



COVID-19 KEY EU DEVELOPMENTS POLICY & REGULATORY UPDATE

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This regular alert covers key regulatory EU developments related to the COVID-19 situation. It does not purport to provide an exhaustive overview of developments and contains no analysis or opinion.

LATEST KEY DEVELOPMENTS

Competition & State Aid

- European Commission adopts first positive assessments of Recovery and Resilience Plans from 8 Member States
- European Commission approves new and amended Member State measures to support the economy

Trade / Export Controls

- European Parliament's Committee on International Trade meets with United States Trade Representative Katherine Tai

Medicines and Medical Devices

- Brussels Court of First Instance orders AstraZeneca to deliver 50 million doses of COVID-19 vaccine to Member States

Cybersecurity, Privacy & Data Protection

- BEREC issues draft Report on COVID-19 Crisis – Lessons Learned regarding Communications Networks and Services for a Resilient Society

COMPETITION & STATE AID

State Aid

European Commission adopts first positive assessments of Recovery and Resilience Plans from 8 Member States (see [here](#))

As of 21 June 2021, the European Commission had adopted positive assessments of the Recovery and Resilience Plans of the below 8 Member States. These Member State plans set out the reforms and public investment projects foreseen for implementation with the support of the Recovery and Resilience Facility (RRF):

- Austria (€3.5 billion)
- Denmark (€1.5 billion)
- Germany (€25.6 billion)
- Greece (€30.5 billion)
- Italy (€191.5 billion)
- Luxembourg (€93 million)
- Portugal (€16.6 billion)
- Spain (€69.5 billion)

These approvals are a key step towards disbursing funds to these Member States under the RRF, the key component of NextGenerationEU, the EU's plan for rebounding from the COVID-19 crisis. The RRF will provide up to €672.5 billion to finance reforms and investments (i.e., grants totaling €312.5 billion and €360 billion in loans).

The Commission assessed the Member State plans on the basis of criteria set out in the RRF Regulation. The Council will now have, in principle, four weeks to adopt the Commission's proposals.

Additionally, on 18 June 2021, the Commission received the latest Recovery and Resilience Plan from Estonia, which requested a total of €982.5 million under the RRF.

16 Member State plans remain pending approval (see [here](#)), with the following total amounts requested under the RRF: Belgium (€5.9 billion); Croatia (€6.4 billion); Cyprus (€1.2 billion); Czechia (€7.1 billion); Estonia (€982.5 million); Finland (€2.1 billion); France (€40.9 billion); Hungary (€7.2 billion); Ireland (€1 billion); Latvia (€1.8 billion); Lithuania (€2.2 billion); Poland (€23.9 billion); Romania (€29.3 billion); Slovakia (€6.6 billion); Slovenia (€2.5 billion); and Sweden (€3.2 billion).

Commission assessment of plans. The Commission will assess the Member State plans within the next two months.

The RRF guidelines, notably, make clear that the investment projects included in Member State recovery plans must comply with State aid rules. The Commission published practical guidance for swift treatment of projects under State aid rules, as well as a number of sector-specific templates to help Member States design and prepare the State aid elements of their recovery plans (*Jones Day Commentary, "EU Member State COVID-19 Recovery Plans Must Comply with State Aid Rules," March 2021, see [here](#)*).

In assessing the Member State plans, the Commission will also, in particular, determine whether the plans dedicate at least 37% of expenditure to investments and reforms that pursue climate objectives and 20% to the digital transition.

	<p>The Commission will continue to closely engage with the remaining Member States to deliver robust national recovery plans.</p>
<p>European Commission approves new and amended Member State measures to support the economy (see here and here)</p>	<p>Since the onset of the coronavirus outbreak, the Commission has adopted a significant number of State aid measures under Article 107(2)b, Article 107(3)b and under the Temporary Framework.</p> <p>The most recent measures adopted to support the economy and companies affected by coronavirus outbreak include:</p> <ul style="list-style-type: none"> • €3.5 billion amendment to Dutch scheme to further support companies affected by the coronavirus outbreak. • €8.6 million Belgian scheme to support operators in the tourist accommodation sector affected by the coronavirus outbreak. • €3.2 million Latvian scheme to support media companies affected by the coronavirus outbreak. • €610,000 Romanian scheme to support companies active in the independent cultural sector in Bucharest affected by the coronavirus outbreak. • Polish scheme to compensate large companies affected by the coronavirus outbreak, which will take the form of subsidized loans at favorable interest rates. • Modification to Swedish scheme to support companies active in air ambulance transport affected by the coronavirus outbreak, including a budget increase from approximately €5 million to approximately €6.2 million. • Modification to Swedish rent rebate scheme to support sectors affected by the coronavirus outbreak, including a budget increase from approximately €795 million to approximately €1.38 billion. • €824 million amendment to Swedish scheme to support uncovered fixed costs of companies affected by the coronavirus outbreak. • €25 million Italian scheme to support audio-visual production companies affected by the coronavirus outbreak. • €150 million Italian measure to support rail freight and commercial passenger operators affected by the coronavirus outbreak. • €800 million Italian scheme to support companies affected by the coronavirus outbreak. • €170 million Finnish scheme to support uncovered fixed costs of companies affected by the coronavirus outbreak.

TRADE / EXPORT CONTROLS

<p>European Parliament's Committee on International Trade meets with United States Trade Representative</p>	<p>On 15 June 2021, members of the European Parliament's Committee on International Trade (INTA) met with United States Trade Representative Katherine Tai, in the context of the first European Union – United States Summit in seven years.</p> <p>Topics discussed during the INTA meeting included the role of trade in ending the COVID-19 pandemic, the proposal put forward by several</p>
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Katherine Tai (see [here](#))

countries for a potential temporary waiver of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) to boost the production of and access to vaccines, as well as the advancement of a worker-centered trade policy.

On the same day, European Commission President Ursula von der Leyen and President Joe Biden of the United States also welcomed the establishment of the Trade and Technology Council (TTC) (see [here](#)), a forum launched to coordinate the two blocs’ approaches to major future trade, economic, and technology issues.

The EU and US represent the world’s largest bilateral trade relationship, accounting for 42% of both global GDP and global trade in goods and services.

MEDICINES AND MEDICAL DEVICES

Brussels Court of First Instance orders AstraZeneca to deliver 50 million doses of COVID-19 vaccine to Member States (see [here](#))

On 18 June 2021, the Brussels Court of First Instance issued an interim order in the European Commission’s case against AstraZeneca alleging a violation of the Advanced Purchase Agreement (APA) entered into between the parties.

The Court found that AstraZeneca breached the APA by not complying with the agreed deadlines for supplying the vaccine doses. In this respect, AstraZeneca had deliberately chosen not to use all of the manufacturing sites at its disposal to manufacture and deliver the vaccines to the Member States (exclusion of the UK site, in particular), but rather prioritized the UK over the EU.

The Court noted that *“delays of the vaccination may have damaging consequences on individual freedoms of the EU citizens and, as a consequence, on the economic life of the EU and the Member States. Those are downsides that are sufficiently serious to justify an immediate decision on the number of doses of vaccine that AstraZeneca had to deliver to the EU”*.

On these grounds, the Court ordered AstraZeneca to deliver 50 million doses of vaccine by 27 September 2021 according to the following deadlines:

- 15 million doses by 26 July;
- 20 million doses by 23 August; and
- 15 million doses by 27 September.

The interim order also provides for a €10 penalty for each dose not delivered according to such deadlines.

CYBERSECURITY, PRIVACY & DATA PROTECTION

BEREC issues draft Report on COVID-19 Crisis – Lessons Learned regarding Communications

On 16 June 2021, the Body of European Regulators for Electronic Communications (“BEREC”) published a draft Report on COVID-19 crisis – lessons learned regarding communications networks and services for a resilient society (“Report”), which is now open to public consultation.

The COVID-19 pandemic’s lockdown measures, introduced from March

Networks and Services for a Resilient Society ([here](#))

2020, highly impacted Europe's electronic communications markets. In particular, the demand for electronic communications services and the requested capacity of electronic communications networks increased significantly.

Against this background, the BEREC prepared the draft Report to document measures that national regulatory authorities ("NRAs") implemented during the pandemic and to assess the impact of the crisis on electronic communications networks.

Regarding cybersecurity issues, according to the draft Report, certain NRAs issued warnings addressed to end-users on the increase of fraud and cyber-attacks related to COVID-19, due to the significant use of online services. In addition, certain NRAs implemented a coordination unit specifically dedicated to end-users of online services.

The draft Report also referred to efforts by the Commission, EU Member States and NRAs to combat COVID-19 disinformation campaigns and to warned against fraud, cyber- and physical attacks in the telecom sector.

Nevertheless, in BEREC's view, enhanced and more efficient communication channels remain to be developed and implemented to tackle such challenges. According to the draft Report, *"a considerable European effort is necessary to have a visible impact in this area"*.

The public consultation welcomes comments on the draft Report until 26 July 2021.

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