



EUROPEAN COMMISSION

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SENSITIVE: *COMP Operations*

Subject: State Aid SA.64071 (2021/N) – *Belgium COVID-19: RRF - Future oriented training support to social economy companies in the context of the COVID-19 outbreak.*

Excellency,

1. PROCEDURE

- (1) By electronic notification of 13 July 2021, Belgium notified an aid scheme for future-oriented training to support the most vulnerable groups in the social economy (customised companies) pursuant to COVID-19 under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”¹) (‘the notified measure’).
- (2) On 23 July 2021, Commission services sent a request for information on certain aspects of the notification to which the Belgian authorities replied on 20 August 2021.
- (3) On 3 September 2021, after an examination of the reply, the Commission asked for further clarifications, to which the Belgian authorities replied on 16 September 2021.
- (4) 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

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

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

2. DESCRIPTION OF THE MEASURE

- (5) Belgium considers that the COVID-19 outbreak continues to affect the 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.
- (6) Social economy companies, in particular, have suffered from the COVID-19 outbreak. Due to a temporary cessation or reduction of services performed by social economy companies, or a decrease in their assignments, their core mission - namely the employment of people who are at a distance from the labour market - has come under severe pressure. Many training programs were abruptly stopped during the past lockdown periods. These training programs are now gradually getting back on track, but it is clear that some catching up is still needed which necessitates financial support to ensure that sufficient liquidity remains available for the training programmes. Moreover, negative economic pressure on companies, both in the regular and in the social economy, results in increasing negative pressure on the sustainable employment of target group employees, people who cannot find work within the regular economy because of a disability and/or due to social circumstances (e.g. people who have overcome a drug problem, ex-convicts, underprivileged, long-term unemployed)³. This has an impact on production, liquidity, solvency and the position of social economy companies as part of the broader economic chain. The social economy is a sector that is strongly anchored within the local economic fabric and, in its activities, often focuses on a role as a supplier.
- (7) Belgium indicates that by granting training support to social economy companies it aims to safeguard sustainable employment of disadvantaged groups from the negative socio-economic impact in this sector, and tackle financial difficulties of such social economy companies that were not in difficulties before the Covid-19 outbreak and suffered financially due to the Covid-19 measures.
- (8) 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.

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

³ Business Cycle Monitor December 2020 (<https://www.nbb.be/en/search/bcs/business%20cycle>), Economic Risk Management Group (ERMG) COVID-19 Dashboard (<https://www.nbb.be/nl/covid-19/covid-19-dashboard-van-economische-indicatoren>), Economic projections for Belgium – Autumn 2020 (NBB) <https://www.nbb.be/en/search/bcs/economic%20review>

- (9) Belgium considers that sections 2 and 3.1 of the Temporary Framework constitute the adequate legal basis for the compatibility of the measure.

2.1. The nature and form of aid

- (10) The notified measure is a scheme which provides for aid in the form of direct grants. It will be granted on the basis of a closed call procedure that will only be open to the sector's two training funds (as mere intermediates), more specifically the Sectoral Training Fund for Sheltered Workshops and the Sectoral Training Fund for Social Workshops ("the Training Funds") in consultation with the customized companies. A maximum support of EUR 1 531 600 is foreseen for the former and a maximum support of EUR 468 400 for the latter. The resources were distributed on the basis of the allocated contingent FTE on 1 April 2021 (in total 19 690.3 FTE of which 4.611,5 FTE for the training fund for former social workshops and 15.078,8 FTE for the training fund for former sheltered workshops). The grant amounts to 100% of the accepted project costs on the basis of the budget submitted.

2.2. Legal basis

- (11) The legal basis for the measure is the Decision of the Flemish Government establishing the rules for granting training aid to customized companies pursuant to COVID-19 ("*Besluit van de Vlaamse Regering betreffende tot vaststelling van de regels voor de toekenning van opleidingssteun aan maatwerkbedrijven ingevolge COVID-19*"). A delegated act to be approved by the Flemish minister of social economy will determine in detail the conditions and evaluation criteria of the call for proposals.⁴

2.3. Administration of the measure

- (12) The Department of Labour and Social Economy of Flemish Region is responsible for administering the measure.
- (13) The Training Funds and VIVO are responsible for the coordination and elaboration of the projects.
- (14) The Training Funds are subsistence protection funds. Subsistence protection funds are legal entities established by a joint committee of representatives of employers and employees. The legal basis of the subsistence protection funds is the Law of 7 January 1958 on the Subsistence Protection Funds. (*Wet van 7 januari 1958 betreffende de Fondsen voor Bestaanszekerheid, BS 7 februari 1958*)⁵. Each fund is managed by the social partners via a joint board of trustees composed of 8 effective and 8 alternate members. These members are appointed by the Joint Committee, half on the proposal of the representative employers' organizations and the other half on the recommendation of the representative employees' organizations.

⁴ The draft of both documents have been submitted with the notification form. The approval will only be given by the Flemish government after the approval of the scheme by the European Commission.

⁵ https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1958010701&table_na%20me=loi

- (15) The Training Fund for Social Workshops is established by the Collective Agreement of 2 March 2005 establishing a Sectoral Training Fund for Social Workshops of the Flemish Community and the training fund for the Sheltered Workshops is established by the Collective Agreement of 2 March 2005 in order to establish a Sectoral Training Fund for the Sheltered Workshops in Flanders.
- (16) The non-profit organization VIVO was founded by social partners across sectors (employers' and employees' organizations) with the explicit task of offering training tailored to the sectors. VIVO itself, is Qfor quality accredited. The Qfor quality label was specifically developed to recognize and assess quality within providers of learning and consultancy services.⁶

2.4. Budget and duration of the measure

- (17) The estimated budget of the measure is EUR 2 000 000.
- (18) The budget of the notified scheme is made available in its entirety through the Recovery and Resilience Facility (RRF)⁷.
- (19) Aid may be granted under the measure as from the notification of the Commission's decision until no later than 31 December 2021.

2.5. Beneficiaries

- (20) The beneficiaries of the measure are the social economy companies in Flanders called "customised companies" ("maatwerkbedrijven"). The Training Funds described in recitals (13) to (15) are mere intermediaries and do not benefit from aid.
- (21) Customised companies offer a leverage to further personal and professional development and advancement to a target group of employees who are mainly people who cannot find work within the regular economy due to a disability and/or social circumstances (see recital (6)). They have to employ at least 20 target group employees. At least 65% of the employees on the payroll have to meet the criteria as "target group employees". Their most important mission is the employment of people with a distance to the labour market. These companies are active in a wide range of activities, from manufacturing, assemblage, recycling and circular activities, to hospitality and care activities. The tasks that employees perform will depend on their capabilities⁸.
- (22) Social economy companies are recognized by the Flemish government via a label once they meet the regulatory requirements. In Flanders, there are 121 customised companies.

⁶ <https://qfor.org/>

⁷ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17

⁸ <https://www.socialeconomie.be/collectief-maatwerk>

- (23) Aid beneficiaries may be small and medium-sized enterprises (SMEs) and large enterprises. However, financial institutions are excluded as eligible beneficiaries. Aid may not be granted under the measure to medium⁹ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)¹⁰ 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 aid¹¹ or restructuring aid¹².

2.6. Sectoral and regional scope of the measure

- (24) The measure is open to social economy sector of the Flemish region (NACE group level: Q.88.9- social work activities without accommodation), except the financial sector.

2.7. Basic elements of the measure

- (25) The objective of the aid is to make additional training available in order to allow recovery from the COVID-19 pandemic so that they can provide their employees with the necessary future skills that have been changed and thus support them in strategic transformations towards more future-proof, resilient and agile enterprises. The call for proposals focuses on the needs of disadvantaged workers, their support workers (job coaches, trainers) and of managers. Disadvantaged workers are those who experience difficulties in integrating into the labour market, such as the disabled, the long-term unemployed, migrants and those who are neither in employment nor in education or training.
- (26) Through the call of proposal the training funds should submit an application for aid in close consultation with the customized companies. The Training Funds therefore collect all applications for training, reimbursement for training, and investments in training infrastructure from customized companies.
- (27) The trainings can be given by an internal trainer of the customized company, an external trainer contracted by the customized company or a trainer contracted by the training fund (via VIVO) within the sectoral training offer. To organize their training offer, the Training Funds rely on VIVO as they do not have their own staff. VIVO can:

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² 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.

- organise training courses for target group employees and supporting them (both in company and on location). In this case, VIVO relies on external trainers. When a new training program is launched, a market survey is conducted among professional trainers and training organizations. VIVO and the Training Funds select the trainers based on a competitive, transparent, non-discriminatory and unconditional tender in line with the principles of the TFEU in public procurement;
- provide training reimbursement (for training courses that companies organize or purchase themselves). Each beneficiary company concludes its own contract with a service provider. The reimbursement is only paid when the required justification documents -including the invoice- are delivered.

(28) Only the estimated costs related to the implementation of the trainings within the subsidy period (1 January 2022 until 31 December 2024) by the customized company may be eligible.

Eligible costs are broken down into the following:

- Labour costs: the costs of the teachers are eligible.
- Operational costs: costs of trainers and training participants directly related to the training project, such as travel costs, materials and supplies directly related to the project, may also include depreciation of tools and equipment to the extent that they are contributed exclusively to the training project.
- Coordination costs: the costs of the coordinators of the training funds.
- Investment costs in training infrastructure can amount to a maximum of 20% of the total eligible costs. The investment may not serve to support the structural functioning of the company. It must be a one-off investment related to the project.

(29) According to annex 1 to the draft ministerial decree by the Flemish minister of social economy (see recital (11)), aid applicants must submit an aid application via PLATOS¹³.

(30) The admissible applications for support will be examined by an evaluation committee composed of at least three evaluators from the Department of Labour and Social Economy on the basis of the following criteria:

- relevance;
- feasibility; and
- good project management.

Points are given on each of these criteria out of 100. Each criterion was developed into 5 questions (sub-criteria). The maximum score per question is 20 points. The

¹³ PlatOS is the application for the treatment and follow-up of subsidy calls of the Department of Work and Social Economy.

same weighting is given to each question. A project proposal is evaluated as positive by an individual evaluator when it achieves a minimum score of 60% for all criteria.

- (31) In addition to the substantive explanation accompanying the application, a budget and a project schedule with an overview of key actions and milestones in a timeline are required.
- (32) If the proposal is approved the promoter assumes the legal responsibility for its execution and reporting towards the Department of Work and Social Economy.
- (33) The Training Funds are responsible for the correct distribution of the funds to the beneficiaries. The management of the implementation and monitoring of the actions within this call is expected to be in line with the rules and working arrangements already used within the Training Funds for the execution of the existing training programs and reimbursement of training.
- (34) The Training Funds shall provide an overview of the support received by all potential beneficiaries since 19 March 2020 showing that even including the support requested on the basis of this call, the maximum of EUR 1 800 000 mentioned in chapter 3.1 of the Temporary Framework has not yet been and shall not be exceeded. All figures used must be gross, that is, before any deduction of tax or other charges. The department of Work and Social Economy controls and supervises compliance with this provision by the Training Funds.

2.8. Cumulation

- (35) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulation¹⁴ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (36) 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.
- (37) 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.

2.9. Monitoring and reporting

- (38) The Belgian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework

¹⁴ 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).

(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 granting¹⁵).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (39) 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

- (40) 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.
- (41) The measure is imputable to the State, since it is administered by Department of Labour and Social Economy and it is based on a Decision of the Flemish Government laying down the rules for the granting of training aid to customized companies pursuant to COVID-19 (recitals (11) and (12)). It is financed through State resources, since it is financed by public funds, as referred in recital (17) and (18).
- (42) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (10)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (43) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. companies from the social economy sector referred in recitals (20) to (23) (customised companies).
- (44) 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.
- (45) 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.

¹⁵ 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.

3.3. Compatibility

- (46) 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.
- (47) 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
- (48) 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”*.
- (49) 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”*.
- (50) The measure aims at supporting social economy companies providing them with liquidity to make additional training efforts to safeguard the sustainable employment of vulnerable groups in the social economy at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak (see recitals (6) and (7)).
- (51) 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 safeguard the sustainable employment of vulnerable groups in the social economy of the Flemish region is accepted due to the fact that the cessation or reduction of services during the COVID-19 outbreak had a clear impact on production, liquidity, solvency and the position of social economy companies as part of the broader economic chain and the measure is of a scale which can be reasonably anticipated to produce effects across the Flemish region and therefore the entire Belgium 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 in combination with section 1.1 point 8 that states *“Undertakings may not only face insufficient liquidity, but they may also suffer significant damage because of the COVID-19 outbreak. The exceptional nature of the COVID-19 outbreak means that such damages could not have been foreseen, are of a significant scale and hence put undertakings in conditions that sharply differ from the market conditions in which they normally operate.”*
- (52) 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 grant. It will be granted on the basis of a call that will be open to two training funds which will act as intermediates, whereas the beneficiaries are the customized companies. The grant amounts to

100% of the accepted project costs on the basis of the budget submitted (recital 10).

- The overall nominal value of the direct grant 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 (10). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019 (recital (23)). 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 aid¹⁶ or restructuring aid¹⁷ (recital (23)). 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(recital (19)). The measure therefore complies with point 22(d) of the Temporary Framework.

- (53) 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 8).
- (54) The Belgian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (38)). The Belgium 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 (35) to (38)).
- (55) 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.

¹⁶ 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.

¹⁷ 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

