



EUROPEAN COMMISSION

Brussels, 22.2.2021
C(2021) 1268 final**SENSITIVE*** : *COMP Operations*

**Subject: State Aid SA.61807 (2021/N) – Belgium
COVID-19: Aid for tourism undertakings in the context of the
coronavirus**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 5 February 2021, Belgium notified aid in the form of limited amounts of aid (Flemish incentive program for tourism enterprises in the context of the coronavirus, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹
- (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 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Belgium considers that the COVID-19 outbreak affects the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ 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).

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

Hare Excellentie mevrouw Sophie Wilmès
Minister van Buitenlandse Zaken, Europese Zaken en Buitenlandse Handel,
en van de Federale Culturele Instellingen
Karmelietenstraat 15
B - 1000 Brussel BELGIË

shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.

- (4) The tourism sector is particularly hit. In a press release of 7 May 2020 – updated on 11 February 2021 – the news agency of the European Parliament states that travel restrictions imposed to prevent the spreading of COVID-19 have crushed the tourism sector.³ The turnover of hotels and restaurants was expected to fall by 50%, the turnover of travel operators and agencies by 70% and cruises and airlines by 90%. According to the United Nations World Tourism Organization the corona crisis has caused a 93% fall in international tourist arrivals in June 2020 compared to 2019 and 65% during the first half of 2020.⁴
- (5) So far, tourism undertakings in Flanders have been kept afloat by government support measures. Nevertheless, as the crisis is burning up available reserves, the cash position of a significant part of them is becoming dire. Moreover, it is expected that recovery will only be gradual and that there will be little possibility to build up reserves in the coming years. This has a major impact on the ability of tourism undertakings to invest. In a situation where supply will continue to exceed demand for some time, and where the expectations of tourists have changed, investments are crucial to maintain the competitive position of the Flemish tourism sector. With the notified aid scheme the Belgian authorities want to support tourism undertakings (with a focus on tourist accommodation and attractions) to improve their competitive position through investments and thus support the recovery of the sector after the outbreak.
- (6) Belgium confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to its territory. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (7) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (8) The measure provides aid in the form of interest-free loans and direct grants.

2.2. Legal basis

- (9) The legal basis for the measure is the Decision of the Flemish Government to grant support from the Flemish incentive program for tourism enterprises in the context of the coronavirus, a draft of which was submitted with the notification.

³ European Parliament, news item “Covid-19: EU support for the tourism industry”, <https://www.europarl.europa.eu/news/en/headlines/society/20200429STO78175/covid-19-eu-support-for-the-tourism-industry>.

⁴ UNWTO, press release 15 September 2020 “International tourist numbers down 65% in first half of 2020, UNWTO reports”, <https://www.unwto.org/news/international-tourist-numbers-down-65-in-first-half-of-2020-unwto-reports>.

2.3. Administration of the measure

- (10) Tourisme Vlaanderen (Visit Flanders), a government agency established by Decree of 19 March 2003⁵, is responsible for administering the measure.

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is 34 million. The Flemish Government contributes up to EUR 30 million to the budget of the measure. Local and provincial governments can voluntarily contribute to the budget from their own resources. The Belgian authorities estimate their voluntary contribution at about EUR 4 million.
- (12) Aid may be granted under the measure as from its approval until no later than 31 December 2021.

2.5. Beneficiaries

- (13) The final beneficiaries of the measure are tourism undertakings active in the Flemish Region (Belgium). However, financial institutions are excluded as eligible final beneficiaries.
- (14) Aid may not be granted under the measure to medium⁶ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁷ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁸ or restructuring aid.⁹

2.6. Sectoral and regional scope of the measure

- (15) The measure is open to tourism undertakings active in the Flemish Region (Belgium).

⁵ Decree of 19 March 2004 establishing the internally independent agency with legal personality “Visit Flanders”, <http://www.ejustice.just.fgov.be/eli/decreeet/2004/03/19/2004035613/staatsblad> (link to the Dutch text; clicking on ‘Beeld van de publicatie’ provides a PDF version of the official Dutch and French text).

⁶ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁷ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁸ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁹ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

2.7. Basic elements of the measure

- (16) Tourism undertakings are eligible for aid if they are:
 - (a) A touristic attraction fully or partially located in the Flemish Region with a fixed infrastructure;
 - (b) Touristic accommodation, registered as such in accordance with the Decree of 5 February 2016 regarding touristic accommodation, by 1 March 2021; or
 - (c) Youth accommodation, registered as youth residence type A, B or C under the Decree of 18 July 2003 on residences and associations operating within the framework of "Tourism for All".
- (17) Tourism undertakings are ineligible if they are a public administration or are controlled by one.
- (18) Tourism undertakings can apply for aid to support investments in health measures, ecological sustainability, digitalisation or professionalization worth at least EUR 5 000. The Belgian authorities estimate they will receive applications from approximately 500 beneficiaries.
- (19) The support would take the form of a pre-financing 100% of the investment cost, up to EUR 200 000 per project. Of that sum, 75% would be an interest-free loan, repayable within 5 years, and 25% would be a grant. For specific subsectors, such as youth accommodation and hostels, the interest-free loan would be 60% of the pre-financed amount and the grant would be 40%.
- (20) Projects are ranked on the basis of:
 - (a) Their contribution to health related goals (ventilation etc), ecological sustainability, digitalization and professionalization;
 - (b) Added value for the beneficiary, the place where it is located, the visitors and/or residents;
 - (c) The financial capacity of the beneficiary and his ability to pay the loan back;
 - (d) The feasibility of the project.
- (21) They are divided in subcategories according to the size of the beneficiary. Each subcategory has a reserved part in the total budget of the scheme. Within each subcategory, beneficiaries of which the tourism activity is registered as their main activity on 1 March 2021, get priority. Aid is granted until the budget has run out.

2.8. Cumulation

- (22) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁰ or the General Block Exemption Regulation¹¹ provided the provisions and cumulation rules of those Regulations are respected.
- (23) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (24) The Belgian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point(s) 22(a) of that framework, will be respected. Aid granted under the measure and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

- (25) The Belgian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹²).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (26) By notifying the measure before putting it into effect, the Belgian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (27) 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

¹⁰ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1).

¹¹ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

¹² Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014. For repayable advances, guarantees, loans, subordinated debt and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary.

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 affect trade between Member States.

- (28) The measure is imputable to the State, since it is administered by *Tourisme Vlaanderen (Visit Flanders)* (see recital (10)) and it is based on the Decision of the Flemish Government to grant support from the Flemish incentive program for tourism enterprises in the context of the coronavirus. It is financed through State resources, since it is financed by public funds (see recital (11)).
- (29) The measure confers an advantage on its beneficiaries in the form of interest-free loans and direct grants. The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular tourism undertakings active in the Flemish Region (Belgium), excluding the financial sector.
- (31) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (32) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Belgian authorities do not contest that conclusion.

3.3. Compatibility

- (33) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (34) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (35) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.
- (36) The measure aims at facilitating investments by tourism undertakings at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (37) The measure is one of a series of measures conceived at national level by the Belgian authorities to remedy a serious disturbance in their economy.

Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of limited amounts of aid*”) described in section 3.1 of the Temporary Framework.

(38) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The aid takes the form of interest-free loans and direct grants (recital (8)).

The overall nominal value of the interest-free loans and direct grants shall not exceed EUR 1.8 million per undertaking (see recitals (19) and (24)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework.

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (recital (11)). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium¹³ and large enterprises that were already in difficulty on 31 December 2019 (recital (14)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid¹⁴ or restructuring aid¹⁵ (recital (14)). The measure therefore complies with point 22(c)bis of the Temporary Framework.
- Aid will be granted under the measure no later than 31 December 2021. The measure therefore complies with point 22(d) of the Temporary Framework.

(39) The Belgian authorities confirm that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to its territory. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (6)).

(40) The Belgian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (25)). The Belgian authorities further confirm that the aid under the measure may only be

¹³ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

¹⁴ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

¹⁵ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (22) and (23)).

- (41) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid 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

