On 10 October 2019 the National Assembly of Serbia has adopted the long awaited new Law on State Aid Control (hereinafter: the Law).

The main reason behind the adoption is harmonization with the European Union rules. The adoption of this Law represents a meaningful step forward in closing the Chapter 8, concerning market competition, of the negotiation process for Serbia’s accession to the European Union.

This Law regulates the control of state aid in order to protect competition on the market, applying the principles of market economy and stimulating economic development, ensuring transparency in the granting of state aid, as well as the establishment, position, organization and competence of the State Aid Control Commission (hereinafter: the Commission), the general conditions, rules, measures, and procedure to be followed by the Commission when acting in administrative matters.

Key Novelties

Unlike the 2009 Law on State Aid Control, this Law introduces the list of all state aid instruments, as follows:
- subvention (grants) or subsidized interest rate on loans;
- fiscal relief (reduction or exemption from taxes, contributions, duties and other fiscal duties);
- state guarantee, guarantee of any legal entity disposing of and/or managing public funds or other state aid provider, given on terms more favorable than market ones;
- waiver of profits and/or dividends of the state, local government or legal entity disposing of and/or managing public funds;
- debt relief to the state, local government or legal entity disposing of and/or managing public funds;
- sale or use of publicly owned property at a price lower than market;
- purchase or use of property at a price higher than the market price by the state, local government or legal entity managing or disposing of public funds; and
- other instruments in accordance with the Law.

The Law introduces three new concepts:
- compatible state aid;
- cumulation of state aid; and
- de minimis aid.

Compatible state aid is the aid of a social nature intended for consumers without discrimination as to the origin of the goods or products constituting the specific aid, that is to say, to remedy damage caused by natural disasters or other emergencies in accordance with the law governing disaster risk reduction and emergency management.

Cumulation of state aid is the sum of state aid granted that has a unique purpose irrespective of the type, instrument of grant and state aid provider.

De minimis aid is aid which does not have a significant effect on the distortion of competition in the market and on trade between the Republic of Serbia and the Member States of the European Union. It is not reported to the Commission, but the decision on the justification of the award is made by the de minimis aid provider, who informs the Commission of the de minimis aid granted.

Also, an interested party is no longer a party to the proceedings, but can only submit an initiative to the Commission, not a request for initiation of the proceedings.

Further, according to the Law, parties can offer commitments in state aid investigations which may lead the Commission to stop the probe.

The Law extends the competence of the main competent body – the Commission and envisages that the Commission will consist of the President and the Council, who will be appointed by the National Assembly, and prescribes the scope of their work. On 23 October 2019 the President of the National Assembly of Serbia announced a contest for the President of the Commission and four members of the Council.

Finally, an on-site inspection by the Commission is introduced for the first time. An on-site inspection is carried out with the beneficiaries of state aid in case of the reasonable assumption that state aid is non-compliant, despite the statement of the state aid provider indicating that such aid is in compliance or inaccuracy or incompleteness of the information provided.

Application of the Law

The Law will enter into force on 1 January 2020, except for Articles 9-24, concerning establishment, position, organization and competence of the Commission, which entered into force on 18 October.
2019.