



EUROPEAN COMMISSION

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SENSITIVE* : *COMP Operations*

**Subject: State Aid SA.63932 (2021/N) – Belgium
COVID-19: Compensation for the costs of rebooking events in the
Flemish Region**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 July 2021, Belgium notified a measure in the form of limited amounts of aid by a Decision of the Flemish Government regarding the compensation of the costs of rebooking events due to the COVID-19 measures (the “measure”) under section 3.1 of 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.

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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.

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2. DESCRIPTION OF THE MEASURE

- (3) Belgium considers that the COVID-19 outbreak continues to affect the real economy. In particular, the event sector has been severely impacted due to the numerous cancellations during the outbreak. While some organizing companies have chosen to repay all booked tickets, others have offered the participants to re-book the same or similar events later in time. In both cases, companies had to keep some of their employees ‘active’ in order to handle the re-booking processes. Those employees could not benefit from the aid schemes such as a temporary unemployment fee³ and their employer had to continue paying them their salaries. In addition, although following cancellations some potential re-openings were announced, they often did not happen at the scheduled date or otherwise did not happen at all. That led sometimes to further re-bookings for the same events, which in turn entailed more costs for the organizers.
- (4) The Belgian authorities have designed the notified measure in order to compensate those organizing companies for the re-booking costs incurred in relation to cancelled events.
- (5) The measure forms part of an overall package of measures and aims 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.
- (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 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.
- (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 direct grants.

2.2. Legal basis

- (9) The legal basis for the measure is the draft Decision of the Flemish Government regarding the compensation of the costs of the rebooking of events due to the COVID-19 measures (“*Besluit van de Vlaamse Regering over de compensatie van de omboekingskosten van evenementen ten gevolge van de coronavirusmaatregelen*”). The Belgian authorities confirm that the notified draft Decision of the Flemish Government will be adopted after the Commission’s approval, and will specifically refer to that approval.

³ The Belgian authorities confirm that the ‘temporary unemployment system’ is a general measure imposed at federal level since all undertakings from all sectors can benefit from it and, therefore, it does not involve State aid.

2.3. Administration of the measure

- (10) The Flemish Agency for Innovation and Entrepreneurship (*Agentschap Innoveren & Ondernemen*, “VLAIO”) is responsible for administering the measure.

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is EUR 10 million.
- (12) The measure will not be co-financed by EU funds.
- (13) 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

- (14) The beneficiaries of the measure are small and medium sized enterprises (“SMEs”)⁴ and large enterprises, active in the Flemish Region, belonging to one of the sectors listed in the Annex⁵ to the legal basis cited in recital (9) and that have suffered a loss within the period when the event should have been organized originally (see recital (19)(b)). However, credit and financial institutions, undertakings active in the primary production of agricultural products, the fishery and aquaculture sectors, and undertakings that have already received other public support in the cultural sector⁶ for an uninterrupted period of five years prior to the grant application are excluded as eligible beneficiaries. The Belgian authorities estimate that approximately 100 to 500 undertakings will apply for the aid.
- (15) Aid may not be granted under the measure to medium 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 a collective insolvency procedure under national law and they have not received rescue aid⁸ or restructuring aid.⁹

⁴ 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.

⁵ Mainly sectors of arts, entertainment and recreation (divisions 90 – 93 of the NACE Rev. 2 classification) and other administrative and support service activities (divisions 77 – 82 of the NACE Rev. 2 classification).

⁶ The Belgian authorities refer to this other public support as ‘structural financing’ and clarify that it generally refers to public support in the cultural sector under Article 53 of the GBER. The purpose is to avoid overcompensation for those undertakings that have already received public support previously.

⁷ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

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.

2.6. Sectoral and regional scope of the measure

- (16) The measure applies to the sectors listed in the Annex to the legal basis cited in recital (9) (see also footnote 5). The financial sector, the primary production of agricultural products and the fishery and aquaculture sectors are excluded.
- (17) The measure applies to the territory of the Flemish Region.

2.7. Basic elements of the measure

- (18) The overall maximum aid amount per undertaking shall not exceed EUR 1.8 million (gross, i.e. before any deduction of tax or other charge) as established in paragraph 22(a) of the Temporary Framework.¹⁰
- (19) In order to be eligible for aid under the measure, the concerned cancelled event must fulfil certain criteria, in particular:
- (a) it is an event in the field of arts, entertainment or recreation;
 - (b) it should have been organized in the reference period between 13 March 2020 and 30 June 2021;¹¹
 - (c) it was meant to be publicly accessible and with at least one thousand paying participants;
 - (d) it was planned to take place in Belgium;
 - (e) film showings, personnel events, events of a political nature, holiday or Horeca events, and sport competitions within a regular competition, are not eligible.
- (20) The aid amount is based on the number of rebookings (and not on the number of tickets).¹² Only the initial rebooking is eligible (i.e. the first rebooking due to the cancellation as a result of the COVID-19 outbreak). The amount of the grant is EUR 2 per initial rebooking. The Minister may reduce that amount to EUR 1 per initial rebooking.¹³ The beneficiary must apply for aid for at least 10 000 eligible initial rebookings.¹⁴
- (21) Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary

¹⁰ Article 2 of the draft national legal basis establishes that any aid granted pursuant to that Decision and its implementing acts shall be granted within the limits and conditions set out in the Temporary Framework.

¹¹ The Belgian authorities note that the Flemish Government may finally align those dates with quarterly figures, i.e. Q2 2020 – Q2 2021.

¹² The Belgian authorities clarify that one booking can involve more than one ticket.

¹³ The Belgian authorities indicate that if there are more applications than expected, the aid per beneficiary will be reduced pro rata and thus diminishing the aid amount of EUR 2 per initial rebooking.

¹⁴ Article 6 of the draft national legal basis describes more in detail the number of rebookings that may be eligible according to specific conditions relating to the seating arrangements of the event (i.e. whether the seats are numbered, unnumbered or mixed).

producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.

2.8. Cumulation

- (22) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁵ or the GBER 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 22(a) of that framework, will be respected.¹⁶

2.9. Monitoring and reporting

- (25) The Belgian authorities confirm that they will respect all 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 State Aid Transparency Award Module (TAM)¹⁷ within 12 months from the moment of granting¹⁸.

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 (see recital (9)).

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 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

¹⁵ 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).

¹⁶ 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.

¹⁷ <https://webgate.ec.europa.eu/competition/transparency/>

¹⁸ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014.

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 the Flemish governmental Agency for Innovation and Entrepreneurship (see recital (10)) and it is based on a Decision of the Flemish Government (see recital (9)). It is financed through State resources, since it is financed by public funds.
- (29) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (8)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions, in particular, of costs related to the rebooking of cancelled events.
- (30) The advantage granted by the measure is selective, since it is awarded only to undertakings fulfilling the eligibility criteria described in recitals (14) and (15), in particular, undertakings active in the sectors listed in the Annex to the legal basis cited in recital (9) (mainly sectors of arts, entertainment and recreation, and other administrative and support service activities). The financial sector, the primary production of agricultural products and the fishery and aquaculture sectors are excluded.
- (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.

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 providing companies with extra needed liquidity 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 by the Belgian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve the undertaking's economic continuity and viability is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the Flemish economy. 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.
- (38) The Commission notes that the measure meets all the relevant conditions of the Temporary Framework. In particular:
- The aid takes the form of direct grants (see recital (8)). The overall nominal value of the direct grants shall not exceed EUR 1.8 million per undertaking (see recital (18)); 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 (11). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measure to medium¹⁹ and large enterprises that were already in difficulty on 31 December 2019 (recital (15)). 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 a collective insolvency procedure under national law and they have not received rescue aid²⁰ or restructuring aid²¹ (see also recital (15)). 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 (see recital (13)). The measure therefore complies with point 22(d) of the Temporary Framework.
 - Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned (see recital (21)). The measure therefore complies with point 22(e) 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

¹⁹ As defined in Annex I to the GBER.

²⁰ 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.

²¹ 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.

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 (see recital (6)).

- (40) The Belgian authorities also confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (25)).
- (41) 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 (see recitals (22) to (24)).
- (42) In light of the above, the Commission 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.

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

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Executive Vice-President

