



EUROPEAN COMMISSION

Brussels 11.1.2022
C(2022) 164 final

SENSITIVE*: *COMP Operations*

**Subject: State Aid SA.101133 (2021/N) – Belgium
COVID-19: bridge loans in the Flemish Region**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 20 December 2021, Belgium notified aid in the form of limited amounts of aid (“*overbruggingslening aan ondernemingen*”, 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.

* 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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

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
1000 Bruxelles
BELGIQUE

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

2. DESCRIPTION OF THE MEASURE

- (3) Belgium considers that the COVID-19 pandemic 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic. The Flemish Region represents 59.2 % of Belgium's GDP and the majority of its workforce.
- (4) 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.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 the Temporary Framework.

2.1. The nature and form of aid

- (6) The measure is a scheme that provides aid in the form of loans.

2.2. Legal basis

- (7) The legal basis for the measure is a draft Decision of the Flemish Government on the granting of a bridging loan to companies, which will be adopted once approved by the Commission.

2.3. Administration of the measure

- (8) The Flemish Region is responsible for administering the measure. Participatie Maatschappij Vlaanderen ("PMV/z-Leningen NV") implements the measure together with the Flemish Agency for Innovation and Entrepreneurship (VLAIO, hereinafter "the Agency"), in the name and on behalf of the Flemish Region.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure (and maximal nominal amounts of loans) is EUR 100 million.
- (10) Aid may be granted under the measure as from the adoption of the measure, which will take place after the notification of the Commission's decision approving the measure, until no later than 30 June 2022.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are SMEs³ having an operational place of business (or, in the case of natural persons, being established in) the Flemish

³ 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).

Region of Belgium. Financial institutions are excluded as eligible final beneficiaries. The Flemish Government estimates that approximately 1 500 undertakings will benefit from the measure.

- (12) Aid may not be granted under the measure to medium⁴ enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁵, the Agricultural Block Exemption Regulation (“ABER”)⁶ or of the Fisheries Block Exemption Regulation (“FIBER”)⁷ on 31 December 2019. 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 aid⁸ or restructuring aid.⁹

2.6. Sectoral and regional scope of the measure

- (13) The measure is open to all sectors except the financial sector. It applies to the Flemish Region of Belgium.

2.7. Basic elements of the measure

- (14) Loans to be granted under the measure aim at financing the necessary costs and investments needed to face the challenges caused by the pandemic, such as CO₂ meters, ventilation, the renewal of unsold stock or the compensation for continuing fixed costs such as commercial lease and services. The loan amount is equal to a percentage of the value of eligible invoices submitted by the applicant¹⁰. The invoices must relate to the eligible period from 1 November 2021 until the date of application for the loan. Beneficiaries can apply until 15 June 2022, unless budgetary resources have been exhausted earlier; that date can be postponed by the Flemish minister of economy, but the aid under the measure will be granted before 30 June 2022.
- (15) Loans are granted at an interest rate of 1 %.

⁴ As defined in Annex I to Commission Regulation (EU) No 651/2014.

⁵ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

⁶ As defined in Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 193, 1.7.2014, p. 1).

⁷ As defined in Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 369, 24.12.2014, p. 37).

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.

¹⁰ For loans up to EUR 50 000, 80 % of the declared eligible invoices are accepted as loan amount. If the loans amount to more than EUR 50 000, 80 % of the declared eligible invoices are accepted as loan amount up to EUR 50 000; above EUR 50 000, only 50 % of the declared eligible invoices are accepted as loan amount. Costs related to commercial lease and leasing must be limited to 20 % of the amount of the loans.

- (16) The loan will fall within the scope of section 3.1 of the Temporary Framework to the extent it cannot be granted as *de minimis* aid¹¹. For this purpose, it is up to the applicants to explicitly indicate in their application whether the *de minimis* thresholds have been already reached at the moment of the submission of that application.
- (17) The minimum amount of the loan will be EUR 10 000. The maximum amount of loan depends on the size of the beneficiary (EUR 200 000 for undertakings with less than 50 employees, EUR 400 000 for undertakings with 50 to 250 employees).
- (18) The duration of the loan is limited to 24 months for loans up to EUR 50 000 and 36 months for loans above EUR 50 000. Repayment is made in equal instalments per quarter after an exempted period of 12 months but PMV/z-Leningen NV can grant adjusted repayment periods within the limits of the loan maturity (24 or 36 months).
- (19) A beneficiary can apply for maximum two loans, with a maximum of 100 invoices per loan (thus maximum 200 invoices for two loans). The maximum of all loans under the measure combined is also limited to EUR 400 000 per beneficiary. If the beneficiary or any linked undertaking have already been granted earlier loans related to COVID-19 aid schemes, the total amount of all loans is limited to EUR 750 000, unless the aid applicant still has sufficient repayment capacity to obtain the additional loan. The Belgian authorities additionally confirmed that the overall aid amount does not at any point in time exceed EUR 345 000 per undertaking active in the fishery and aquaculture sector¹², EUR 290 000 per undertaking active in the primary production of agricultural products¹³ or EUR 2.3 million per undertaking active in all other sectors, all figures used must be gross, that is, before any deduction of tax or other charge.
- (20) Aid granted to undertakings active in the processing and marketing of agricultural products¹⁴ is conditional on not being partly or entirely passed on to primary producers and is not 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.

¹¹ 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), Commission Regulation (EU) No 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) 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).

¹² As defined in Article 2(1) of Commission Regulation (EU) No 717/2014.

¹³ As defined in Article 2(5) of the ABER

¹⁴ As defined in Article 2(6) and Article 2(7) of the ABER.

- (21) Aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market.
- (22) Aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k), of Commission Regulation (EU) No 717/2014.
- (23) Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, it will be ensured, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected and that the overall maximum amount of EUR 2.3 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a) of the Temporary Framework, the overall maximum amounts of EUR 345 000 is not exceeded per undertaking.

2.8. Cumulation

- (24) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁵ or the Block Exemption Regulations (GBER, ABER, FIBER) provided the provisions and cumulation rules of those Regulations are respected.
- (25) As regards the agricultural and fisheries sectors, the Belgian authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (26) 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.
- (27) 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 points 22(a) and 23(a) of that framework, will be respected. Aid granted under measures approved by the Commission under section 3.1 of the Temporary Framework that has been reimbursed before granting new aid under that section shall not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

- (28) 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 and EUR 10 000 in the primary agriculture and in the fisheries sectors on the comprehensive national State aid

¹⁵ Commission Regulation (EU) No 1407/2013, Commission Regulation (EU) No 1408/2013, Commission Regulation (EU) No 717/2014 and Commission Regulation (EU) No 360/2012.

website or Commission's IT tool within 12 months from the moment of granting¹⁶).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (29) By notifying the measure before putting it into effect, Belgium has respected its obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Flemish Region of Belgium and it is based on a decision of the Flemish Government (recitals (7) and (8)). It is financed through State resources, since it is financed by the general budget (of the Flemish Region).
- (32) The measure confers an advantage on its beneficiaries in the form of soft loans i.e. loans with an advantageous interest rate (recitals (6) and (15)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to SMEs, excluding the financial sector (see recitals (11) and (14)).
- (34) 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.
- (35) 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

- (36) 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.
- (37) 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*".

¹⁶ Referring to information required in Annex III to the GBER, Annex III to the ABER and Annex III to the FIBER. The nominal value of the underlying instrument shall be inserted per beneficiary.

- (38) 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*”.
- (39) The measure aims at facilitating the access of undertakings to external finance, at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (40) 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 measure is of a scale, which can be reasonably anticipated to produce effects across the economy of the Flemish Region, which, as explained in recital (3), is important for the entire Belgian 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.
- (41) 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 loans (recital (6)). The overall nominal value of the loans under the measure shall not exceed EUR 2.3 million at any point in time; all figures used must be gross, that is, before any deduction of tax or other charges (recital (19)). 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 (recital (9)). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measure to medium¹⁷ enterprises that were already in difficulty on 31 December 2019 (recital (12)). 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 aid¹⁸ or restructuring aid¹⁹ (recital (12)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

¹⁷ As defined in Annex I to Commission Regulation (EU) No 651/2014.

¹⁸ 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.

¹⁹ 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.

- Aid will be granted under the measure no later than 30 June 2022 (recital (10)). 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 (recital (20)). The measure therefore complies with point 22(e) of the Temporary Framework.
 - The overall nominal value of loans does not exceed EUR 345 000 per undertaking active in the fishery and aquaculture sector or EUR 290 000 per undertaking active in the primary production of agricultural products (recital (19)). The measure therefore complies with point 23(a) of the Temporary Framework.
 - Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (21)). The measure therefore complies with point 23(b) of the Temporary Framework.
 - Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (22)). The measure therefore complies with point 23(c) of the Temporary Framework.
 - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Belgium will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 2 300 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 345 000 is not exceeded per undertaking (recital (23)). The measure therefore complies with point 23bis of the Temporary Framework.
- (42) 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 (4)).
- (43) The Belgian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (28)). 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 (24) and (27)).

- (44) 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

