France COVID-19

French Response to COVID-19

As recalled by the European Commission on March 13, in light of the COVID-19 outbreak, Member States can act using a number of public support measures that fall outside the scope of State aid control. Such measures include providing financial support from national funds to health services or other public services to tackle the COVID-19 situation, providing public financial support directly to citizens and providing public support measures that are available to all companies, such as, for example wage subsidies and suspension of payments of corporate and value added taxes or social contributions.

The European Commission also recalled that Member States have multiple options to support specific companies or sectors suffering from the consequences of the COVID-19 outbreak within the existing EU State aid framework. In this respect, article 107(3)(c) TFEU enables Member States to meet acute liquidity needs and support companies facing bankruptcy, article 107(2)(b) TFEU enables Member States to compensate specific companies or specific sectors in the form of schemes for the damage directly caused by such exceptional occurrences as the COVID-19 outbreak. Additional measures, such as under the de minimis Regulation and the General Block Exemption Regulation, can also be put in place by Member States without involvement of the Commission.

In France, the Minister for Economy announced on February 21 that the French Government was planning to implement a number of measures to support businesses in light of the COVID-19 outbreak. The French legislator enacted specific legislation on March 23 (Law n° 2020-290 of March 23, 2020) giving the Government a broad mandate to adopt measures of economic urgency. On March 27, when the present article was submitted, some of these measures had already been passed into law while others will most likely not require it:

- The ability for employers to postpone, for up to 3 months, all or part of the payment of their employee and employer social contributions;
- The ability for companies to request a settlement plan to spread, defer or even, for the most difficult situations, cancel the payment of direct tax debts, subject to an individual examination of the requests by the tax authorities, taking into account the specific situation and financial difficulties of the companies. An accelerated procedure for the reimbursement of refundable corporate tax claims in 2020 was also implemented;
- The recognition by the French state of the COVID-19 outbreak as a case of force major for public procurement. As a result, penalties will not be applied for delays in all public procurement contracts (Ordonnance n° 2020-319 dated March 25, 2020);
- The ability for small businesses in difficulty to request the deferral of rent payments as well as water, gas and electricity bills (Ordonnance n° 2020-316 dated March 25, 2020);
- The creation of a Solidarity Fund, consisting of an automatic aid of €1500 to support the smallest companies that meet the following criteria: less than €1 million in annual turnover, an annual taxable profit of less than €60,000 and which either undergo an administrative closure or experience a loss of turnover of more than 70% for March 2020 compared to March 2019 (Ordonnance n° 2020-317 dated March 25, 2020).

As was done in the past to address the 2008 financial crisis, the Commission adopted on March 19, on the basis of Article 107 (3)(b) TFEU, a Temporary Framework allowing Member States to guarantee the availability of sufficient liquidity for businesses of all types and preserve the continuity of economic activity during and after the COVID-19 outbreak.

In addition to the above-stated support measures, on March 17, France notified three aid schemes to support the French economy in the context of the COVID-19 outbreak. The Commission approved the schemes under the Temporary Framework on March 21:

- Two schemes enabling the French public investment bank Bpifrance Financement S.A.
(public body owned by the French State) to provide State guarantees on commercial loans and credit lines, respectively, for enterprises with up to 5,000 employees.

- A scheme to provide State guarantees to banks on portfolios of new loans for all types of companies. This is direct aid to the companies that will enable banks to quickly provide liquidity to any company that needs it.

The Commission found that the French measures were in line with article 107(3)(b) TFEU and the conditions set out in the Temporary Framework. In particular, they covered guarantees on loans with a limited maturity and size. They also limited the risk taken by the State to a maximum of 90%. This ensured that support was swiftly available at favourable conditions and limited to those who needed it in the current situation. To achieve this goal, the measures also involved minimum remuneration and safeguards to ensure that the aid was effectively channelled by the banks to the beneficiaries in need. The Commission concluded that the measures were necessary, appropriate and proportionate to remedy the serious disturbance in the French economy and approved the measures.

These three schemes are expected to mobilise more than €300 billion of liquidity support and were passed into French law on March 23 (Law n°2020-289 of March 23, 2020).

* Sandra Caussanel and Thomas Gourdeau are Attorneys at the Paris, COUTRELIS & ASSOCIES, Paris-Brussels.

*Sandra Caussanel and Thomas Gourdeau*