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The European Commission State Aid Temporary Framework – a SEE perspective

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State aid measures that distort competition and trade within the European Union are generally prohibited under the Treaty on the Functioning of the European Union. Still, the European Commission has the power to approve state aid measures, the objective of which is to remedy serious economic disturbances. Thus, in light of the COVID-19 outbreak and its impact on the economy of the Member States, on March 19, 2020 the European Commission adopted a Temporary Framework for State aid measures to support the economy of the European Union. According to the European Commission, the introduced measures are compatible with the objective of the EU internal market and ensure a level playing field. The main categories of permitted assistance by the Member States under the initial version of the Temporary Framework were (i) aid in the form of direct grants, repayable advances or tax advantages, (ii) aid in the form of guarantees on loans, (iii) aid in the form of subsidized interest rates for loans, (iv) aid in the form of guarantees and loans channeled through credit institutions or other financial institutions, and (v) short-term export credit insurance. Subsequently, the Temporary Framework has been amended three times:

- on 3 April 2020, the European Commission made extensions to increase possibilities for public support in connection with research, testing and production of products relevant to counteracting the COVID-19 pandemic, as well as to protecting jobs and supporting the overall stability of the economy (including tax deferrals and wage subsidies for employees);

- on 8 May 2020 the European Commission made amendments to extend the scope of the Temporary Framework to recapitalisation and subordinated debt measures; and

- on 29 June 2020, with its third amendment the European Commission expanded the Temporary Framework to further support micro, small and start-up companies, as well as to incentivize private investments.

The Temporary Framework lays out the minimum conditions each state aid scheme must adhere to, alongside respective monitoring and reporting obligations on the Member States, whereas countries from the SEE region have adopted various measures:

Bulgaria

The Bulgarian government has implemented a multifold response to the COVID-19 pandemic, employing a number of measurec under the Temporary Framework:

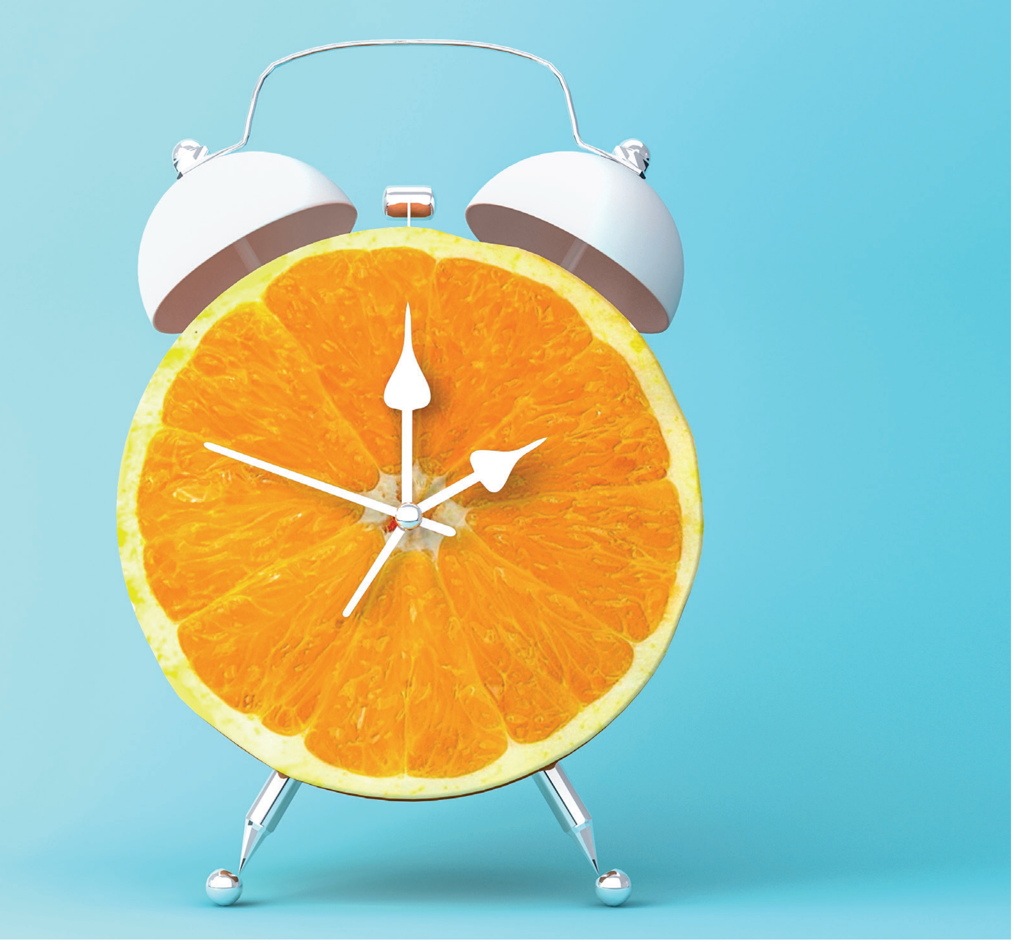
- One of the responses to the COVID-19 outbreak of the Bulgarian government is the "60/40 wage subsidy programme", which has been extended up until 30 September 2020. This mechanism allows Bulgarian authorities to cover 60% of the wage costs of businesses that would have to otherwise discharge workers due to the COVID-19 outbreak, in case such business have registered a decrease in their income. The measure is generally open to all sectors of the economy;

- A second measure introduced in Bulgaria was the extension of the annual reporting and payment terms of corporate income tax, expenses tax, gambling tax, merchant vessel operation tax and personal income tax with three months;

- The third central measure adopted in Bulgaria is the provision of guarantees by the state-owned Bulgarian Development Bank:

Anti-crisis programme for supporting small and medium enterprises – the programme is available to companies from all sectors, and allows credit institutions to rely on portfolio guarantees from the Bulgarian Development Bank for loans of up to 150,000 euro (with the most interest being registered from companies active in the transport, tourism, hotel and restaurant sectors);

Zero-interest loans for natural persons



der bank loans provided to large companies and SMEs with turnover exceeding 4 million euro in 2019. Such guarantees are subject to certain conditions being met in respect of the loan, including the maturity of the loan being limited to six years, the value of the loaned amount corresponding to the guidelines in the Temporary Framework, as well as the loan being in line with the capital and investment needs of the company in question. These measures will be managed by the Export-Import Bank of Romania on behalf of the Romanian state.

Another important aid scheme approved on the basis of the Temporary Framework consists of support in the amount of 3.3 billion euro which is aimed at benefiting SMEs affected by the pandemic. The scheme includes both direct grants and state guarantees for investment bank loans, as well as capital financing for the purpose of enabling these companies to continue their activities.

in unpaid leave and self-employed persons – the program aims to help persons who are temporarily unable to work as a result of the ongoing pandemic, by the Bulgarian Development Bank guaranteeing loans provided by credit institutions of up to 2,250 euro (which shall be repaid within a period of five years, with a maximum grace period of twenty-four months).

Bulgaria has still not introduced any recapitalisation measures in the form of equity and/or hybrid instruments to undertakings facing financial difficulties.

Croatia

In Croatia, different state aid schemes have been introduced under the Temporary Framework to mitigate the consequences arising from the COVID-19 pandemic. In particular, the said schemes are mainly intended to address liquidity problems, as the aid is granted in the form of liquidity loans, public guarantees, tax deferrals and exemptions, as well as through direct grants for the preservation of jobs. Consequently, Croatia has thus far not adopted any recapitalisation measures or subordinated debt instruments, and – according to publicly available information – there is no indication of any company having submitted a formal written request for such aid. A circumstance to be taken into account is that certain large Croatian companies dealing with solvency problems are not eligible for support under the Temporary Framework because their difficulties arose prior to the COVID-19 pandemic. A prominent example in this regard is the company Djuro Djakovic that was granted with rescue aid approved by the European Commission in May 2020 under the general regime for firms in difficulties – that is, unrelated to the COVID-19 pandemic. According to the media, so far only the national carrier Croatia Airlines has asked for financial assistance in bearing the consequences of the pandemic. The government is currently considering several solutions to help Croatia Airlines, including merging the said carrier with certain airports and other state-owned entities into a holding.

It remains to be seen whether Croatia will resort to the use of recapitalisation measures or subordinated debt instruments in the future.

Romania

Following the adoption of the Temporary Framework, Romania notified and obtained approval for several significant state aid measures from the European Commission, with the main two schemes benefiting private companies in Romania which were affected by the pandemic.

The first state aid scheme of 800 million euro provides for state guarantees un-

While no support in the form of direct recapitalisation measures or subordinated debt has been adopted on the basis of the revised Temporary Framework, it is reasonable to expect that such type of scheme will follow soon.

Slovenia

The Slovenian government adopted the Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic. The specific goals of the law are to preserve jobs and keep businesses in operation, to improve the social position of people, particularly those most at risk due to the COVID-19 virus, to provide emergency assistance to the self-employed, to improve the liquidity of businesses, to provide support to scientific research projects in the fight against the COVID-19 and the provision of aid to agricultural businesses. In order to secure those goals various measures were adopted, including wage compensation measures, loans for financing businesses, capital consolidations, insurance instruments for exporting companies etc.

However, Slovenia has so far not adopted any framework (and so far has not initiated the public debate) on recapitalisation measures or subordinated debt instruments.