



EUROPEAN COMMISSION

Brussels, 5.12.2022  
C(2022) 9119 final

**SENSITIVE (\*)**: *COMP Operations*

**Subject: State Aid SA.104845 (2022/N) – Belgium**  
**TCF: Amendments to SA.103314**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 14 November 2022, Belgium notified amendments (the “notified amendments”) to the existing aid scheme (the “existing aid scheme”), which the Commission approved in case SA.103314 (the “initial decision”) <sup>(1)</sup> under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis Framework”) <sup>(2)</sup>. Belgium provided additional information on 29 November 2022.

---

(\*) 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>

<sup>(1)</sup> Commission Decision C(2022) 5060 final of 12 July 2022 in case SA.103314 (2022/N) (OJ C 136, 19.8.2022, p. 1).

<sup>(2)</sup> Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 9.11.2022, p. 1). This Temporary Crisis Framework replaces the Temporary Crisis Framework adopted on 23 March 2022 (OJ 131 I, 24.3.2022, p. 1) as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) (‘previous Temporary Crisis Framework’). The previous Temporary Crisis Framework is withdrawn with effect from 27 October 2022.

Son Excellence Madame Hadja Lahbib  
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 Hadja Lahbib  
Minister van Buitenlandse Zaken,  
Europese Zaken en Buitenlandse Handel,  
en van de Federale Culturele Instellingen  
Karmelietenstraat 15  
1000 Brussel  
BELGIË

- (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>(3)</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE NOTIFIED AMENDMENTS**

- (3) The objective of the existing aid scheme is to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far by Russia.
- (4) Belgium intends to modify the existing aid scheme as follows:
- (a) increase the number of loans for which a beneficiary can apply from two to three and change the maximum ceiling applicable to the cumulated amount of the loans from EUR 400 000 to EUR 2 million per undertaking for undertakings applying for a loan under Section 2.3 of the Temporary Crisis Framework. As regards undertakings applying for a loan under Section 2.1 of the Temporary Crisis Framework and which do not belong to special sectors (special sectors are the primary production of agricultural products, fishery and aquaculture sectors), the cumulated amount of the loans cannot exceed EUR 200 000 per undertaking if the undertaking has less than 50 employees and EUR 2 million per undertaking if the undertaking has 50 or more employees. The cumulated amount of the loans applied for under Section 2.1 of the Temporary Crisis Framework cannot exceed EUR 250 000 per undertaking active in the primary production of agricultural products and EUR 300 000 per undertaking active in the fishery and aquaculture sectors (whichever the size of the undertaking active in these special sectors);
  - (b) increase the budget from EUR 300 million to EUR 1 000 million ( <sup>(4)</sup>);
  - (c) extend the time period in which beneficiaries can submit application for aid from 15 December 2022 until 15 December 2023 and extend the time period until which aid can be granted from 31 December 2022 until 31 December 2023;
  - (d) change some features of the loans, namely the interest rate paid by the beneficiary (1.5% under the existing aid measure which only concerned SMEs) and the repayment/duration features.

The proposed (flat) interest rates (including the base rate and the risk margins) on the loans until 1 April 2023 are as follows:

---

<sup>(3)</sup> Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

<sup>(4)</sup> Belgium notes that, as a result of the above modifications on the scope of the measure, the number of beneficiaries is expected to increase from the initial range of 3 000 to 4 500 to a range of 7 000 to 10 000.

	<b>SMEs</b>	<b>Large undertakings</b>
<b>Loan duration of 36 months</b>	2%	2.5%
<b>Loan duration of 60 months</b>	2.5%	3.5%

On 1 April 2023, 1 July 2023 and 1 October 2023, the interest rate will be adjusted so that the minimum interest rate is at least equal to the base rate (one-year IBOR or equivalent as published by the Commission) on 1 March 2023, 1 June 2023 and 1 September 2023 plus the following risk premiums (risk margins)

	<b>SMEs</b>	<b>Large undertakings</b>
<b>Duration of 36 months</b>	base rate + 50 bps	base rate + 100 bps
<b>Duration of 60 months</b>	base rate + 100	base rate + 200 bps

The repayments occur after a stand still period of 2 years, in equal instalments per month. Interests will accrue from the first day of the grace period and must be capitalised at least annually;

- (e) allow large undertakings to be eligible (while only SMEs were eligible under the existing aid scheme).
- (5) Apart from the notified amendments, Belgium confirms that no further amendments are proposed to the existing aid scheme and that all other conditions remain unaltered. Belgium also confirms that, overall, aid granted under sections 2.1 to 2.3 of the previous Temporary Crisis Framework and aid granted under the same respective sections of the (current) Temporary Crisis Framework cannot exceed the aid ceilings provided in the respective sections of the current Temporary Crisis Framework at any point in time.
- (6) The legal basis for the notified amendments is a draft decision of the Flemish Government on the granting of a bridging loan to companies, which will be adopted once the Commission decision approving the measure is notified to Belgium. Aid can be applied for only after the Flemish Government has adopted the decision modifying the existing aid scheme.
- (7) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission's approval of the notified amendments.

### **3. ASSESSMENT**

#### **3.1. Existence of State aid**

- (8) 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 be liable to affect trade between Member States.
- (9) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals 33 to 39 of the initial decision. The notified amendments do not affect that conclusion. In particular, in spite of the extension of the benefit of the scheme to large undertakings, the existing aid scheme, as

amended, is still selective as it does not benefit undertakings in the financial sector. The Commission therefore refers to the respective assessment of the initial decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

### **3.2. Compatibility**

- (10) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of section 1, section 2.1 and sections 2.3 of the Temporary Crisis Framework for the reasons set out in recitals 43 to 52 of the initial decision. The Commission therefore refers to the respective assessment of the initial decision. The Commission notes that that assessment remains valid although the Temporary Crisis Framework has in the meantime been replaced by the version referred to in recital (1) of this Decision, inasmuch as the conditions of sections 1, 2.1 and 2.3 of the previous Temporary Crisis Framework that are relevant for the initial decision have not been modified substantively in the current Temporary Crisis Framework <sup>(5)</sup>.
- (11) The notified amendments do not affect that conclusion. In particular:
- a) The increase of the number of loans and of the maximum ceiling applicable to the cumulated amount of the loans (recital (4)(a)) complies with points 55(a), 56(a) and point 64(e) of the Temporary Crisis Framework.
  - b) The budget increase (recital (4)(b)) continues to comply with point 55(b) of the Temporary Crisis Framework.
  - c) The extension until 31 December 2023 of the time period until which aid can be granted and the extension until 15 December 2023 of the time period in which beneficiaries can submit application for aid (recital (4)(c)) comply with points 55(c) and 64(d) of the Temporary Crisis Framework.
  - d) The modified features of the loans as regards duration and interest rates still comply with point 64 (b) and (c) of the Temporary Crisis Framework. In particular, the new risk margins comply with the Commission case practice on modulation <sup>(6)</sup>.
  - e) Extending the benefit of the scheme to large undertakings (recital (4)(e)) does not alter any specific compatibility requirement set out in the Temporary Crisis Framework.
- (12) Apart from the notified amendments, Belgium confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (13) Belgium confirms that, in accordance with point 84 of the Temporary Crisis Framework, overall, aid granted under sections 2.1 to 2.3 of the previous Temporary Crisis Framework and aid granted under the same respective sections of the current Temporary Crisis Framework will not exceed the aid ceilings

---

<sup>(5)</sup> See in this regard Annex II (Correlation Table) to the Temporary Crisis Framework.

<sup>(6)</sup> See table B of the guidance published on the website of DG Competition at [https://ec.europa.eu/competition-policy/state-aid/ukraine\\_en](https://ec.europa.eu/competition-policy/state-aid/ukraine_en). The base rate available for Belgium on 1 October 2022 was 1.03%.

provided in the respective sections of the current Temporary Crisis Framework at any point in time (see recital 6)

- (14) The Commission therefore considers that the notified amendments are 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 Crisis Framework. The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid scheme in the initial decision.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the scheme, as amended, 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

