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PUBLIC VERSION

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Subject: **State Aid SA.57057(2020/N) – Belgium**
R&D scheme of Brussels Capital Region "R&D Projects - Covid-19" under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak

Excellency,

1. PROCEDURE

(1) By electronic notification of 16 April 2020, Belgium notified the aid of the Brussels Capital Region "R&D Projects - Covid-19" in the form of direct grants ("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) The Belgian authorities confirm that the notification does not contain confidential information.

(3) 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, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended on 3 April 2020 ((C(2020) 2215), OJ C 112I, 4.4.2020, p. 1-9).

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Article 3 of Regulation 1/1958,[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(4) The measure aims at supporting projects carried out by undertakings that can help in the context of fighting the COVID-19 outbreak. According to the Belgian authorities, given the health crisis, it is crucial that the regional government encourages undertakings to invest their resources in creating innovative solutions to target the COVID-19 outbreak. It is also essential to support the COVID-19 R&D projects targeting to innovate and develop: vaccines; drugs and treatments; medical devices; hospital and medical products and equipment (including ventilators, protective clothing and diagnostic tools, disinfectants and their intermediate products).

(5) The measure is expressly based on Article 107(3)(c) TFEU, as interpreted by Section 3.6. of the Temporary Framework.

2.1. The nature and form of aid

(6) The measure provides aid in the form of direct grants for COVID-19 research and development ("R&D") projects targeting the areas mentioned in recital (4).

2.2. National legal basis

(7) The legal basis for the measure are the Guidelines ("the Guidelines") adopted by Innoviris, the regional entity in charge of funding scientific research in Brussels Capital Region.. The Guidelines identify the eligible beneficiaries and the eligible R&D projects, and lay down the conditions that must be fulfilled to benefit from the measure. The Guidelines describe the phases of the application procedure and lay down the criteria to be applied for the selection of the eligible R&D projects. A decree of the Brussels-Capital Region Government will be adopted for each individual aid granted under the measure.

2.3. Administration of the measure

(8) Innoviris (the regional entity in charge of funding scientific research in Brussels Capital Region) is a public body under the authority of the Brussels Minister of Scientific Research. Innoviris is responsible for administering the measure[3]. Innoviris's budget is allocated by means of an act of the Parliament of the Brussels-Capital Region (regional budget).

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

[3] https://innoviris.brussels/fr

2.4. Budget and duration of the measure

(9) The Belgian authorities confirm that no more than EUR 4 million in aid will be granted under the measure.

(10) Aid may be granted under the measure as from its approval by the Commission until 31 December 2020. Aid applications must be submitted before 1 August 2020.

2.5. Beneficiaries

(11) The final beneficiaries of the measure are undertakings from of all sectors (including small and medium-sized enterprises, large undertakings), which have at least one place of business in the Brussels Capital Region and intend to carry out COVID-19 R&D projects targeting to innovate and develop: vaccines; drugs and treatments; medical devices; hospital and medical products and equipment (including ventilators, protective clothing and diagnostic tools, disinfectants and their intermediate products)

(12) Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[4] on 31 December 2019.

2.6. Sectoral and regional scope of the measure

(13) The measure is open to all sectors, as referred to in recital (11). It applies exclusively to the territory of Brussels Capital Region.

2.7. Basic elements of the measure

2.7.1 Aid for Covid-19 relevant R&D projects

(14) The measure supports COVID-19 R&D projects targeting to innovate and develop vaccines; drugs and treatments; medical devices; hospital and medical products and equipment (including ventilators, protective clothing and diagnostic tools, disinfectants and their intermediate products).

(15) To be eligible for aid under the measure, R&D projects must have started as of 1 February 2020 and/or have received a COVID-19-specific Seal of Excellence quality label under the Horizon 2020 SME-instrument. The Belgian authorities confirm that projects started before 1 February 2020 are also eligible for aid only if the aid is needed to accelerate their implementation, or to widen their scope. No aid will be granted to undertakings carrying out contract research on behalf of other undertakings.

(16) The following categories of research[5] are supported: industrial research and experimental development.

[4] As defined in Article 2(18) of the 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 of 26.6.2014, p. 1

2.7.2. Eligible costs

(17) The following cost components are eligible for aid under the measure:

- Personnel costs
- Costs of instruments and equipment, including costs for digital and computing equipment
- Cost of contractual research and other relevant research services, including costs for digital and computing services
- Knowledge and patents bought or licensed from outside sources in arm's length transactions
- Other operating expenses
- Additional overheads incurred directly as a result of the R&D project
- Costs for obtaining, validating and defending patents and other intangible assets
- Costs incurred for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants, and personal protective equipment
- Costs for pre-clinical and clinical trials (trial phases I-II)

(18) The Belgian authorities confirm that only costs incurred after 1 February 2020, directly related to and necessary for the R&D project during its duration and the subsequent IPR protection, clinical trials and regulatory procedures are eligible for aid under the measure. They also confirm that assets (instruments, equipment etc.) that are not used for the full duration of the R&D project and/or are used for other purposes than the R&D projects covered by the notified measure are taken into account only pro rata (depreciation over period of duration of R&D project or pro rata of the capacity used for the R&D project).

(19) For the projects started before 1 February 2020, the Belgian authorities confirm that only the additional costs, incurred after 1 February 2020 in relation to the acceleration efforts or the widened scope are eligible for aid under the measure.

2.7.3. Aid intensities

(20) Under the measure, the maximum allowable aid intensity (in the absence of bonuse), by category of research, is 80 % for industrial research and for experimental development.

(21) The measure provides for a collaboration bonus of 15 percentage points for R&D projects that are carried out in cross-border collaboration with research organisations or other undertakings.

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[5] As defined in paragraph (85) and (86) of Article 2 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 of 26.6.2014, p. 1.

2.7.4. Licensing commitment

(22) The aid is granted subject to the condition that the aid beneficiary commits to grant non-exclusive licences under non-discriminatory market conditions to third parties in the EEA.

2.8. Cumulation

(23) The Belgian authorities confirm that aid under this measure may be combined with support from other sources for the same eligible costs, provided the combined aid does not exceed the ceilings defined under points 35 (d) and (e) of the Temporary Framework (see also recitals (20) and (21) above).

(24) The Belgian authorities confirm that aid under this measure may be cumulated with de minimis aid and/or with aid under the GBER provided that the provisions of the relevant Regulations will be respected.

(25) The Belgian authorities also confirm that aid granted under the different sections of the Temporary Framework may be cumulated with each other, provided the relevant provisions of Temporary Framework are respected.

2.9. Monitoring and reporting

(26) The Belgian authorities commit to comply with all the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework.

3. ASSESSMENT

3.1. 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 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 Innoviris, the regional public entity in charge of funding scientific research in the Brussels Capital Region, which operates under the authority of the Brussels Minister of Scientific Research.

(29) It is financed through State resources, since it is financed by public funds stemming from the regional budget (recitals (8)-(9)).

(30) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, active in Brussels Capital Region, carrying out COVID-19 related R&D projects (see recital (11) above), selected on the basis of the criteria laid down in the Guidelines .

(32) 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.

(33) In view of the above, the Commission concludes that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Legality of the measure

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

3.3. Compatibility

(35) Since the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(36) Pursuant to Article 107(3)(c) TFEU the Commission may declare compatible with the internal market aid "facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest".

(37) By adopting the Temporary Framework on 19 March 2020, as amended on 3 April 2020, the Commission acknowledged the need to take specific temporary measures enabling Member States to combat the health crisis caused by the COVID-19 outbreak. The measure aims at encouraging and supporting COVID-19 relevant R&D in response to the current emergency health crisis (see recital (14) above). It has been designed to meet the requirements of the specific category of aid ("Aid for COVID-19 relevant research and development") described in section 3.6 of the Temporary Framework.

(38) The Commission accordingly considers that the notified measure contributes to the achievement of a common objective of crucial importance, is appropriate and necessary to fight the health crisis.

(39) The scheme meets all the conditions of section 3.6 of the Temporary Framework, namely:

- R&D aid under this measure is limited to the eligible research areas that are listed in point 35 of the Temporary Framework (see recital (16) above).
- Aid is granted under the measure in the form of direct grants by 31 December 2020.The measure therefore complies with point 35(a) of the Temporary Framework
- R&D projects started as from 1 February 2020 are eligible for aid under the measure, as are projects started before that date, provided the aid is necessary to accelerate their implementation, or to widen their scope (see recital (15) above). The measure therefore complies with point 35(b) of the Temporary Framework.
- The aid beneficiaries shall commit to grant non-exclusive licences under market conditions to third parties in other EEA states (see recital (22) above).

The measure therefore complies with point 35(g) of the Temporary Framework,

- Eligible costs under the aid measure are defined in accordance with point 35(c) of the Temporary Framework (recital (17)). Costs necessary for the duration of the R&D project are eligible for aid under the measure. For projects started before 1 February 2020, only the costs incurred after 1 February 2020 and necessary for the acceleration efforts or the widened scope of the project are eligible, as required by point 35(b) of the Temporary Framework (recital (19)).
- The overall aid intensities under this aid measure are defined in conformity with point 35(d) of the Temporary Framework (recital (20)). The cross-border collaboration bonus does not exceed 15 percentage points, and is granted under the conditions outlined in point 35 (e) of the Temporary Framework (recital (21)).
- In case of cumulation with other aid for the same eligible costs, the cumulation ceilings laid down in point 35(f) of the Temporary Framework will not be exceeded. Moreover, aid cannot be cumulated with aid for the same eligible costs under Sections 3.7 and 3.8 of the Temporary Framework as outlined in point 20 thereof.
- The aid under the measure will not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019 (see recital (12) above). The measure therefore complies with point 35(h) of the Temporary Framework.

(40) The Belgian authorities have confirmed that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (see section 2.9 above).

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)(c) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President