hochschule Lausitz, Studiengang Architektur, Fakultät für Bauen “seit Juli 2013: Brandenburgische Technische Universität Cottbus-Senftenberg” — Fachhochschule Lübeck, University of Applied Sciences, Fachbereich Bauwesen — Fachhochschule für Technik und Wirtschaft Dresden, Fakultät Bauingenieurwesen/Architektur — Fachhochschule Erfurt/University of Applied Sciences — Hochschule Augsburg/Augsburg University of Applied Sciences — Hochschule Koblenz, Fachbereich Bauwesen — Hochschule München/Fakultät für Architektur 		<p>2003/2004</p> <p>2000/2001</p> <p>2005/2006</p> <p>2010/2011</p> <p>2007/2008</p> <p>2009/2010</p> <p>2009/2010</p> <p>2004/2005</p> <p>2005/2006</p> <p>2006/2007</p> <p>2005/2006</p> <p>2004/2005</p> <p>2005/2006</p>

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	Master of Arts (in Kombination mit einem Bachelorabschluss in Architektur)	Hochschule Trier Fachbereich Gestaltung — Fachrichtung Architektur		2007/2008
	Master of Engineering (in Kombination mit einem Bachelorabschluss in Engineering)	Technische Hochschule Mittelhessen (University of Applied Sciences) Fachbereich Bauwesen		2010/2011
	Bachelor of Arts — B.A.	— Hochschule Anhalt (University of Applied Sciences) Fachbereich Architektur, Facility Management und Geoinformation		2010/2011
		— Technische Universität München, Fakultät für Architektur		2009/2010
		— Alanus Hochschule für Kunst und Gesellschaft, Bonn		2007/2008
	Bachelor of Sciences (B. Sc.)	Hochschule Bochum, Fachbereich Architektur		2003/2004
	Master of Science	Leibniz Universität Hannover, Fakultät für Architektur und Landschaft		2011/2012
Ελλάδα	Δίπλωμα αρχιτέκτονα — μηχανικού	— Εθνικό Μετσόβιο Πολυτεχνείο (ΕΜΠ), τμήμα αρχιτεκτόνων — μηχανικών — Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης (ΑΠΘ), τμήμα αρχιτεκτόνων — μηχανικών της Πολυτεχνικής σχολής	Βεβαίωση που χορηγεί το Τεχνικό Επιμελητήριο Ελλάδας (ΤΕΕ) και η οποία επιτρέπει την άσκηση δραστηριοτήτων στον τομέα της αρχιτεκτονικής	1988/1989
	Δίπλωμα Αρχιτέκτονα—Μηχανικού	— Πανεπιστήμιο Πατρών, τμήμα αρχιτεκτόνων — μηχανικών της Πολυτεχνικής σχολής		2003/2004
España	Título oficial de arquitecto	Rectores de las universidades enumeradas a continuación: — Universidad politécnica de Cataluña, escuelas técnicas superiores de arquitectura de Barcelona o del Vallès		1988/1989

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		<ul style="list-style-type: none"> — Universidad politécnica de Madrid, escuela técnica superior de arquitectura de Madrid — Escuela de Arquitectura de la Universidad de Las Palmas de Gran Canaria — Universidad politécnica de Valencia, escuela técnica superior de arquitectura de Valencia — Universidad de Sevilla, escuela técnica superior de arquitectura de Sevilla — Universidad de Valladolid, escuela técnica superior de arquitectura de Valladolid — Universidad de Santiago de Compostela, escuela técnica superior de arquitectura de La Coruña — Universidad del País Vasco, escuela técnica superior de arquitectura de San Sebastián — Universidad de Navarra, escuela técnica superior de arquitectura de Pamplona — Universidad de A Coruña — Universidad de Granada, Escuela Técnica Superior de Arquitectura de Granada. — Universidad de Alicante, escuela politécnica superior de Alicante — Universidad Europea de Madrid — Universidad Ramón Llull, escuela técnica superior de arquitectura de La Salle — Universidad de Cataluña, escuela técnica superior de arquitectura de Barcelona 		<p>1991/1992</p> <p>1994/1995</p> <p>1997/1998</p> <p>1998/1999</p> <p>1999/2000</p>

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		<ul style="list-style-type: none"> — Universidad Alfonso X El Sabio, centro politécnico superior de Villanueva de la Cañada — Universidad de Alcalá (Escuela de Arquitectura) — Universidad Internacional de Cataluña, Escuela Técnica Superior de Arquitectura — Universidad S.E.K. de Segovia, centro de estudios integrados de arquitectura de Segovia 		
		— Universidad Camilo José Cela de Madrid		2000/2001
		— Universidad San Pablo CEU		2001/2002
		— Universidad CEU Cardenal Herrera, Valencia-Escuela Superior de Enseñanzas Técnicas		2002/2003
		— Universidad Rovira i Virgili		2005/2006
		— Universidad Francisco de Vitoria		2006/2007
		— IE Universidad. Escuela Técnica Superior de Estudios Integrados de Arquitectura		2009/2010
	Título de Graduado/a en Arquitectura	— IE Universidad, Escuela Técnica Superior de Estudios Integrados de Arquitectura		2008/2009
		— Universidad Europea de Madrid		2009/2010
		— Universitat Internacional de Catalunya		
		— Universidad San Jorge (Zaragoza)		
		— Universidad de Navarra		
		— Universidad San Pablo CEU — Madrid		2010/2011
		— Universitat Politècnica de València		

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	Graduado en fundamentos de la arquitectura + Máster en Arquitectura	<ul style="list-style-type: none"> — Universidad de A Coruña. Escuela Técnica Superior de Arquitectura de A Coruña — Universidad Rovira i Virgili — Universidad Cardenal Herrera CEU — Universidad Francisco de Vitoria — Universidad Politécnica de Madrid. Escuela Técnica Superior de Arquitectura de Madrid — Universidad Antonio de Nebrija 		<p>2010/2011</p> <p>2011/2012</p>
France	<ol style="list-style-type: none"> 1. Diplôme d'architecte DPLG, y compris dans le cadre de la formation professionnelle continue et de la promotion sociale. 2. Diplôme d'architecte ESA 3. Diplôme d'architecte ENSAIS 4. Diplôme d'Etat d'architecte (DEA) 	<ol style="list-style-type: none"> 1. Le ministre chargé de l'architecture 2. Ecole spéciale d'architecture de Paris 3. Ecole nationale supérieure des arts et industries de Strasbourg, section architecture 4. Ecole Nationale Supérieure d'Architecture et de Paysage de Bordeaux (Ministère chargé de l'architecture et Ministère chargé de l'enseignement supérieur) Ecole Nationale Supérieure d'Architecture de Bretagne (Ministère chargé de l'architecture et Ministère chargé de l'enseignement supérieur) Ecole nationale supérieure d'architecture de Clermont-Ferrand (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur) Ecole nationale supérieure d'architecture de Grenoble (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur) 	<p>Habilitation de l'architecte diplômé d'Etat à l'exercice de la maîtrise d'œuvre en son nom propre (HMONP) (Ministère chargé de l'architecture)</p>	<p>1988/1989</p> <p>2005/2006</p> <p>2005/2006</p> <p>2004/2005</p> <p>2004/2005</p>

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		Ecole nationale supérieure d'architecture et de paysage de Lille (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Lyon (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Marne La Vallée (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Marseille (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2005/2006
		Ecole nationale supérieure d'architecture de Montpellier (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Nancy (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Nantes (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2005/2006
		Ecole nationale supérieure d'architecture de Normandie (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Paris-Belleville (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2005/2006

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	Diplôme d'Etat d'architecte (DEA), dans le cadre de la formation professionnelle continue	Ecole nationale supérieure d'architecture de Paris-La Villette (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2006/2007
		Ecole nationale supérieure d'architecture de Paris Malaquais (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2005/2006
		Ecole nationale supérieure d'architecture de Paris Val-de-Seine (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Saint-Etienne (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Strasbourg (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2005/2006
		Ecole nationale supérieure d'architecture de Toulouse (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Versailles (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2004/2005
		Ecole nationale supérieure d'architecture de Lyon (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2006/2007
		Ecole nationale supérieure d'architecture de Marseille (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2006/2007

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		Ecole nationale supérieure d'architecture de Montpellier (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2006/2007
		Ecole nationale supérieure d'architecture de Nantes (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2006/2007
		Ecole nationale supérieure d'architecture de Strasbourg (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)		2006/2007
	5. Diplôme d'études de l'école spéciale d'architecture Grade 2 équivalent au diplôme d'Etat d'architecte	5. Ecole spéciale d'architecture (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)	Diplôme d'architecte de l'ESA habilitant à exercer la maîtrise d'œuvre en son nom propre, équivalent à l'habilitation de l'architecte diplômé d'Etat à l'exercice de la maîtrise d'œuvre en son nom propre, reconnu par le Ministère chargé de l'architecture	2006/2007
	6. Diplôme d'architecte INSA de Strasbourg équivalent au diplôme d'Etat d'architecte conférant le grade de master (parcours architecte)	6. Institut national des sciences appliquées de Strasbourg (INSA) (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)	Habilitation de l'architecte de l'INSA à exercer la maîtrise d'œuvre en son nom propre équivalent à l'HMONP, reconnue par le ministère chargé de l'architecture	2005/2006
	Diplôme d'architecte INSA de Strasbourg équivalent au diplôme d'Etat d'architecte conférant le grade de master (parcours d'architecte pour ingénieur)	Institut national des sciences appliquées de Strasbourg (INSA) (Ministère chargé de l'architecture et ministère chargé de l'enseignement supérieur)	Habilitation de l'architecte de l'INSA à exercer la maîtrise d'œuvre en son nom propre équivalent à l'HMONP, délivrée par le ministère chargé de l'architecture	2005/2006
Hrvatska				
Ireland	<p>1. Degree of Bachelor of Architecture (B.Arch. NUI)</p> <p>2. Degree of Bachelor of Architecture (B.Arch.) — (Previously, until 2002 — Degree standard diploma in architecture (Dip. Arch))</p>	<p>1. National University of Ireland to architecture graduates of University College Dublin</p> <p>2. Dublin Institute of Technology, Bolton Street, Dublin (College of Technology, Bolton Street, Dublin)</p>	Certificate of fulfilment of qualifications requirements for professional recognition as an architect in Ireland issued by the Royal Institute of Architects of Ireland (RIAI)	1988/1989

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	<p>3. Certificate of association (ARIAI)</p> <p>4. Certificate of membership (MRIA)</p> <p>5. Degree of Bachelor of Architecture (Honours) (B.Arch. (Hons) UL)</p> <p>6. Degree of Bachelor of Architecture (Honours) (B.Arch. (Hons) WIT)</p>	<p>3. Royal Institute of Architects of Ireland</p> <p>4. Royal Institute of Architects of Ireland</p> <p>5. University of Limerick</p> <p>6. Waterford Institute of Technology</p>		<p>2005/2006</p> <p>2005/2006</p>
Italia ⁽¹⁾	<p>Laurea in architettura</p> <p>Laurea in ingegneria edile — architettura</p>	<p>— Università di Camerino</p> <p>— Università di Catania — Sede di Siracusa</p> <p>— Università di Chieti</p> <p>— Università di Ferrara</p> <p>— Università di Firenze</p> <p>— Università di Genova</p> <p>— Università di Napoli Federico II</p> <p>— Università di Napoli II</p> <p>— Università di Palermo</p> <p>— Università di Parma</p> <p>— Università di Reggio Calabria</p> <p>— Università di Roma "La Sapienza"</p> <p>— Università di Roma III</p> <p>— Università di Trieste</p> <p>— Politecnico di Bari</p> <p>— Politecnico di Milano</p> <p>— Politecnico di Torino</p> <p>— Istituto universitario di architettura di Venezia</p> <p>— Università degli Studi Mediterranea di Reggio Calabria</p> <p>— Università dell'Aquila</p> <p>— Università di Pavia</p> <p>— Università di Roma "La Sapienza"</p>	<p>Diploma di abilitazione all'esercizio indipendente della professione che viene rilasciato dal ministero della Pubblica istruzione (ora Ministero dell'istruzione, dell'università e della ricerca) dopo che il candidato ha sostenuto con esito positivo l'esame di Stato davanti ad una commissione competente</p>	<p>1988/1989</p> <p>2000/2001</p> <p>1998/1999</p>

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	Laurea specialistica in ingegneria edile — architettura	<ul style="list-style-type: none"> — Università dell'Aquila — Università di Pavia — Università di Roma "La Sapienza" — Università di Ancona — Università di Basilicata — Potenza — Università di Pisa — Università di Bologna — Università di Catania — Università di Genova — Università di Palermo — Università di Napoli Federico II — Università di Roma — Tor Vergata — Università di Trento — Politecnico di Bari — Politecnico di Milano 		2000/2001
		<ul style="list-style-type: none"> — Università degli studi di Brescia — Università degli Studi di Cagliari 		2001/2002
		<ul style="list-style-type: none"> — Università Politecnica delle Marche 		2002/2003
		<ul style="list-style-type: none"> — Università degli studi della Calabria 		2003/2004
		<ul style="list-style-type: none"> — Università degli studi di Salerno 		2005/2006
	Laurea magistrale in ingegneria edile — architettura	<ul style="list-style-type: none"> — Università dell'Aquila — Università di Pavia — Università di Roma "La Sapienza" — Università di Pisa — Università di Bologna — Università di Catania — Università di Genova — Università di Palermo — Università di Napoli Federico II — Università di Roma — Tor Vergata — Università di Trento — Politecnico di Bari — Politecnico di Milano 		2004/2005
		<ul style="list-style-type: none"> — Università degli studi di Salerno 		2010/2011

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		— Università degli studi della Calabria		2004/2005
		— Università degli studi di Brescia		2004/2005
		— Università Politecnica delle Marche		2004/2005
		— Università degli Studi di Perugia		2006/2007
		— Università degli Studi di Padova		2008/2009
		— Università degli Studi di Genova		2014/2015
	Laurea specialistica quinquennale in Architettura	— Prima Facoltà di Architettura dell'Università di Roma "La Sapienza"		1998/1999
		— Università di Ferrara		1999/2000
		— Università di Genova		
		— Università di Palermo		
		— Politecnico di Milano		
		— Politecnico di Bari		
		— Università di Firenze		2001/2002
	Laurea magistrale quinquennale in Architettura	— Prima Facoltà di Architettura dell'Università di Roma "La Sapienza"		2004/2005
		— Università di Ferrara		
		— Università di Genova		
		— Università di Palermo		
		— Politecnico di Bari		
		— Università di Firenze		
		— Politecnico di Milano		
	Laurea specialistica in architettura (Progettazione architettonica)	— Università di Roma Tre		2001/2002
		Università degli Studi di Napoli "Federico II"		2005/2006
	Laurea magistrale in architettura (Progettazione architettonica)	Università di Roma Tre		2004/2005
	Laurea specialistica in Architettura	— Università di Napoli II		2001/2002
		— Politecnico di Milano II		
		— Facoltà di architettura dell'Università degli Studi G. D'Annunzio di Chieti-Pescara		

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		<ul style="list-style-type: none"> — Facoltà di architettura, Pianificazione e Ambiente del Politecnico di Milano — Facoltà di Architettura dell'Università degli studi di Trieste — Facoltà di Architettura di Siracusa, Università di Catania — Facoltà di architettura, Università degli Studi di Parma — Facoltà di Architettura, Università di Bologna — Università di Firenze — Università IUAV di Venezia — Facoltà di Architettura Valle Giulia, Università degli Studi di Roma "La Sapienza" — Università degli Studi di Camerino — Università di Napoli Federico II 		<p>2002/2003</p> <p>2004/2005</p>
	Laurea magistrale in Architettura	<ul style="list-style-type: none"> — Politecnico di Milano II — Università di Napoli II — Università di Napoli Federico II — Facoltà di architettura dell'Università degli Studi G. D'Annunzio di Chieti-Pescara — Facoltà di architettura, Pianificazione e Ambiente del Politecnico di Milano — Università IUAV di Venezia — Facoltà di Architettura, Università di Bologna — Facoltà di Architettura di Siracusa, Università di Catania — Facoltà di architettura, Università degli Studi di Parma — Facoltà di architettura dell'Università degli Studi di Trieste 		2004/2005

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		— Università degli Studi di Trieste		2014/2015
		— Università degli Studi di Camerino		2006/2007
		— Università degli Studi di Enna “Kore”		2004/2005
		— Università degli Studi di Firenze		2008/2009
		— Università degli Studi di Cagliari		
		— Università degli Studi di Udine		2009/2010
		— Università degli Studi Mediterranea di Reggio Calabria		
		— Università degli Studi di Sassari		2010/2011
		— Università degli Studi della Basilicata		
		— Università degli Studi di Genova		2014/2015
	Laurea specialistica in architettura -progettazione architettonica e urbana	Facoltà “Ludovico Quaroni” dell’Università degli Studi “La Sapienza” di Roma		2000/2001
	Laurea Magistrale in architettura -progettazione architettonica e urbana	Facoltà “Ludovico Quaroni” dell’Università degli Studi “La Sapienza” di Roma		2004/2005
	Laurea Specialistica in Architettura (Progettazione Urbana)	Università di Roma Tre		2001/2002
	Laurea Magistrale in Architettura (Progettazione Urbana)	Università di Roma Tre		2004/2005
	Laurea Specialistica in Architettura (Progettazione urbana e territoriale)	Politecnico di Torino		2002/2003
	Laurea Specialistica in architettura (Architettura delle costruzioni)	Politecnico di Milano (Facoltà di Architettura civile)		2001/2002
	Laurea magistrale in architettura (Architettura delle costruzioni)	Politecnico di Milano (Facoltà di Architettura civile)		2004/2005
	Laurea Specialistica in Architettura (Restauro)	— Facoltà di architettura di Valle Giulia dell’Università degli Studi “La Sapienza” di Roma		2004/2005
		— Università degli Studi di Roma Tre — Facoltà di Architettura		2001/2002

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		— Università degli Studi di Napoli "Federico II"		2005/2006
	Laurea Magistrale in Architettura (Restauro)	— Facoltà di architettura di Valle Giulia dell'Università degli Studi "La Sapienza" di Roma — Università degli Studi di Roma Tre — Facoltà di Architettura — Università degli Studi di Napoli "Federico II"		2009/2010 2004/2005
	Laurea Specialista in Architettura (costruzione)	Politecnico di Torino		2002/2003
	Laurea Magistrale in Architettura — Progettazione architettonica	Università degli Studi di Napoli "Federico II" — Politecnico di Torino		2004/2005 2013/2014
	Laurea Magistrale in Architettura e Città, Valutazione e progetto	Università degli Studi di Napoli "Federico II"		2004/2005
	Laurea Specialistica in Architettura e Città, Valutazione e progetto	Università degli Studi di Napoli "Federico II"		2007/2008
	Laurea Magistrale in Architettura — Arredamento e Progetto	Università degli Studi di Napoli "Federico II"		2008/2009
	Laurea Magistrale in Architettura Manutenzione e Gestione	Università degli Studi di Napoli "Federico II"		2008/2009
	Laurea Magistrale in Architettura Costruzione Città	Politecnico di Torino		2010/2011
	Laurea Magistrale in Architettura per il Progetto Sostenibile	Politecnico di Torino		2010/2011
	Laurea Magistrale in Architettura per il Restauro e la Valorizzazione del Patrimonio	Politecnico di Torino		2010/2011
	Laurea Magistrale in Architettura e Culture del Progetto	Università IUAV di Venezia		2013/2014
	Laurea Magistrale in Architettura e Innovazione	Università IUAV di Venezia		2013/2014
	Laurea Magistrale in Architettura per il Nuovo e l'Antico	Università IUAV di Venezia		2013/2014
	Laurea Magistrale in Architettura — Restauro	Università degli Studi Mediterranea di Reggio Calabria		2013/2014

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
Κύπρος	Δίπλωμα αρχιτεκτονα — μηχανικού στην αρχιτεκτονική	— Πανεπιστήμιο κυπρου	Βεβαίωση που εκδίδεται από το επιστημονικό και τεχνικό επιμελητήριο κυπρου (ετεκ) η οποία επιτρέπει την άσκηση δραστηριοτήτων στον τομέα της αρχιτεκτονικής	2005/2006
	Professional Diploma in Architecture	— University of Nicosia		2006/2007
	Δίπλωμα Αρχιτεκτονικής (5 έτη)	— Frederick University Σχολή Αρχιτεκτονικής, Καλών και Εφαρμοσμένων Τεχνών του Πανεπιστημίου Frederick		2008/2009
	Δίπλωμα Αρχιτέκτονα Μηχανικού (5 ετούς φοίτησης)	— Frederick University Σχολή Αρχιτεκτονικής, Καλών και Εφαρμοσμένων Τεχνών του Πανεπιστημίου Frederick		2008/2009
Latvija	Arhitekta diploms	Rīgas Tehniskā universitāte	Latvijas Arhitektu savienības sertificēšanas centra Arhitekta prakses sertifikāts	2007/2008
Lietuva	Bakalauro diplomas (Architektūros bakalauros)	— Kauno technologijos universitetas — Vilniaus Gedimino technikos universitetas — Vilniaus dailės akademija	Architekto kvalifikacijos atestatas, suteikiantis teisę užsiimti veikla architektūros srityje (Atestuotas architektas) išduodamas po architektūros bakalauro studijų baigimo ir trejų metų praktinės veiklos atestuoto architekto priežiūroje.	2008/2009
	Magistro diplomas (Architektūros magistras)	— Kauno technologijos universitetas — Vilniaus Gedimino technikos universitetas — Vilniaus dailės akademija		
Magyarország	Okleveles építészmérnök MSc	— Budapesti Műszaki és Gazdaságtudományi Egyetem — Építészmérnöki Kar	A területi illetékes építész-kamara hatósági bizonyítványa a szakmagyakorlási jogosultságról.	2007/2008
	Okleveles építészmérnök	— Széchenyi István Egyetem, Győr — Műszaki Tudományi Kar		2007/2008
	Okleveles építészmérnök	— Pécsi Tudományegyetem — Pollack Mihály Műszaki Kar		2007/2008
Malta	Degree in Bachelor of Engineering and Architecture (Hons)	Universita' ta' Malta	Warrant b'titlu ta' "Perit" mahrug mill-Bord tal-Warrant	2007/2008

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
Nederland	1. Het getuigschrift van het met goed gevolg afgelegde doctoraal examen van de studierichting bouwkunde, afstudeerrichting architectuur	1. Technische Universiteit te Delft	Verklaring van de Stichting Bureau Architectenregister die bevestigt dat de opleiding voldoet aan de normen van artikel 46. As of 2014/2015: Verklaring van Bureau Architectenregister die bevestigt dat aan de eisen voor de beroepskwalificatie van architect is voldaan	1988/1989
	2. Het getuigschrift van het met goed gevolg afgelegde doctoraal examen van de studierichting bouwkunde, differentiatie architectuur en urbanistiek	2. Technische Universiteit te Eindhoven		1988/1989
	3. Het getuigschrift hoger beroepsonderwijs, op grond van het met goed gevolg afgelegde examen verbonden aan de opleiding van de tweede fase voor beroepen op het terrein van de architectuur, afgegeven door de betrokken examencommissies van respectievelijk: <ul style="list-style-type: none"> — de Amsterdamse Hogeschool voor de Kunsten te Amsterdam — de Hogeschool Rotterdam en omstreken te Rotterdam — de Hogeschool Katholieke Leerangen te Tilburg — de Hogeschool voor de Kunsten te Arnhem — de Rijkshogeschool Groningen te Groningen — de Hogeschool Maastricht te Maastricht 			
	4. Master of Science in Architecture, Urbanism & Building Sciences variant Architecture <ul style="list-style-type: none"> — Master of Science in Architecture, Building and Planning (specialisatie: Architecture) 	4. Technische Universiteit Delft Faculteit Bouwkunde Technische Universiteit Eindhoven		2003/2004 2002/2003

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	Master of Architecture	<p>ArtEZ hogeschool voor de kunsten/ArtEZ Academie van Bouwkunst</p> <p>Amsterdamse Hogeschool van de Kunsten/Academie van Bouwkunst Amsterdam</p> <p>Hanze Hogeschool Groningen/Academie van Bouwkunst Groningen</p> <p>Hogeschool Rotterdam/Rotterdamse Academie van Bouwkunst</p> <p>Fontys Hogeschool voor de Kunsten/Academie voor Architectuur en Stedenbouw in Tilburg</p>		<p>2003/2004</p> <p>2003/2004</p> <p>2003/2004</p> <p>2003/2004</p> <p>2003/2004</p>
Österreich	<p>1. Diplom-Ingenieur, Dipl.-Ing.</p> <p>2. Diplom-Ingenieur, Dipl.-Ing.</p> <p>3. Diplom-Ingenieur, Dipl.-Ing.</p> <p>4. Magister der Architektur, Magister architecturae, Mag. Arch.</p> <p>5. Magister der Architektur, Magister architecturae, Mag. Arch.</p> <p>6. Magister der Architektur, Magister architecturae, Mag. Arch.</p> <p>7. Bachelor of Science in Engineering (BSc) (aufgrund eines Bachelorstudiums), Diplom-Ingenieur/in (Dipl.-Ing. oder DI) für technisch-wissenschaftlich Berufe (aufgrund eines Bachelor— und eines Masterstudiums entspricht MSc)</p> <p>8. Diplom-Ingenieur, Dipl.-Ing.</p>	<p>1. Technische Universität Graz (Erzherzog-Johann-Universität Graz)</p> <p>2. Technische Universität Wien</p> <p>3. Universität Innsbruck (Leopold-Franzens-Universität Innsbruck)</p> <p>4. Universität für Angewandte Kunst in Wien</p> <p>5. Akademie der Bildenden Künste in Wien</p> <p>6. Universität für künstlerische und industrielle Gestaltung in Linz</p> <p>7. Fachhochschule Kärnten</p> <p>8. Universität Innsbruck (Leopold-Franzens— Universität Innsbruck)</p>	<p>Bescheinigung des Bundesministers für Wissenschaft, Forschung und Wirtschaft über die Erfüllung der Voraussetzung für die Eintragung in die Architektenkammer/</p> <p>Bescheinigung einer Bezirksverwaltungsbehörde über die Ausbildung oder Befähigung, die zur Ausübung des Baumeistergewerbes (Berechtigung für Hochbauplanung) berechtigt</p>	<p>1998/1999</p> <p>2004/2005</p> <p>2008/2009</p>

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	9. Diplom-Ingenieur, Dipl.-Ing.	9. Technische Universität Graz (Erzherzog-Johann — Universität Graz)		2008/2009
	10. Diplom-Ingenieur, Dipl.-Ing.	10. Technische Universität Wien		2006/2007
	11. Master of Architecture (MArch) (aufgrund eines Bachelor— und eines Masterstudiums entspricht MSc)	11. Universität für künstlerische und industrielle Gestaltung Linz		2008/2009
		11. Akademie der bildenden Künste Wien		2008/2009
	12. Masterstudium der Architektur	12. Universität für angewandte Kunst Wien		2011/2012
Polska	magister inżynier architekt (mgr inż. arch.)	— Politechnika Białostocka — Politechnika Gdańska — Politechnika Łódzka — Politechnika Śląska — Zachodniopomorski Uniwersytet Technologiczny w Szczecinie — Politechnika Warszawska — Politechnika Krakowska — Politechnika Wrocławska	Zaświadczenie o członkostwie w okręgowej izbie architektów/Zaświadczenie Krajowej Rady Izby Architektów RP potwierdzające posiadanie kwalifikacji do wykonywania zawodu architekta zgodnych z wymaganiami wynikającymi z przepisów prawa Unii Europejskiej osoby nie będącej członkiem Izby	2007/2008
		— Krakowska Akademia im. Andrzeja Frycza Modrzewskiego		2003/2004
	dypłom ukończenia studiów wyższych potwierdzający uzyskanie tytułu zawodowego magistra inżyniera architekta	— Wyższa Szkoła Ekologii i Zarządzania w Warszawie		2011/2012
		— Politechnika Lubelska		2008/2009
	dypłom studiów wyższych potwierdzający uzyskanie tytułu zawodowego magistra inżyniera architekta	Politechnika Świętokrzyska		2012/2013

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
Portugal	Carta de curso de licenciatura em Arquitectura	— Faculdade de Arquitectura da Universidade técnica de Lisboa	Certificado de cumprimento dos pré-requisitos de qualificação para inscrição na Ordem dos Arquitectos, emitido pela competente Ordem dos Arquitectos	1988/1989
		— Faculdade de arquitectura da Universidade do Porto		
		— Escola Superior Artística do Porto		
		— Faculdade de Ciências e Tecnologia da Universidade de Coimbra		
		— Universidade Lusíada de Lisboa		1986/1987
		— Faculdade de Arquitectura e Artes da Universidade Lusíada de Vila Nova de Famalicão		1993/1994
		— Universidade Lusófona de Humanidades e Tecnologia		1995/1996
		— Instituto Superior Manuel Teixeira Gomes		1997/1998
		— Universidade do Minho		1997/1998
		— Instituto Superior Técnico da Universidade Técnica de Lisboa		1998/1999
		— ISCTE-Instituto Universitário de Lisboa		1998/1999
	Carta de Curso de Licenciatura em Arquitectura e Urbanismo	— Escola Superior Gallaecia		2002/2003
	Para os cursos iniciados a partir do ano académico de 1991/1992	— Faculdade de Arquitectura e Artes da Universidade Lusíada do Porto		1991/1992
	Mestrado integrado em Arquitectura	— Universidade Autónoma de Lisboa		2001/2002
		— Universidade Técnica de Lisboa (Instituto Superior Técnico)		2001/2002
	Carta de curso de Mestrado integrado em Arquitectura	— Universidade do Minho		1997/1998
		— ISCTE-Instituto Universitário de Lisboa		1999/2000
		— Universidade Lusíada de Vila Nova de Famalicão		2006/2007

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		<ul style="list-style-type: none"> — Universidade Lusófona de Humanidades e Tecnologias — Faculdade de Arquitectura da Universidade Técnica de Lisboa — Universidade de Évora — Escola Superior Artística do Porto (ESAP) — Instituto Superior Manuel Teixeira Gomes Universidade Lusíada do Porto — Universidade Fernando Pessoa — ESG/Escola Superior Galileia — Universidade Lusíada de Lisboa — Universidade de Évora — Universidade do Porto Universidade Católica Portuguesa Centro Regional das Beiras Universidade Católica Portuguesa Centro Regional das Beiras 		1995/1996 2008/2009 2007/2008 1988/1989 (Licenciatura) 2007/2008 (Mestrado) 2006/2007 2006/2007 2006/2007 2002/2003 1988/1989 2001/2002 2003/2004 2001/2002 2001/2002
România	Diploma de arhitect	<ul style="list-style-type: none"> — Universitatea de arhitectură și urbanism "ION MINCU" — la propunerea Facultății de Arhitectură — Universitatea "Politehnică" din Timișoara — Universitatea Tehnică din Cluj—Napoca — Universitatea Tehnică "Gheorghe Asachi" din Iași 	Certificat de dobândire a dreptului de semnătură și de înscriere în Tabloul Național al Arhitecților Certificat de dobândire a dreptului de semnătură și de înscriere în Tabloul Național al Arhitecților	2010/2011 2011/2012 2010/2011 2007/2008

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
Slovenija	Magister inženir arhitekture/Magistrica inženirka arhitekture	Univerza v Ljubljani, Fakulteta za Arhitekturo	Potrdilo Zbornice za arhitekturo in prostor o usposobljenosti za opravljanje nalog odgovornega projektanta arhitekture	2007/2008
Slovensko	Diplom inženiera Arhitekta (titul Ing. arch.)	— Slovenská technická univerzita v Bratislave, Fakulta architektúry, študijný odbor 5.1.1 Arhitektúra a urbanizmus	Certifikát vydaný Slovenskou komorou architektov na základe 3-ročnej praxe pod dohľadom a vykonania autorizačnej skúšky	2007/2008
		— Technická univerzita v Košiciach, Fakulta umení, študijný odbor 5.1.1. Arhitektúra a urbanizmus		2004/2005
	Diplom magistra umení (titul Mgr. art.)	— Vysoká škola výtvarných umení v Bratislave, študijný odbor 2.2.7 "Architektonická tvorba"		2007/2008
Suomi/Finland	Arkitekhdin tutkinto/Arkitektexamen	— Teknillinen korkeakoulu/Tekniska högskolan (Helsinki)		1998/1999
		— Tampereen teknillinen korkeakoulu/Tammerfors tekniska högskola		
		— Oulun yliopisto/Uleåborgs universitet		
		— Aalto-yliopisto/Aalto-universitetet		
		— Tampereen teknillinen yliopisto/Tammerfors tekniska universitet		
		— Oulun yliopisto		2010/2011
		— Tampereen teknillinen yliopisto		2010/2011
		— Aalto-yliopisto/Aalto-universitetet		2010/2011
Sverige	Arkitektexamen	— Chalmers Tekniska Högskola AB		1998/1999
		— Kungliga Tekniska Högskolan		
		— Lunds Universitet		
		— Umeå universitet		2009/2010

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
United Kingdom	1. Diplomas in architecture	1. — Universities	Certificate of architectural education, issued by the Architects Registration Board.	1988/1989
		— Colleges of Art		
		— Schools of Art	The diploma and degree courses in architecture of the universities, schools and colleges of art should have met the requisite threshold standards as laid down in Article 46 of this Directive and in Criteria for validation published by the Validation Panel of the Royal Institute of British Architects and the Architects Registration Board.	2006/2007
		— Cardiff University		2008/2009
		— University for the Creative Arts		2008/2009
		— Birmingham City University		2008/2009
		— University of Nottingham	EU nationals who possess the Royal Institute of British Architects Part I and Part II certificates, which are recognised by ARB as the competent authority, are eligible. Also EU nationals who do not possess the ARB-recognised Part I and Part II certificates will be eligible for the Certificate of Architectural Education if they can satisfy the Board that their standard and length of education has met the requisite threshold standards of Article 46 of this Directive and of the Criteria for validation.	1988/1989
	2. Degrees in architecture	2. Universities		
	3. Final examination	3. Architectural Association		2011/2012
	— Final Examination (ARB/RIBA Part 2)	— Architectural Association	An Architects Registration Board Part 3 Certificate of Architectural Education	
	4. Examination in architecture	4. Royal College of Art		
	5. Examination Part II	5. Royal Institute of British Architects		2006/2007
	6. Master of Architecture	6. — University of Liverpool		2006/2007
		— Cardiff University		2006/2007
		— University of Plymouth		2007/2008
		— Queens University, Belfast		2009/2010
		— Northumbria University		2009/2010
		— University of Brighton		2010/2011
		— Birmingham City University		2010/2011
		— University of Kent		2006/2007
		— University of Ulster		2008/2009
		— University of Edinburgh/Edinburgh School of Architecture and Landscape Architecture		2009/2010
		— Leeds Metropolitan University		2011/2012
		— University of Newcastle upon Tyne		2011/2012
		— University of Lincoln		2011/2012
		— University of Huddersfield		2012/2013
		— University of the West of England		2011/2012

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
		— University of Westminster		2011/2012
		— University for the Creative Arts		2013/2014
	7. Graduate Diploma in Architecture	7. University College London		2006/2007
	8. Professional Diploma in Architecture	8. University of East London		2007/2008
		— Northumbria University		2008/2009
	9. Graduate Diploma in Architecture/MArch Architecture	9. University College London		2008/2009
	10. Postgraduate Diploma in Architecture	10. — Leeds Beckett University (until 2014 Leeds Metropolitan University)		2007/2008
		— University of Edinburgh		2008/2009
		— Sheffield Hallam University		2009/2010
	11. MArch Architecture (ARB/RIBA Part 2)	11. University College London		2011/2012
		— University of Nottingham		2013/2014
		— University of East London		2013/2014
	12. Master of Architecture (MArch)	12. Liverpool John Moores University		2011/2012
		— De Montfort University		2011/2012
		— Arts University Bournemouth		2011/2012
		— Nottingham Trent University		2012/2013
		— Sheffield Hallam University		2013/2014
	13. Postgraduate Diploma in Architecture and Architectural Conservation	13. University of Edinburgh		2008/2009
	14. Postgraduate Diploma in Architecture and Urban Design	14. University of Edinburgh		2008/2009
	15. MPhil in Environmental Design in Architecture (Option B)	15. University of Cambridge		2009/2010
	— MPhil in Architecture and Urban Design	— University of Cambridge		2013/2014

Country	Evidence of formal qualifications	Body awarding the evidence of qualifications	Certificate accompanying the evidence of qualifications	Reference academic year
	16. Professional Diploma in Architecture: Advanced Environmental and Energy Studies	16. University of East London/Centre for Alternative Technology		2008/2009
	17. MArchD in Applied Design in Architecture	17. Oxford Brookes University		2011/2012
	18. M'Arch	18. University of Portsmouth		2011/2012
	19. Master of Architecture (International)	19. University of Huddersfield		2012/2013
	20. Master of Architecture with Honours	20 Cardiff University		2015/2016
	21. MArch (Architecture)	21. Kingston University		2013/2014
	22. MArch in Architecture	22. University of Greenwich		2013/2014
	23. The degree of Master of Architecture in the College of Humanities and Social Science	23. University of Edinburgh/Edinburgh School of Architecture and Landscape Architecture		2012/2013

(¹) The two denominations "Università degli studi di (name of the town)" and "Università di (name of the town)" are equivalent terms that identify the same University.'

