

State aid Temporary Framework: crisis response and beyond

Tackling the economic consequences of the COVID-19 outbreak

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The Context

- EU businesses suffering from liquidity shortages due to lockdowns and other restrictive measures put in place by governments in order to tackle the pandemic and protect public health
- New (adapted) State aid control measures required to avoid harmful subsidy races to the detriment of cohesion
- Flexible approach, on substance and procedures
- Cooperation between MS and COM

Commission's response to the crisis

- TF adopted 19 March 2020; amended 5 times (3 April, 8 May, 29 June and 13 October 2020 and 28 January 2021)
- In order to: allow maximum flexibility under State aid rules for MS to address the needs of undertakings in response to the Covid-19 crisis
 - Based mainly on Art.107(3) (b) TFEU- serious disturbance in the EU economy as a whole
 - (107(3)(c) Covid-related R&D/infrastructure/products)
- Safeguard the level playing field – targeted and proportionate aid
- In parallel, dedicated mailbox and flexible internal procedures (the average duration to process State aid decisions corresponds to around 31calendar days; some decisions in 1 day...)

Other possibilities:

- General measures that do not constitute aid (e.g. deferral of payments of VAT or social security contributions)
- Measures under other legal bases: GBER, Art.107 (2)(b) TFEU, Art.107(3)(c)TFEU,
 - Article 107(2)(b) TFEU: aid to make good damage caused by exceptional occurrences.
 - Article 107(3)(b) TFEU: aid to remedy serious disturbance in economy of Member State.
 - Article 107(3)(c) TFEU: aid to facilitate the development of certain economic activities (e.g; R&R Guidelines)

TF: General conditions

- Applicable until 31.12.2021
- All sectors and companies except:
 - Medium-sized and large undertakings already in difficulty by 31.12.2019;
 - Aid to financial sector (but possible indirect aid to financial institutions channelling public guarantees or loans, provided the aid is passed through and aid in form of wage subsidies for employees)
- Aid under Temporary Framework may be cumulated with each other save exceptions (guarantees with subsidised loans; investment aid under the TF with other investment aid for the same eligible costs)
- Transparency: aid above 100.000 (10.000 fish/agri) with exceptions
- Reporting: annual report + list of measures under approved schemes by 31.12.2021

Limited amounts of aid and wage subsidies

- Section 3.1 allows for limited amount of aids in all forms: Per undertaking capped at nominal amount of EUR 1.8 million (EUR 270,000 for fisheries and EUR 225,000 for agriculture)
- Granted in different forms: direct grants, tax and payment advantages, repayable advances, guarantees, loans and equity, provided the nominal amount remains below the cap.
 - + conversion of repayable instruments into direct grants until 31 December 2022 (notification by end-2021)
- Section 3.10 allows selective wage subsidy schemes : Up to 80% of the monthly gross salary over up to 12 months for employees who otherwise would have been laid off

Liquidity support

- Sections 3.2 and 3.3 allow public guarantees and public loans at reduced guarantee fees/interest rates
 - Guarantees/loans must be granted by 31 December 2021 and may not last longer than 6 years (8 years with “modulation”)
 - TF lays down minimum margins
 - Duration and minimum margins can be modulated within limits (e.g. lower guaranteed coverage could offset a longer duration)
 - The overall amount of the loans per beneficiary is capped: double annual wage bill, 25% of turnover, or liquidity need of next 12 months (18 months for SMEs)
 - For guarantees the coverage may no exceed 90% (35 % if first loss).
- Section 3.9. **Selective temporary tax deferrals schemes:** If scheme covers whole economy, then no aid. But if limited to certain sectors, regions or kind of undertakings, then selective and aid. Deferral of taxes or of social security contributions until end 2022.

Support for uncovered fixed costs

- Section 3.12 allow support for uncovered fixed costs
 - the aid is granted no later than 31 December 2021 on the basis of a scheme
 - covers uncovered fixed costs (~losses) incurred between 1 March 2020 and 31 December 2021;
 - beneficiaries must suffer at least 30% turnover decline compared to same period in 2019;
 - Maximum aid intensity: 70% and 90% for micro and small companies
 - Overall aid amount: EUR 10 million
 - No cumulation with other aid for the same eligible costs

Research and production related to COVID-19

- Section 3.6 allows aid for COVID-19 relevant R&D
- Section 3.7 allows aid for testing and upscaling infrastructures for COVID-19 relevant products.
- Section 3.8 allows aid for the production of COVID-19 relevant products.
 - Simplified rules for incentive effect.
 - High aid intensities (80% for 3.6 and 3.8, 75% for 3.7; plus 15%-points, if more Member States involved or quicker implementation), based on broad range of eligible costs.
 - Partial repayment of aid if project is not finished within 6 months (for 3.7 and 3.8).
 - Certain access rights to research results and testing infrastructure must be granted.
 - The three sections cannot be cumulated for same eligible costs.

Recapitalisation measures

- Section 3.11 allows recapitalisation of companies:
 - Aim is to avoid unnecessary exit of companies which were viable before the crisis
 - Amounts are limited to what is necessary to restore capital structure
 - Minimum requirements for entry price for shares and remuneration of instruments
 - Incentives for redemption of measure (e.g. step-up mechanism and governance rules)
 - Safeguards against undue competition distortions
 - Individual aid above EUR 250 million needs to be notified individually + exit strategy required for large undertakings if recapitalisation exceeds EUR 250 million
 - Public reporting on use of aid (in particular with regard to green transition)
- **Governance:**
 - Dividend ban
 - Cap on management remuneration (as long as 75% of measure has not been redeemed)
 - Acquisition ban (as long as 75% of measure has not been redeemed)
 - Structural competition measures in exceptional cases where beneficiary has significant market power

Aid to cover the damage caused by COVID-19 (Article 107(2)(b) TFEU)

- Aid may cover the damage (*e.g.* loss of income) suffered as a direct consequence of the COVID-19 outbreak provided:
 - There is a causal link between the COVID-19 outbreak combined with the restrictive measures recognised as exceptional occurrence and the damage suffered during the reference period.
 - There is a mechanism in place to ensure that there is no overcompensation and that aid does not cover difficulties encountered by the beneficiary that are not related to COVID-19 + aid is limited to the damage not covered by an insurance
- Aid may be cumulated with other forms of aid (*e.g.* aid under Temporary framework) provided there are different eligible costs

FAQ

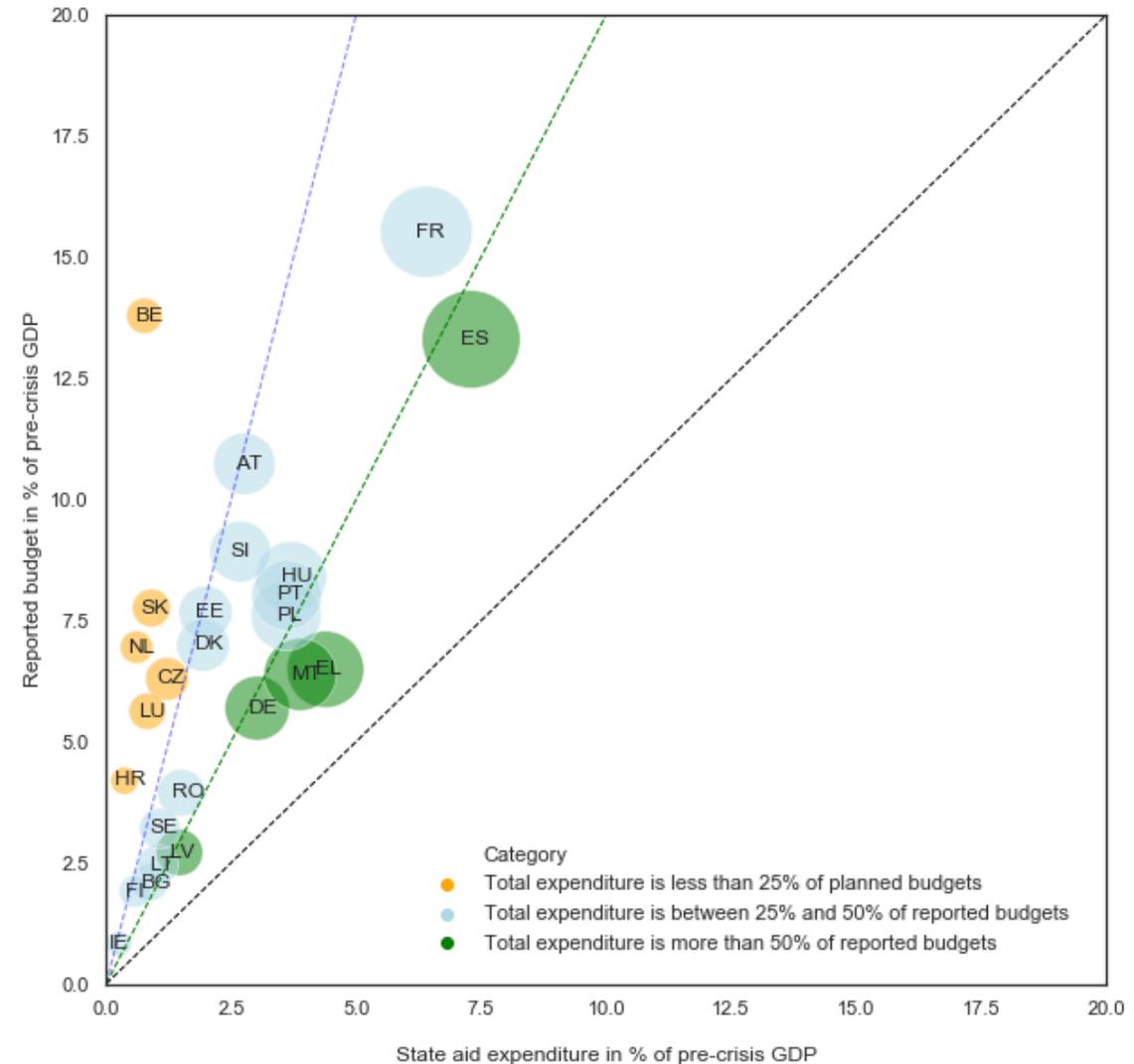
- How to apply the TF thresholds per « undertaking » ?
- *Normal rules apply : **Undertaking = economic unit** (Annex I GBER);*
- When to assess if « undertaking in difficulty » ?
- *31 December 2019 (exception for small and micro enterprises); undertaking not in difficulty at the time of granting of aid*
- Cumulation TF measures?
- *Normally yes, save exceptions (guarantees + loans); cumulation with GBER, DM specific rules apply*
- Doubts? COMP-COVID@ec.europa.eu

Use of State aid to address the crisis

- As of 27 May 2021, the Commission has taken **550 decisions** approving 673 national measures notified by 27 Member States.
 - 83% approved under the TF. Most frequently used chapters:
 - Section 3.1 TF **Limited amounts of aid**, 309 decisions (**54%**)
 - Section 3.2 TF Aid in the form of **guarantees** on loans, 75 decisions (**13%**)
 - Section 3.3 TF Aid in the form of subsidised interest rates for **loans**, 55 decisions (**10%**)
 - Other legal bases: **Article 107(2)b TFEU (10% of all decisions)**, **Article 107(3)b TFEU (4%)**
- Around **€3.04 trillion** of **total State aid approved** (estimated nominal amounts (not aid element) budgets (not granted aid), difficulty to estimate the budget for some measures and some measures without budget)

Take-up of measures

- State aid expenditure as of 31 December 2020 is still significantly lower than the total amounts committed in the national budgetary laws:
 - In particular, BE, SK, DK, NL, CZ, LU and HR had disbursed less than 25% of their commitments as of 31 December 2020.
 - EL, MT, ES, DE and LV are the most advanced in the implementation of their SA measures.



Use of State aid in Czechia

- The Commission has so far taken **37 decisions** approving 47 State aid measures for Czechia
 - 34 under the Temporary Framework, 1 under Article 107(2)b TFEU and 2 under Article 107(3)b TFEU.
 - **31 decisions under Section 3.1 TF Limited amounts of aid**
- Around **€33 billion** of budget approved
 - More than the 1% of the total €3.04 trillion of total State aid approved for the EU27
 - Corresponding to 15% of the Czech 2019 GDP

Main schemes

Working title	Legal basis	Decision date	Estimated budgets (EUR m)	Type of measure	Beneficiary sector	Beneficiary type
SA.57195 Czechia – COVID-19 related loan guarantees managed by CMZRB Amended by SA.59705	Temporary Framework	15-05-2020	18,500	TF2: Guarantees on loans	All sectors	All sizes (excl. very large)
SA.57094 Czechia – COVID-19 – Loan guarantee scheme to support the economy in response to the COVID-19 crisis Amended by SA. 58015, SA.60374	Temporary Framework	05-05-2020	5,200	TF2: Guarantees on loans	Specific support for Exporting companies	Large enterprises
SA.62477 COVID-19: Programme of uncovered fixed costs	Temporary Framework	26-04-2021	1,900	TF12: Support for uncovered fixed costs	All sectors	All sizes
SA.62471 Umbrella Scheme for Programmes to Support Entrepreneurs Affected by the Worldwide Spread of COVID-19 under section 3.1 of Temporary Framework	Temporary Framework	10-05-2021	1,900	TF1: Direct grants, repayable advances, tax advantages or guarantees on loans	All sectors	All sizes
SA.61358 COVID-19 - CZ - Compensation bonus to self-employed persons and to partners in small limited liability companies	Temporary Framework	12-02-2021	1,248	TF1: Direct grants, repayable advances or tax advantages	All sectors	All sizes

TF and beyond: bouncing back from the crisis

- **Objective:** Progressively phase out crisis aid without creating cliff-edge effects
- Several possibilities under TF beyond expiry date, e.g. longer liquidity support under certain conditions (max. 8 years); **conversion** of repayable instruments into direct grants (**section 3.1**) until **31.12.2022** , **conversion** guarantees or loans into direct grants (**section 3.12**) before **31.12.2021**...
- A **third survey** will be launched before the summer, for completion before 30 September 2021
 - Assess need to amend/possibility to phase out temporary rules
 - **Feedback from MS important!!**

Thank you



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