



EUROPEAN COMMISSION

Brussels, 11.3.2021  
C(2021) 1746 final**SENSITIVE\*** : *COMP Operations*

**Subject:** State Aid SA.62017 (2021/N) – *Belgium*  
**COVID-19: Support from the Flemish Government through the project call 'Flanders is a festival 2021' for organising festivals in the summer of 2021 in the context of the coronavirus**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 18 February 2021, Belgium notified aid in the form of limited amounts of aid (Support from the Flemish Government through the project call 'Flanders is a festival 2021' for organising festivals in the summer of 2021 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”).<sup>1</sup>
- (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 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

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

<sup>1</sup> 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).

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

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## 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 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 events sector is particularly affected by the COVID-19 outbreak, as measures to limit the spreading of the virus, hit the sector hard. As a result, the 2020 festival season was completely cancelled. Since then, the events sector has only been able to restart on a very limited and temporary basis.
- (5) The Flemish summer festivals are the driving force behind an entire ecosystem, with companies that position Flanders as a top technological region. Data from the Federation of Music Festivals in Flanders show that Flanders has more than 280 festivals with a combined total of more than 5 million visitors. With leading international festivals and ditto suppliers, the festival season traditionally guarantees a turnover of more than one billion euros, or over 25 percent of the entire events sector in Belgium.
- (6) In addition, Flanders also has numerous processions and parades every summer that are cherished by many organisations and volunteers. These processions and parades, of which there are about 400 every year, are socially and culturally significant and are part of Flemish cultural heritage.
- (7) According to the Belgian authorities a second disastrous festival season would not only have disastrous economic and social consequences, but would also cause enormous damage to the leading reputation of the Flemish festival sector. Additionally, it would also be psychologically important to be able to offer the population the prospect of a festival summer in 2021. This is particularly the case for the youth and young adults, the main target group of summer festivals.
- (8) Although the rollout of the vaccination campaign provides cautious optimism, it is becoming clearer that the 2021 festival season will most likely not be able to take place as usual. This is why according to the Belgian authorities there is a need for support.
- (9) The measure aims to support the resilience and the innovative capacity of the Flemish festival sector so it can maintain its leading role in terms of renewal and innovation. It does so by supporting projects by festival, procession and parade organisers that innovate to meet the corona challenges. Thereby, it contributes to an innovative, corona-silent festival summer, gives a clear impulse to safeguard the future, quality and international reputation of Flemish festivals, and activates the economic chain of the events sector.
- (10) 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 the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

- (11) 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**

- (12) The measure provides aid in the form of direct grants.

### **2.2. Legal basis**

- (13) The legal basis for the measure is the Decision of the Flemish Government establishing the rules for the project call 'Flanders is a festival 2021' for organizing festivals in the summer of 2021 in the context of the coronavirus, a draft of which was submitted with the notification.

### **2.3. Administration of the measure**

- (14) Toerisme Vlaanderen (Visit Flanders), a government agency established by the Decree of 19 March 2003<sup>3</sup> is responsible for administering the measure.

### **2.4. Budget and duration of the measure**

- (15) The estimated budget of the measure is EUR 10 million.
- (16) Aid may be granted under the measure as from the notification of the Commission's approval until no later than 31 December 2021.

### **2.5. Beneficiaries**

- (17) The beneficiaries of the measure are undertakings active in the organisation of festivals in the Flemish and Brussels Region, Belgium. However, financial institutions are excluded as eligible beneficiaries.
- (18) Festival organisers are eligible if their main place of activity is situated in the Flemish or Brussels Regions and if:
- (a) they organise a high quality, unique event within the cultural and creative sectors of music, design, theatre, dance, visual arts, literature; film, processions or parades;
  - (b) the event has a temporary character and takes place between June 15, 2021 and October 31, 2021;
  - (c) at least 60% of the event will take place in open air (outdoor);
  - (d) the event has international appeal;
  - (e) the event takes place in the Flemish or Brussels Region.
- (19) Festival organisers must assume one of the following legal forms:

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<sup>3</sup> Decree of 19 March 2004 establishing the internally independent agency with legal personality "Visit Flanders", <http://www.ejustice.just.fgov.be/eli/decreet/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)

- (a) a natural person who independently carries out a professional activity;
  - (b) a company with legal personality under private law,
  - (c) a non-profit association.
- (20) Festival organisers are ineligible, among others, if they are a public administration or are controlled by one.
- (21) The Belgian authorities estimate the number of beneficiaries to be between 51-100.
- (22) Aid may not be granted under the measure to medium<sup>4</sup> and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>5</sup> 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 aid<sup>6</sup> or restructuring aid.<sup>7</sup>

## **2.6. Sectoral and regional scope of the measure**

- (23) The measure is open to undertakings organising festivals, excluding the financial sector. It applies to the region of Flanders and Brussels.

## **2.7. Basic elements of the measure**

- (24) Eligible festival organisers may apply for aid by responding to a call for innovative projects.
- (25) Applications are categorised by an evaluation committee on the basis of the minimal organising costs of the event (for each category, in principle a maximum aid amount being applicable) , but the committee may also take into consideration the spreading of the festivals within each category and across different categories, in order to ensure an optimal support of different types of festivals:
- (a) Over the subsectors of music, design, theatre, dance, visual arts, literature; film, processions or parades;
  - (b) Over the territory of the Flemish and Brussels Region;

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<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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.

- (c) In time during the period from 15 June 2021 until 31 October 2021.
- (26) Within each category mentioned in recital (25), they are ranked on the basis of:
  - (a) Innovation and creativity (30 points);
  - (b) The corona measures (30 points);
  - (c) International appeal (20 points);
  - (d) Networking and knowledge sharing (20 points).
- (27) On the basis of the categorisation mentioned in recital (25), festivals are eligible for aid from up to EUR 50 000 to up to EUR 500 000.
- (28) Costs related to the production and organisation of the festival are eligible at 100%. Costs related to measures taken to limit the spreading of COVID-19 are eligible at 50%.
- (29) Applicants are awarded aid on the basis of their ranking, until the budget is exhausted.
- (30) The aid will be paid out in two instalments:
  - (a) 70% will be paid before the start of the event;
  - (b) 30% will be paid after the event has taken place and accounts have been verified.
- (31) If capacity limitations due to COVID-19 have been lifted before the event is organised, all aid has to be paid back, with the exception of aid used to organise rapid testing.

## **2.8. Cumulation**

- (32) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>8</sup> or the GBER<sup>9</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (33) 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. The Belgian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the

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<sup>8</sup> 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 and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

<sup>9</sup> 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.

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 22(a) of that framework, will be respected.

## **2.9. Monitoring and reporting**

- (34) 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 granting<sup>10</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (35) 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**

- (36) 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 affect trade between Member States.
- (37) The measure is imputable to the State, since it is administered by Tourism Vlaanderen (Visit Flanders) (recital (14)) and it is based on the Decision of the Flemish Government establishing the rules for the project call 'Flanders is a festival 2021' for organizing festivals in the summer of 2021 in the context of the coronavirus (recital (13)). It is financed through State resources, since it is financed by public funds.
- (38) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (39) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the organisation of festivals in the Flemish and Brussels Regions, Belgium, excluding the financial sector.
- (40) 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.

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<sup>10</sup> 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.

- (41) 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

- (42) 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.
- (43) 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*”.
- (44) 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*”.
- (45) The measure aims at to support the resilience and the innovative capacity of the Flemish festival sector so it can maintain its leading role in terms of renewal and innovation 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.
- (46) 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. The importance of the measure to preserve employment and economic continuity is widely accepted by economic commentators. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 3.1 of the Temporary Framework.
- (47) 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 direct grants (recital (12)).  
  
The overall nominal value of the direct grants shall not exceed EUR 1.8 million per undertaking; 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 (15). The measure therefore complies with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measure to medium<sup>11</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (22)). 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 aid<sup>12</sup> or restructuring aid<sup>13</sup> (recital (22)). 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.
- (48) 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 the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (10)).
- (49) The Belgian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (34)). The Belgian authorities further confirm that the aid under the measure may only be 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 (32) and (33)).
- (50) 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.

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<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> 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.



#### 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

