

**MINISTRY OF ECONOMY**

*State Aid Law*

**Skopje, March 2003**

# LAW ON STATE AID

## Article 1

### Basic Provisions

- (1) This Law regulate procedure and monitoring of granted State aid with aim of implementation of principles of market economy, maintaining fair competition and implementation of commitments undertaken by international agreements ratified by the Republic of Macedonia, containing state aid provisions.
- (2) This law does not apply to State aid granted in the sector of agriculture and fisheries.

## Article 2

### Objectives of the law

- (1) Any State aid, irrespectively whether it is granted under an aid scheme or as an individual aid award, which distorts or threatens to distort competition by favoring certain undertakings or certain products, is incompatible with this law insofar as it may affect trade between the Republic of Macedonia and the European Community.
- (2) Aid granted contrary to the provisions of this law shall be reimbursable.
- (3) Export aid is not compatible with this law.

## Article 3

### Definitions

- (1) **State aid** is any aid, granted by a State aid provider, in any form whatsoever, favoring certain undertakings or the production of certain goods or the delivery of certain services.
- (2) **State aid provider** is Government of the Republic of Macedonia, state administrative organs, units of local self-government and other organ or institution providing or planning to provide State aid.
- (3) **Export aid** is aid related to export activities directly linked to the quantities exported and to current expenditure linked to the export activity.
- (4) **Regional aid** (aid for regional development) is aid correspondin regional policy goals of the Republic of Macedonia, supporting productive initial investment or job creation, which is linked to investment.
- (5) **Small enterprise** is an enterprise which employ not more than 50 employees and have an annual turnover not exceeding 7 million € or an annual balance sheet total not exceeding 5 million €
- (6) **Medium-sized enterprise** is an enterprise which employ not more than 250 employees and have an annual turnover not exceeding 40 million € or an annual

balance sheet total not exceeding 27 million € and which are not owned as to 25 % or more of the capital or voting rights by one enterprise or jointly by several enterprises, falling outside the definition of a small or medium-sized enterprise.

- (7) **Rescue aid** is aid granted temporarily to rescue enterprises with difficulties in their functioning, and.
- (8) **Restructuring aid** is aid for restructuring an enterprise, which is indispensable to accomplish a restructuring plan restoring the long-term viability for working of the enterprise.
- (9) **Interested parties** are the aid recipient and competing undertakings or associations of undertakings, whose interests may be affected by the granting of aid.
- (10) **Aid scheme** is legal act upon which granting of state aid is planned, as well is determined amount ceiling of available aid and form of its granting.

#### **Article 4**

##### **Compatible aid**

Compatible with Art 2 of this Law is:

- a) aid having a social character, granted to individual consumers, if it doesn't make discrimination related to the origin of the products,
- b) aid to make good the damage caused by natural disasters or exceptional events including military activities.
- c) aid granted outside the sectors of transport, agriculture and aquaculture, which is not linked to export-related activities and not conditional upon the use of domestic products over goods imported from the Community, if the amount of **de minimis** aid received by an aid recipient does not exceed 100.000 € over any period of three years, irrespective of the form of aid or the objective pursued.

#### **Article 5**

##### **Aid which may be compatible**

Compatible with Art 2 of this Law may be:

- a) regional aid to promote the economic development of areas of the Republic of Macedonia, where the standard of living is abnormally low or where there is serious underemployment,
- b) aid to remedy a serious disturbance in the national economy or to promote the execution of a project of significant economic interest for the Republic of Macedonia,
- c) aid to facilitate the development of certain economic activities or of certain areas of the Republic of Macedonia, where it does not cause serious injury to the proper functioning of the agreements referred to in Art.1,
- d) aid to promote culture and heritage conservation where such aid does not seriously affect trading conditions and competition.

## **Article 6**

### **Regional aid**

- (1) Aid for regional development may be granted in the form of grants, soft loans, State guarantees or tax incentives.
- (2) The aid intensity may be up to 50 % of the investment amount or of the wage costs of employees on newly created jobs over a period of two years.
- (3) The investment and the new jobs created must be maintained for at least five years.
- (4) Conditions and procedure for regional aid are established by the Government of the Republic of Macedonia.
- (5) The aid ceiling of paragraph 2 of this Article is subject to revision four years after the entry into force of the Interim Agreement on Trade and trade-related matters between the Republic of Macedonia and the European Community.

## **Article 7**

### **Aid for small and medium-sized enterprises**

- (1) Aid aiming at promoting the activities of small and medium-sized enterprises by supporting investment in tangible and intangible assets up to 30 % of the eligible investment cost or the wage cost over a period of two years may be compatible, provided that the total aid intensity does not exceed 75 % of the investment cost.
- (2) Aid aiming at providing consultancy, which is not a continuous activity, and aid supporting the first participation of an undertaking in fairs and exhibitions may be compatible up to 50 % of the participation cost.

## **Article 8**

### **Rescue and restructuring aid**

- (1) Aid for rescuing to the amount indispensable may be compatible in the form of a State loan or State guarantee at market costs for a period of 6 months, during which a restructuring plan is prepared.
- (2) Restructuring aid may be compatible if it is based on a restructuring plan containing measures of restructuring which will guarantee the long-term viability of the undertaking, and which is approved under the provisions of this law.
- (3) Conditions and procedure for granting rescue and restructuring aid are established by the Government of the Republic of Macedonia.

## **Article 9**

### **State Aid Commission**

- (1) All State aid is monitored by the State Aid Commission (in the further text: Commission).
- (2) The Commission is composed of three members, professional and competent persons, which are appointed by the Government of the Republic of Macedonia, two members on a proposal of the Minister of Economy and one member on a proposal of the Minister of Finance, for a term of four years with a possibility for reappointment.
- (3) The Commission shall be independent in its function.
- (3) The decisions of the Commission on the compatibility of State aid are binding and are published in the "Official Gazette of Republic of Macedonia".
- (4) Decisions of paragraph 4 of this article can be appealed to the authorized Commission of the Government of the Republic of Macedonia by the State aid provider and interested parties. An appeal will not suspend the implementation of the decision of the Commission.
- (5) The Commission, by the 31<sup>st</sup> March of every year, will submit a report on the previous year to the Government of Republic of Macedonia containing information on its decisions, the total amount and the distribution of aid given both under aid schemes and as individual aid awards.
- (6) Administrative-professional support to the Commission will be realized in the Ministry of Economy.
- (7) Information and data of confidential character, gained in the procedure for monitoring of state aid, members of the Commission and employees in the Ministry of Economy working on professional and administrative-professional matter are obliged to keep as confidential even after expiry of their function or labor relation.

## **Article 10**

### **Notification obligation, standstill clause and reports**

- (1) With the exception of compatible aid of Article 4 any State aid provider shall notify in advance plans for providing aid or modifying existing aid schemes to the Commission.
- (2) Before the decision of Commission on a notified aid measure, the aid shall not be put into effect.
- (3) Any State aid provider shall annually report to the Commission on the amounts, use and effects of approved State aid.

## **Article 11**

### **Content of notification**

- (1) The notification of Article 10 paragraph 3 of this law shall contain all information necessary for assessment of the aid by the Commission and in particular about the objective, size, duration, form and legal basis, the aid provider and the aid recipient.
- (2) Form and procedure of submitting notification will be established by the Government of the Republic of Macedonia.

## **Article 12**

### **Assessment procedure**

- (1) The Commission assess the compatibility of each state aid with this law and decide to approve it or not to authorize it due to non-compliance with this law.
- (2) The Commission shall have the right to request from all State aid providers and aid recipients all information for assessing a State aid. Information received from an interested party may be used, if all parties to an assessment procedure have been able to comment on them.
- (3) With regard to aid schemes approved according paragraph 1 of this law and aid schemes in force since before the entry into force of this law, or aid granted by the Commission (existing aid), the Commission on its own initiative or on request of third parties, may propose appropriate measures to align such aid with the provisions of this law. If the aid provider does not align such an aid scheme as proposed by the Commission, the matter is submitted to the authorized Commission of the Government of the Republic of Macedonia for decision.

## **Article 13**

### **Transitional provisions**

- (1) Implementing provisions which have to be established on the base of this law will be established within six months after the entry into force of this law.
- (2) The members of the Commission will be appointed within thirty days after the entry into force of this law.
- (3) The Minister of Economy may upon need establish further related regulations for implementation of this law.

## **Article 14**

### **Final provision**

This Law shall enter into force on the eighth day after its publication in the “Official Gazette of the Republic of Macedonia”. It will be applicable as of 1st January 2004.