State aid and compensation for closing coal plants

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Germany – big compensation demands

- Coal Commission – recommends:
  - 2018-2022: agree compensation to close 5GW lignite (negotiations) / 7.7GW hard coal (tenders)
  - 2023-2030: agree compensation to reduce to 9GW lignite (negotiations) / 8GW hard coal (draft law: until 2026 - tenders, from 2027 still to be defined)
  - After 2030: remaining 17GW closes, no compensation specified

- Industry demands huge sums – RWE: €1.2bn-€1.5bn per GW

...can they justify €20bn for RWE / €70bn for German coal fleet?
Is compensation a State aid?

• Is it a **State aid?**

• Main question – does it confer an advantage?
  • *Asteris*: compensation for government damage does not confer advantage

• German Constitution – Article 14(1) – redefinitions of property rights require compensation only for ‘undue hardship’, e.g.:
  • Investment not recouped
  • Expectation of future profits
  • Operator could expect unchanged regulatory framework at time of investment

• Likely to be a State aid for many / most plants
Would this State aid be compatible?

• Assessed under Article 107(3)(c) – the usual 6 criteria – some doubts:
  • Objective of common interest: CO2 / air pollution reduction (no doubt)
  • Necessity: economics could force out before 2030?
  • Appropriateness of compensation: not needed in other countries? Other options?
  • Incentive effect: economics could force out before 2030?
  • Proportionality: limit to minimum – net extra cost of early closure likely to be low
  • Effects on competition / trade: possible to replace coal at low cost – limited impacts

• Might be compatible – but serious analysis required, doubts
Alternatives

• Pay only strict minimum compensation required by national laws
• Focus support on just transition
• Council Decision similar to hard coal mines decision – aid linked to approved categories tied to 2030 closure
Thank you

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