



The response of the European Union to Covid-19 (Part II)

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TRANSCRIPT

Hello again, and welcome to the second blog on European Union response to COVID-19. The impact on business industries, the economies of Member States is obviously huge. Every single economic sector has been affected by the pandemic, transport, banks, airlines, entertainment industry, you name it.

What the European Union can do? This is a matter of the European law that we don't usually study in this course. I will try, first of all, to give you some background information. But you know, a very important feature of European law is the fact that public spending decision aid subsidies that a Member State gives to its own undertakings, is subject to specific EU law rules, State aid control.

State aid control is about saying very very, very simply that a Member State cannot simply give some money or cash or tax reduction, per specific undertaking. Why? Because obviously, this has the effect of favouring that undertaking against all the other possible competitors in other Member States. Granting some aid to a specific industry or sector of the industry has the effect of distorting the competition and preventing free movement, so it's basically unlawful. However, the treaty provides that if the Member State have some sort of derogation or justification, this could be actually- despite the fact that the measure is classified as aid, it could be deemed compatible.

Now, in the present situation, it's quite clear that the very first form of support for the industry obviously comes from national budget. All the Member States have reacted to the pandemic by providing a series of state support measures. These are very likely to be aid because obviously they're targeting very specific industries or very specific sectors. In theory, they could be declared as unlawful by the European Commission. However, because of the emergency, the European Commission was quick in reacting and simply came up last March with a series of new rules on how European law should be applicable. They adopted what is called a temporary framework of first aid measures related to COVID-19. This is going to be in place till the end of the year.

What these new measures are about? Now first, they simply reaffirm a very important truth. That is to say, the state aid and European law does not apply if there is a state measure which applies across the board. In other words, for instance, the decision of the UK Government to cover up to 80% of the monthly wages of employees, it's directed to all employees.

Therefore, there is no distortion, there is no effect on trade, it's a general measure, it's no aid. That's fine. The other measures which could be targeting specific undertakings could be classified as aid. However, under the new rules, they could be made compatible on two grounds. First, because they could be linked to the emergency caused by COVID-19. Secondly, there is a specific ground listed in the treaty which says the Member States might actually need to pump up some money in the economy in order to remedy to a serious disturbance in their economies. That's another ground of justification.

The new rules are actually really dealing with these two issues. For instance, emergency. Italy granted 50 millions of Euro to undertakings producing ventilators. Of course, that's an aid because it does favour that specific undertaking, but because of the emergency, the European Commission in just one day, simply said, "That's fine. You can go ahead. You don't actually have any problems on the European law." Or for instance, even the UK measure concerning some grants to the small and medium enterprises once again, although it targets specific undertakings, it's a general measure, and it's actually in order to help those particular firms, which are the worst hit so it's absolutely fine.

Now, just one second. I mentioned the UK and once again, I better repeat that the UK is bound to respect the state aid law until the end of 2020. Actually, it can be subject to investigation even for further four years. Again, it's completely bound by those rules. Obviously, these are somehow the most faithful broad situations.

Slightly more complicated is that those measures with the Member States are saying that they're adopting in order to help the economy. This could be quite a lot of measures. The new rules, they clarify that direct grants, state guarantees, loans can all be exempted. However, the new rules, they provide for at least a little bit of guidance to check that, in reality, these money or these extra incentives are actually going really to those undertakings they are actually in need. For instance, there's a great emphasis on the idea that banks would play a central role because banks will have to then deliver liquidity and funding to the undertakings in trouble.

The new rules clarify that obviously, the state guarantees or support that the state is providing will not go directly to the banks. In other words, the banks cannot use this money in order to return to profitability or for themselves, but they have to make everything necessary as to pass on to the undertakings these state support measures. There are quite a lot of details exactly how Member State needs to comply with these rules, how Member State need to really to show or provide evidence that they actually doing everything necessary in order for these measures to end up with the undertakings that they deserve, and they need this state support.

Somehow, there are new rules in place. Some people say is how the European Commission can check whether in reality those measures are really working and they're effective. The commission has approved a lot of measures in a very short period of time, like in two days, they gave the green light to lots of measures. It's a fair question, but that is to say, that at least that the temporary framework provides some kind of guidance on how to check whether the Member States are behaving properly.

Also, it's interesting because the commission decided to put everything online very quickly, so you have a little bit of a snapshot about all the interventions made by all Member States in this area. It gives us a clear picture of what's going on.

However, a personal observation. State aid is about checking that money is well spent, but it's not about checking how much money is actually spent by the Member States. Here you can see obviously, that there are massive differences between Member States. Let's just take an example of the measures adopted by Germany.

Germany set up an economic stabilization fund, which is basically about ensuring the liquidity and solvency of companies that were healthy and competitive before the pandemic that drew them down to trouble. This fund includes the following instruments, looking at the measure and guarantee framework of 400 billion, a credit authorization for 100 billion, and also further credit authorization for another 100 billion. That's quite an impressive intervention.

Obviously, other Member States do not have exactly the same amount of money. In other words, those that can spend more, they'll be able to help the economy more. Those that can actually help-, they can spend a little bit less, they will be a little bit more in trouble. Obviously, this is not a question that can be solved only by competition law or state aid control. It's a fact that there are different Member States with different kinds of resources and budgets, and that's why probably apart from this phase of emergency where the European Union is basically deploying some pre-existing rules and prerogatives... Lots of people are saying that in reality, what we need to do is a little bit more and perhaps coming up with some more inventive and new instruments which could actually guarantee that all Member States which are hit by this terrible pandemic, are treated the same and are receiving if they needed a little bit of extra help.

As you know, on the 24th of April, the European Council will meet exactly to discuss whether there's any chance to provide for some extra support. Well, we'll see exactly how it goes. I'm sure they will have a very long and intriguing videoconference, all the heads of the Member States.

Anyway, once again, thanks for your attention. I repeat my invitation to stay safe. Hopefully, we'll see each other soon at some beautiful graduation of the University of London.