

The EU State aid temporary framework in support of economic sectors affected by the covid-19 outbreak.

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The European Commission adopted on March 19, 2020, the new *interim* framework for State aid to support economic sectors affected by the crisis following the covid-19 outbreak.

As stated by the Commission's Executive Vice-President responsible for competition policy, Margrethe Vestager, *"the new framework allows Member States maximum flexibility in the application of State aid rules to support the economy in these difficult times."*

The Commission has not adopted this type of instrument since the financial crisis of 2008.

The new rules, as indicated in the Communication¹, allow national authorities to take urgent and effective measures to help citizens and businesses, in particular SMEs, to overcome the financial difficulties caused by the economic slowdown induced by the pandemic spread of the coronavirus.

According to the outlined regulatory framework, the scenario prompted by covid-19 constitutes a critical downturn of the economy, thus making it possible to invoke Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU) as the legal basis for the aid.

Three are the type of measures that have been hence foreseen:

- i.* Aid schemes in the form of direct grants, tax reductions, and advance payments, up to the amount of 800.000 Euro per company, in order to meet urgent liquidity needs;
- ii.* Public guarantees for bank loans, to ensure that private banks continue to provide financing to companies, provided that the guarantee respects predetermined time limits (maximum six years) and amount limits, which are set differently depending on whether or not the company is an SME (in particular, these limits are set according to the amount of the underlying loan, which in turn cannot exceed certain thresholds);
- iii.* Public financing at subsidized interest rates, within time limits and in amounts similar to those for guarantees, which may cover immediate working capital and investment needs.

For each of these aid measures, the Communication adopted by the Commission details several conditions and thresholds must be met to be declared compatible².

Since such aid can also be granted through the banking system, the Communication provides safeguards for banks channeling aid to the real economy to avoid distortions of competition among credit institutions by ensuring that the aid is transferred to the recipient firms. In addition, under the new framework, national authorities may also grant short-term export insurance in derogation from the ordinary rules.

¹ The Communication is available at https://ec.europa.eu/commission/presscorner/detail/en/IP_20_496.

² The aid measures provided according to the Communication are addressed only to companies that are not in difficulty, according to the meaning of EU law, or to companies that have encountered difficulties after 31 December 2019.

The new framework is in force and applies to measures introduced until December 31, 2020. However, the Commission reserves the right to assess its possible extension in the future. Public authorities notifying the Commission of measures that comply with the criteria of the Communication will have a swift authorization process.

Ultimately, it must be underlined that the temporary regulatory framework does not alter the general principles on State aid, leaving open the possibility of introducing national measures which do not fall under the present case as aid, e.g., in favor of entities that do not carry out an economic activity (such as funds to support the health service, or in favor of consumers), or measures applicable *erga omnes* (such as tax and social security deferrals).

It must be recalled that national authorities may adopt aid measures to compensate damages caused directly by the epidemic, according to Article 107(2)(b) of the TFEU³.

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³ For example, in the recent Commission Decision dated March, 12, 2020, SA. 56685, the Commission approved a Danish aid scheme providing for the reimbursement of tickets for major events cancelled due to the epidemic (the text of the decision is available at https://ec.europa.eu/competition/state_aid/cases/2020/1/285054_2139535_70_2.pdf).