



EUROPEAN COMMISSION

Brussels, 4.5.2021
C(2021) 3287 final

SENSITIVE* : *COMP Operations*

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

Excellency,

1. PROCEDURE

- (1) By electronic notification of 26 April 2021, Belgium notified a second amendment to the scheme 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”, under the Temporary Framework for State aid measures to support the economy in the current COVID 19 outbreak, as amended (“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

* Distribution only on a 'Need to know' basis - Do not read or carry openly in public places. Must be stored securely and encrypted in storage and transmission. Destroy copies by shredding or secure deletion. Full handling instructions: <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).

Son Excellence Madame Sophie Wilmès
Ministre des Affaires étrangères, des Affaires
européennes et du Commerce extérieur,
et des Institutions culturelles fédérales
Rue des Petits Carmes, 15
B - 1000 Bruxelles

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

Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENT

- (3) The Commission approved the initial scheme by Decision of 29 January 2021 (“the initial Decision”).³ A first amendment was approved on 24 March 2021.⁴
- (4) 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 from 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.
- (5) 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 from 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.
- (6) With the now notified second amendment, eligible beneficiaries will be able to 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 will be able to 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 from 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.

2.1. Legal basis

- (7) The legal basis for the existing measure is a Decision of the Flemish region Government regarding a Flemish Protection Mechanism for undertakings that suffer a turnover decline due to the continuing Covid-19 measures of 28 October

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

³ Decision C(2021) 587 final in case SA.60524 (2020/N) of 29 January 2021.

⁴ Decision C(2021) 2105 final in case SA.62156 (2021/N) of 24 March 2021.

2020 ('Besluit van de Vlaamse Regering betreffende het Vlaams Beschermingsmechanisme voor ondernemingen die een omzetsdaling hebben ten gevolge van de aanhoudende coronavirusmaatregelen van 28 oktober 2020')⁵.

- (8) The legal basis for the extension to the turnover losses in May and June 2021 consists of a draft Decision by the Flemish region Government 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. This draft Decision has the reference number VR 2021 2304 DOC.0445/2BIS⁶.

2.2. The amendment

- (9) According to the draft legal basis, the following undertakings are eligible for the measure:
- (a) undertakings that suffer a turnover decline, excluding VAT, of at least 60% in the months of May and/or June 2021, compared to the same reference period in 2019; or
 - (b) undertakings active in the food and drink sectors that were compulsorily closed in May and/or June 2021 as a result of the coronavirus measures, unless their turnover in the reference period, namely May and/or June 2019, was 50% or more related to take-away activities (in this case, undertakings can still apply if they fulfil the conditions under a) above); or
 - (c) undertakings active in sectors that were compulsorily closed as a result of the coronavirus measures during May and/or June 2021, included in the list of eligible sectors. If the measures became less strict and the sectors were allowed to reopen, then the provisions under a) would apply pro rata for the period of reopening. Undertakings which generate 50 % or more of their turnover from subcontracting to a closed sector may opt for a reference period corresponding to the mandatory closure period of that closed sector.
- (10) The Flemish region 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 points 22(a) and 23(a) of that framework, will be respected.
- (11) No other changes are made to the initial scheme.

⁵ Published in the Official Journal (Belgisch Staatsblad) on 1 December 2020: https://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=20-12-01&numac=2020043817

⁶ The decision will be published on the VLAIO website and in the Official Journal (Belgisch Staatsblad) after its adoption.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (13) 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.
- (14) As regards the amendment of the existing measure, the qualification of the initial scheme as State aid was established in recitals (33) to (38) of the initial decision. The proposed amendment does not affect that qualification. Consequently, the Commission considers that the initial scheme as amended constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (15) As regards the amendment, the Commission explained that the initial scheme fulfilled all the conditions of section 3.1 of the Temporary Framework and was therefore compatible with the internal market on the basis of Article 107(3)(b) TFEU. The Commission refers, to this effect, to recitals (39) to (46) of the initial Decision. The proposed changes do not alter this conclusion, in particular,
- 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 (9) and (10)). The measure therefore complies with point 22(a) of the Temporary Framework.
 - The overall nominal value of the direct grants and of the other measures granted under section 3.1 of the Temporary Framework does not exceed EUR 270 000 per undertaking active in the fishery and aquaculture sector or EUR 225 000 per undertaking active in the primary production of agricultural products; this is still the case (see recitals (9) and (10)). The measure therefore complies with point 23(a) of the Temporary Framework.
 - 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 (9). The existing measures therefore continue to comply with point 22(b) of the Temporary Framework.
- (16) The Commission notes that there are no other changes to the scheme.

(17) The Commission therefore considers that the amendment 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 they meet 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

