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EU legal framework on State aid and Coronavirus: flexibility in the enforcement of the rules

During the press conference of 13 March 2020, Executive Vice-President Margrethe Vestager made a statement regarding the enforcement of EU State aid in connection with measures adopted by Member States to combat the negative repercussions of COVID-19 on the economy.¹

Even if certain measures favoring European undertakings may fall within the scope of State aid rules, the Treaty on the Functioning of the EU (the “**Treaty**”) provides that those measures can and, in some cases, must be authorized.

- Article 107, **paragraph 2, letter b)** of the Treaty allows national authorities to use public resources to compensate any damage caused by exceptional occurrences. This provision, which is particularly relevant for sectors like tourism, means that, following notification of a measure by a Member State, the Commission will confirm (i) whether there is indeed an exceptional occurrence and (ii) the absence of over-compensation. Once the Commission is satisfied that these two requirements are met, it must authorize the aid. On 12 March 2020, the Commission adopted the first decision of this type for a Danish aid scheme that provides for the reimbursement of the tickets for events of major importance that have been cancelled due to COVID-19. The decision was taken within 24 hours.²
- Article 107, **paragraph 3, letter b)**, allows the Commission to approve national measure, which “*remedy a serious disturbance in the economy of a Member State*”. Ms Vestager explained that the Italian situation falls within the scope of this rule.
- If the measure is directly adopted by EU institutions using European funds (e.g. EU structural funds, or European Investment Bank’s funds), State aid rules do not apply, as the resources do not belong to a Member State.

For measures aimed at stimulating the economic recovery, the Commission will apply the rules set out in Article 107, **paragraph 3, letter c)**, of the Treaty. To ease the authorization procedure of these measures, the Commission is preparing a special legal framework, like it did in connection with measures against the financial crisis.

To conclude, the Commission said that is ready “*to do whatever is necessary to support the Europeans and the European economy*” and State aid rules will be a key part of the EU’s action to facilitate recovery.

¹ Press release of the European Commission of 13 March 2020, available at https://ec.europa.eu/commission/presscorner/detail/en/ip_20_459.

² Commission Decision of 12 March 2020 – SA.56685 - *Danish scheme to compensate damages caused by cancellations of large public events due to COVID-19 outbreak* (the text of the decision has not been published yet; the press release is available at https://ec.europa.eu/commission/presscorner/detail/en/IP_20_454).

Gianni, Origoni, Grippo, Cappelli & Partners has set up an in-house **Task Force** to constantly monitor the evolution of legislation in the regions affected by the Coronavirus and is at your entire disposal to support you in defining, drafting and implementing the most advisable strategies to limit the impact of the spread of the Coronavirus on the operations of your business and the management of your existing commercial relations. For our previous newsletters on this subject, please click [here](#).

For any questions, please send a mail to: coronavirus@gop.it

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