



EUROPEAN COMMISSION

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C(2021) 6555 final

SENSITIVE*: *COMP Operations*

Subject: **State Aid SA.64488 (2021/N) – Belgium**
COVID-19: Flemish Protection Mechanism for undertakings that suffer a turnover decline due to the continuing Covid-19 measures of 28 October 2020 (amendments to SA.60524, SA.62156, SA.62826)

Excellency,

1. PROCEDURE

- (1) By electronic notification of 16 August 2021, Belgium notified amendments (the “notified amendments”) to State aid measure SA.60524 (2020/N): “Flemish Protection Mechanism for undertakings that suffer a turnover decline due to the continuing Covid-19 measures of 28 October 2020”¹ (the “initial decision”), as amended by a first amendment decision SA.62156² and a second amendment decision SA.62826³ (collectively, the “existing aid scheme”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).⁴

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¹ Decision C(2021) 587 final of 29 January 2021, OJ C 275, 9.7.2021, p. 9.

² Decision C(2021) 2105 final of 24 March 2021, OJ C 260, 2.7.2021, p. 29.

³ Decision C(2021) 3287 final of 4 May 2021, OJ C 260, 2.7.2021, p. 43.

⁴ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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- (2) Belgium exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958⁵ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) Under the initial scheme, eligible beneficiaries could apply for aid regarding the turnover loss registered in January and/or February 2021 compared to the same reference period in 2020. Eligible undertakings could receive a grant amounting up to 10% of the turnover registered in the reference period, excluding VAT. The aid amounted to a minimum EUR 600 per month, independently of the size of the undertaking, and to a maximum EUR 7 500 for undertakings with up to 9 employees, EUR 15 000 for undertakings with between 10 and 49 employees and up to EUR 40 000 for undertakings with 50 employees or more.
- (4) Under the first amendment, eligible beneficiaries could apply for additional aid regarding the turnover losses registered in March and/or April 2021 compared to the same reference period in 2019. The budget was therefore increased from approximately EUR 200 million to approximately EUR 440 million. Eligible undertakings could receive a grant amounting up to 10% for March 2021 and up to 15% for April 2021 of the turnover registered in the reference period, excluding VAT. For April 2021, the aid amounted to a minimum EUR 900 per month, independently of the size of the undertaking, and to a maximum EUR 11 500 for undertakings with up to 9 employees, EUR 22 500 for undertakings with between 10 and 49 employees and up to EUR 60 000 for undertakings with 50 employees or more.
- (5) Under the second amendment, eligible beneficiaries could apply for additional aid regarding the turnover losses registered in May and/or June 2021 compared to the same reference period in 2019. The budget was therefore increased from approximately EUR 440 million to approximately EUR 634 million. Eligible undertakings could receive a grant amounting up to 10% of the turnover registered in the reference period, excluding VAT. The aid amounted to a minimum EUR 600 per month, independently of the size of the undertaking, and to a maximum EUR 7 500 for undertakings with up to 9 employees, EUR 15 000 for undertakings with between 10 and 49 employees and up to EUR 40 000 for undertakings with 50 employees or more.
- (6) With the notified amendments, Belgium wishes to amend the existing aid scheme as follows: As from July 2021, the measure only applies to undertakings active in the NACE sectors of discotheques and dancings (56203), event catering and other food service activities (562), hotels (55100) and event organisers (56210, 77293, 77294, 77296, 77392, 90022, 90023 and 90041). The selection of sectors and activities is based on several findings, among which the remaining operating restrictions are an important aspect. Eligible beneficiaries can apply for aid regarding the turnover losses registered in July and/or August and/or September 2021, compared to the same reference period in 2019. The budget was therefore increased from approximately EUR 634 million to about EUR 647.6 million. Eligible undertakings can receive a grant amounting up to 10% of the turnover registered in the reference period,

⁵ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

excluding VAT. As from July 2021 there is no minimum amount of aid. For the months July and/or August and/or September 2021, the maximum aid amount will be EUR 22 500 for undertakings up to 9 employees, EUR 45 000 for undertakings with between 10 and 49 employees, EUR 120 000 for undertakings with 50 employees or more.

- (7) Apart from the notified amendments, Belgium confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (8) The legal basis for the notified amendments consists of a draft decision by the regional Government of Flanders regarding the Flemish protection mechanism for companies in the coronavirus framework – follow-up to ongoing coronavirus actions taken by the Consultation Committee since 28 October 2020. The draft decision by the Flemish Government has the reference number VR 2021 1607 DOC.0980/2BIS.
- (9) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission’s decision approving the notified amendments.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (10) By notifying the amendments before putting them into effect, the Belgian authorities have respected their obligations under Article 108(3) TFEU (see recital (9)).

3.2. Existence of State aid

- (11) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and be liable to affect trade between Member States.
- (12) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (33) to (38) of the initial decision. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (13) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of section 2 and section 3.1 of the Temporary Framework for the reasons set out in recitals (39) to (46) of the initial decision. The Commission therefore refers to the respective assessment of the initial decision.
- (14) The notified amendments do not affect that conclusion. In particular:

- (a) The overall nominal value of the direct grants and of the other measures granted under section 3.1 of the Temporary Framework shall not exceed EUR 1 800 000 per undertaking. This is still the case (see recitals (3) to (6)). The measure therefore complies with point 22(a) of the Temporary Framework.
- (b) In addition, the increased budget of the scheme does not alter the conclusion on compatibility, since aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (6). The existing measures therefore continue to comply with point 22(b) of the Temporary Framework.
- (15) Apart from the notified amendments, Belgium confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered (see recital (7)).
- (16) The Commission therefore considers that the notified amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU, since they meet all the relevant conditions of the Temporary Framework. The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid scheme in the initial decision.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified amendments, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

