

## **Corona Aid in Kosovo**

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### **I. Introduction**

The Government of Kosovo, even before registering any COVID-19 patients, began to take measures aiming to prevent the spread of corona virus. Starting from 11<sup>th</sup> of March all educational public and private institutions did close and all public/private gatherings were prohibited. After the confirmation of the first COVID-19 patient the Government did suspend all internal and international transport, closed bars, restaurants, pubs, whereas citizens were instructed to work from home. On the 15<sup>th</sup> of March a public health emergency was declared by the Council of Ministers.<sup>1</sup> Following this, the anti-COVOD-19 measures approved became more and more restrictive.

A much contested decision was approved by the Government of Kosovo on the 23<sup>rd</sup> of March providing for the restriction of the movement of the citizens according to defined schedules during the day and only for specific needs.<sup>2</sup> Immediately the President of the Republic, being against decision no. 01/15 challenged its constitutionality before the Constitutional Court.<sup>3</sup>

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<sup>1</sup> Decision of the Council of Ministers No. 01/11, dated 15.03.2020.

<sup>2</sup> Decision of the Council of Ministers No. 01/15, dated 23.03.2020.

<sup>3</sup> The request of the President of the Republic of Kosovo was submitted on 24.03.2020. See Decision of the Constitutional Court dated 6.04.2020, paragraph 9.

The later claimed that only the declaration of ‘an emergency situation’, could justify the restriction of certain constitutional rights and freedoms.<sup>4</sup>The Constitutional Court in its decision of 6 April 2020 distanced itself from the evaluation of the adequacy and necessity of the measures taken by the Government aiming to prevent and control spread of COVID-19.<sup>5</sup> Importantly, the Constitutional Judges concluded that the Council of Ministers had acted beyond its competences, abolishing decision No.01/15.<sup>6</sup>

Considering the impacts of the COVID-19 crisis on the economy of the country, the Government did approve on the 30<sup>th</sup> of March an emergency financial package.<sup>7</sup> Only 10 days before, the Parliament of the Republic of Kosovo had been able to approve the 2020 law on the State budget.<sup>8</sup>

While these are challenging times for each country, in Kosovo they were unfortunately characterised also by a tense political situation. On the 25<sup>th</sup> of March the Parliament approved a motion of no confidence submitted against the Kosovo Government.<sup>9</sup>

## II. The emergency financial package

The COVID-19 response emergency financial package of the Kosovo Government mainly contains liquidity and financing measures through interest free loans, export support for businesses, as well wage subsidies. However, the Ministry of Finance and Transfer, took one month to approve the appropriate by-

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<sup>4</sup> The Constitution of the Republic of Kosovo Article 131/1 “The state of Emergency” provides: The President of the Republic of Kosovo may declare a State of Emergency when: (1) there is a need for emergency defense measures; (2) there is internal danger to the constitutional order or to public security; or (3) there is a natural disaster affecting all or part of the territory of the Republic of Kosovo.

<sup>5</sup> Decision of the Constitutional Court dated 6.04.2020 paragraph 177 (i).

<sup>6</sup> Decision of the Constitutional Court dated 6.04.2020. See in particular paragraphs 253, 273, 288,287.

<sup>7</sup> Decision No. 01/19, dated 30/03/2020 of the Government approving the emergency financial package.

<sup>8</sup> Law No. 07/L-001, dated 19.03.2020 “On the budget of the Republic of Kosovo for the year 2020”.

<sup>9</sup> Decision of the Parliament of the Kosovo No. 07-V-13, dated 25.03.2020.

legal acts clarifying the implementation of the above-mentioned governmental package. Only on the 27<sup>th</sup> of April the Minister of Finance and Transfer was finally able to approve operational plan.<sup>10</sup> Whereas, the 15<sup>th</sup> of May was the application deadline in order to be considered eligible for the measures analysed below.

### **1. Employment support**

A wage subsidy of 170 Euro is provided for all contracted employees. This compensation funded by the State budget cannot last longer than two months. Pursuant to the decision no. 31-2/2020 of the Minister of Finance and Transfer beneficiaries of such wage compensation are employees of companies<sup>11</sup> and other employers whose activity has been directly or indirectly affected by the health emergency situation declared in Kosovo. The employers must evidence financial difficulties through cash books, bank balance sheet and other evidences.

With regard to self-employed citizens they also benefit a wage subsidy of 170 Euro. Again their activity must have been temporarily closed based on the orders of the Government of Kosovo, or indirectly affected due to the restrictions implemented to avoid the spread of COVID-19.

The State covers only pension insurance and the tax payments of the above-mentioned beneficiaries calculating that in end they will receive the amount of 170 Euro.<sup>12</sup>

Lastly, unemployed citizens who lost their jobs due to the COVID-19 crisis will receive an unemployment compensation. Funded by the State budget this compensation will last three months. Moreover, citizens with severe social

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<sup>10</sup> An order of the Minister of Finance and Transfer did provide an operational plan for the implementation was approved on the 3<sup>rd</sup> of April which was going to be abrogated three weeks later by a second order approved by the Minister of Finance and Transfer on the 27<sup>th</sup> of April. See: Order No. 31/2020, dated 3/04/2020 of the Minister of Transfer and Finance approving the operational plan for the emergency financial package. Order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance approving the operational plan for the emergency financial package.

<sup>11</sup> The term companies is widely interpreted including also non-governmental organisations, religious communities and similar entities. See measure no. 3, order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance.

<sup>12</sup> Measure 3 (c) order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance.

conditions and who do not receive any regular monthly income, will also be beneficiaries of a compensation of 130 Euro. Whereas, all social assistance payments will be doubled, covering a period of two months.<sup>13</sup>

## **2. Liquidity and financial measures for Businesses**

Free-interest loans, aiming to ensure liquidity, for all public enterprises facing difficulties due to public health emergency situation, will be ensured. Pursuant to order No. 31-2/2020 public enterprises that could not collect debts from customers within the provided deadlines, are eligible for the above-mentioned loans. Whereas, the financial difficulties can be evidenced through financial reports, statements and other documents.<sup>14</sup>

With regard to micro enterprises they can seek financial liquidity through certain programs of Kosovo Guarantee Fund. These loans will be channelled through the Commercial Banks of Kosovo, whereas only 50% of their interest rate will be compensated.<sup>15</sup> On the other hand, interest free loans will be channelled again through Commercial Banks for certain companies/authorized companies offering basic services similar to public services.<sup>16</sup> These companies should evidence that it was not possible for them to gather debts from customers within the provided deadlines causing them problems with their liquidity.

Export support will be provided for exporters in the Republic of Kosovo. The most important economic activities of export will be identified at the end of the public of public health emergency situation.<sup>17</sup>

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<sup>13</sup> Measures 1; 15; 18, order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance.

<sup>14</sup> Measure 4, order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance. A special group from the Ministry of Transfer and Finance will review the applications.

<sup>15</sup> The loans can be up to 10.000 Euro for a period of 24 months. Whereas 50% of the loan will be guaranteed from the Kosovo Guarantee Fund and 30% will be guaranteed by the Government of Kosovo. See Measure 10 (a), order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance.

<sup>16</sup> The loans will be due for repayment up to 31.12.2020, whereas 50% of the loan will be guaranteed from the Kosovo Guarantee Fund and 30% will be guaranteed by the Government of Kosovo. See measure 10 (b), order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance.

<sup>17</sup> Measure 13, order No. 31-2/2020, dated 27/04/2020 of the Minister of Transfer and Finance.

Finally, micro, small and medium enterprises will receive a rent compensation up to 50% for a period of two months. However, the above-mentioned enterprises are excluded from such a compensation in case they have pre-paid their annual rent.

Additionally, three separate orders of the Minister of Finance and Transfer amending, abrogating one another within a period of one month provide for the postponement of taxes.<sup>18</sup> At present, extended deadlines are provided for the submission of corporate and individual income tax returns, as well as other tax liabilities. Moreover, postponed deadlines are provided also for the submission of the financial statements, management reports as well as audit reports.<sup>19</sup>

### III. Final remarks

The measures aiming to mitigate the consequences of COVID-19 outbreak in Kosovo are adopted and implemented in a very tense political situation. On the 25<sup>th</sup> of March the Parliament approved a motion of no confidence submitted against the Government,<sup>20</sup> proposed by one of the Governmental partners. Additionally, the acting Government, particularly the Ministry of Finance and Transfer did not have a clear vision of how to implement the emergency financial package and other measures aiming to support business, employees and unemployed citizens. Several orders of the acting Minister of Finance and Transfer, have been adopted, amended, abrogated within weeks.

While these are challenging times, when it is necessary to take measures to address *inter alia* the impact of the COVID-19 outbreak on the economy, one more observation should be made. Kosovo should respect the State aid rules, protecting competition. Consequently, COVID-19 financial measures that might entail State aid should be carefully scrutinised against the appropriate legal framework. An internal State aid control system has already been established in Kosovo, pursuant to the obligations deriving from the Stabilisation and Association Agreement with

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<sup>18</sup> Order of the Minister of Finance and Transfer no. 26/2020, dated 19.03.2020 amended by order of the Minister of Finance and Transfer No. 43/2020, dated 27.04.2020 both abrogated by order of the Minister of Finance and Transfer No. 43-1/2020, dated 29.04.2020.

<sup>19</sup> Order of the Minister of Finance and Transfer No. 43-1/2020, dated 29.04.2020.

<sup>20</sup> Decision of the Parliament of the Kosovo No. 07-V-13 dated 25.03.2020.

the European Union. Pursuant, the Kosovo law on State aid any public aid which distorts or threatens to distort competition by favouring certain undertakings is prohibited. In this framework the Kosovo State Aid Commission, the authority ensuring the application of the State aid rules has a key role. Importantly, developments in the European Union in this framework should be taken into consideration. However at present, the “dormant” State Aid Commission in Kosovo, whose first decisions taken after six years of its establishment, are published in the official journal one year later after their approval, does not seem to have been involved in scrutinizing any COVID-19 State aid measure.<sup>21</sup>

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<sup>21</sup> Available at: <https://gzk.rks-gov.net/> last accessed 08.05.2020. It is a legal obligation to publish the decisions of the State Aid Commission in the Official Gazette of the Republic of Kosovo. See Article 14 (6) of the law No. 05/L – 100, dated 17.01.2017 “On State Aid”.