Germany COVID-19

Germany's COVID-19 Measures and State Aid Control

Given the outbreak of the COVID-19 pandemic, European State aid law is being put to the extreme. In order to curb the economic downturn caused by the crisis, the European Commission quickly identified ways in which support measures can be brought into line

with State aid law. On 19 March 2020, a 'Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak'¹ was issued. In addition, 'Information' was published 'that should be provided for notifications of aid under Article 107 (2)

(b)'.² In record-breaking time (within one day) the Commission decided about a Danish scheme compensating for the subsequent losses and additional costs suffered by organisers of cancelled events.³

Germany is also attempting to limit economic damages through support. So far, the measures have been less in the area of direct (non-refundable) grants than in easier access to loans and guarantees as well as better conditions in this regard. The goal is to maintain the liquidity of the companies.

The Federal Cabinet and the Parliament decided on a supplementary budget of 156 billion euros, from which aid programs are to be financed as well as foreseeable tax losses. Social protection⁴ is granted to certain population groups but also support for companies. Primarily, companies are provided with easier access to loans and guarantees. The Federal Govern-

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- 1 Communication from the Commission, C(2020) 1863 final. A corresponding Notification Template can be found under: <https://ec.europa.eu/competition/state_aid/what_is_new/notification-template-for-aid-temporary-framework-coronavirus.pdf>.
- 2 <https://ec.europa.eu/competition/state_aid/what_is_new/Notification_template_107_2_b_PUBLICATION.pdf>.
- 3 European Commission, Decision of 12 March 2020, State aid SA.56685 (2020/N) – Compensation scheme for cancellation of events related to COVID-19.
- 4 Examples are: Easier access requirements for social benefits or legally guaranteed remaining in rented apartments despite rent debts. The landlord's right to terminate leases was restricted by law regarding rental contracts for land or premises. In addition, consumers and micro-businesses receive a deferral of payments or performance on certain ongoing obligations to not jeopardize the provision with basic services, such as electricity and telecommunications.

ment has, for example, extended the existing funding programs of the Kreditanstalt für Wiederaufbau (KfW)⁵ to a broader target group and decided to improve the conditions and the guarantee programs of the guarantee banks.⁶ This easy access to credit has been notified by the Commission pursuant to Art. 107 (3) (b) TFEU based on the above-mentioned Temporary Framework.⁷ In a second decision, the Commission notified aid in the form of guarantees on loans administered by the federal and regional authorities, the promotional banks of the federal⁸ and regional authorities and the guarantee banks (*Bürgschaftsbanken*).⁹ In both decisions, the Commission qualified the measures as aid and found them compatible with the internal market pursuant to Article 107 (3) (b) TFEU. The aid will be provided in the form of subsidised interest rates for loans and guarantees on loans.

Companies affected by the COVID-19 pandemic can also receive interest-free deferrals from tax liabilities from authorities until the end of 2020. Tax advances can be adjusted. In addition, the tax authorities refrain from enforcement measures and late payments for over-

due tax debts.¹⁰ Moreover, easier access to state-supported compensation payments for employees is supposed to be granted regarding so-called short-time working. In this regard, the state pays part of the employee's wages as a replacement for the operation-related loss of work to prevent the employee from losing a significant amount of earnings due to shorter working hours.

Direct aid in the form of lost grants is currently only being granted with restraint. As of now, direct grants are available for solo self-employed and small businesses in economic difficulties as a result of COVID-19.¹¹ Federal funds amounting to €50 billion are available for this. The funds are intended to pay for ongoing operating

costs such as rents, loans for business premises, leasing rates and the like. Accordingly, companies with up to five employees can receive a one-time payment of up to €9,000 for three months. If a company has between 6 and 10 employees, a one-time payment of up to €15,000 can be granted for three months.

It can be assumed that there will be further support measures at least in certain sectors. In view of the slump in economic activity in many places, the damage assessment is likely to have only just begun. Additional direct grants also will then possibly be notified to the Commission.

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5 The KfW is a German state-owned development bank. 80% of its shares are owned by the Federal Republic of Germany, 20% are owned by the States of Germany (*Länder*).

6 For details see: <<https://www.kfw.de/KfW-Konzern/Newsroom/Aktuelles/KfW-Corona-Hilfe-Unternehmen.html>>.

7 European Commission, Decision of 22 March 2020, State aid SA.56714.

8 See for example: <https://lfa.de/website/de/aktuelles/_informationen/Coronavirus/index.php>.

9 European Commission, Decision of 24 March 2020, State aid SA.56787.

10 Cf. <<https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Schlaglichter/Corona-Schutzschild/2020-03-19-steuerliche-Massnahmen.html>>.

11 Cf. <<https://www.bmwi.de/Redaktion/DE/Pressemitteilungen/2020/20200323-50-milliarden-euro-soforthilfen-fuer-kleine-unternehmen-auf-den-weg-gebracht.html>>.

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