Brussels, 24.4.2020
C(2020) 2780 final

PUBLIC VERSION
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Subject: State Aid SA.57076 (2020/N) – Malta
Wage Supplement Scheme 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 20 April 2020, Malta notified aid in the form of wage subsidies to finance the wage costs of undertakings that, due to the COVID-19 outbreak, would otherwise lay off employees (“the measure”) under Section 3.10 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended on 3 April 2020 (“the Temporary Framework”).1

(2) The Maltese authorities confirm that the notification does not contain confidential information.

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Hon. Evarist BARTOLO
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Malta
Malta exceptionally agrees to waive its rights deriving from Article 342 Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958,\(^2\) and to have this Decision adopted and notified in English.

2. **DESCRIPTION OF THE MEASURE**

Malta considers that the COVID-19 outbreak has started to affect the real economy and puts at risk the jobs of employees in undertakings in various sectors which, due to the state of emergency and containment measures enforced by the Member State authorities, experienced a reduction in their activities.

The Maltese government issued recommendations to travellers arriving from Italian regions affected by the COVID-19 outbreak (25 February 2020), and from areas where the number of COVID-19 cases was on the increase (1 March 2020) to undergo a self-quarantine of 14 days. This was followed by the publication of a legal notice\(^3\) imposing such a quarantine, with the official text being published on 13 March 2020. The legal notice was amended in various instances to extend the reasons for mandatory quarantine and introduced fines for persons who did not abide by the established quarantine measures.

On 12 March 2020, the Prime Minister announced several additional measures including: the closure of all schools, universities and childcare centres for a week, the closure of day centres for the elderly and a ban on all mass gatherings or activities unless absolutely necessary. As of 13 March 2020, mandatory quarantine was extended to travellers from any country and on 16 March 2020 all gyms, bars and restaurants were required to close. Following this, on 22 March 2020, the Minister for Health ordered the closure of all non-essential retail and services and a banning of all organised gatherings.

As soon as the Maltese authorities started introducing measures to control the spread of the COVID-19, the business community highlighted the difficulties they were facing in relation to the capability to sustain wages in the short to medium term in a moment where economic activities were completely or partially stalled. Amongst the issues raised were the cost of wages for persons on mandatory quarantine leave (which are to be incurred by the employer), strains on liquidity resulting from reduced or absent revenues and absence of work to keep human resources engaged. One of the key concerns for employers was to maintain their employees during this period to ensure a speedy recovery once the COVID-19 situation is resolved.

By this measure, the Maltese authorities aim to protect the jobs of those who work in sectors that have suffered significant loss of business due to the COVID-19 outbreak and allow companies to retain their skilled employees. The main objective of this measure is to preserve employment and ensure that once the outbreak eases, the Maltese economy could recover in an effective manner.

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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.

\(^3\) L.N. 40 of 2020 under the Public Health Act (Chapter 465 of the laws of Malta).

(9) The measure is expressly based on Article 107(3)(b) TFEU, as interpreted by Section 3.10 of the Temporary Framework.

2.1. The nature and form of aid

(10) The measure provides aid in the form of direct grants as a contribution to wages for employees in sectors that have suffered significant loss of business due to the COVID-19 outbreak.

2.2. National legal basis

(11) The legal basis for the measure is the Malta Enterprise Act (Cap 463 of the Laws of Malta)⁵, implemented by the COVID-19 Wage Supplement Scheme – Government Notice No. 389⁶ (“Government Notice”).

2.3. Administration of the measure

(12) The scheme will be administered by Malta Enterprise⁷. Malta Enterprise is the country’s economic development agency, tasked with attracting new foreign direct investment as well as facilitating the growth of existing operations. It is a public agency which operates under a Chairman and a Board of Directors appointed by the Minister for the Economy, Investment and Small Business.

2.4. Budget and duration of the measure

(13) The Maltese authorities confirm that the budget of the measure is EUR 215 000 000. The measure is funded through the general Maltese budget.

(14) Aid may be granted under the measure as from its approval by the Commission until 31 December 2020.

2.5. Beneficiaries

(15) The direct beneficiaries of the measure are full-time and part-time self-employed individuals and employees of undertakings operating in Malta that have been negatively affected by the COVID-19 outbreak.

(16) Pursuant to Article 1 of the Government Notice, an employee is a person who is employed by an undertaking on a full-time or part-time basis, whose employment is duly registered with the competent authorities and who pays National Insurance contributions in Malta. The provision of a wage supplement can only be awarded in respect to an employee’s main source of income and may not be granted to any

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⁷ https://www.maltaenterprise.com/
employee who, in the same period, is in receipt of any retirement or services pension.

(17) The final beneficiaries of the measure are undertakings of any size, which have been negatively affected by the COVID-19 outbreak.

(18) According to Article 2 of the Government Notice, the measure is open to the following employees and sectors, including self-employed persons and their employees, if any:

(a) full-time as well as part-time employees of undertakings engaged in sectors listed in Annex A to the Government Notice and as determined by Malta Enterprise (see recital (21)); and

(b) full-time as well as part-time employees of enterprises engaged in other adversely affected sectors listed in Annex B to the Government Notice and as determined by Malta Enterprise (see recital (21)).

(19) Under Annex A to the Government Notice, the Maltese authorities have identified the sectors that suffered drastically due to the COVID-19 outbreak or had to temporarily suspend operation on the order of the competent health authorities. These include, among others: accommodation, food and beverage service activities, vehicle rentals and leasing, employment activities, tour operators, travel agencies and other related enterprises, security and investigation services, services to buildings, transport companies, creative arts, entertainment activities and personal services (like barbers, beauticians, hairdressers).

(20) Under Annex B to the Government Notice, the Maltese authorities have identified other sectors, which have suffered significant albeit less critical disturbance either due to their initial links with the hardest hit activities or due to disruptions in international value chains.

(21) While lists have been developed to facilitate the adjudication process, the Maltese authorities submit that individual claims from undertakings operating in sectors other than those listed under Annexes A and B may still be made and will be evaluated on a case-by-case basis, provided that the requesting undertakings demonstrate that they have been negatively affected by the COVID-19 containment measures.

2.6. Regional scope of the measure

(22) The scheme applies to the whole territory of Malta.

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8 Article 3.9 of the Government Notice.


11 For example: an undertaking operating in a sector different from those listed in Annex A and B may claim support, if it can demonstrate that most of his clients operate in any of those sectors and would have reduced or stop orders accordingly.
The Maltese authorities note that the undertakings based in Gozo experienced additional reduction of economic activity, which resulted from a decline in domestic tourism due to inter-island travel restrictions. Taking account of this, the measure provides for an increased support for Gozo-based employees and self-employed persons (see Section 2.7.1 below).

### 2.7. Basic elements of the measure

The wage subsidies are granted on the basis of an aid scheme that is intended to contribute to wage costs of undertakings in situations where personnel would have otherwise been laid off due to disturbances in business caused by the COVID-19 outbreak.

#### 2.7.1. Maximum aid intensity and absolute aid amount

The wage supplement is calculated on the basis of the average annual wage in Malta, which amounted to EUR 19,488 in the fourth quarter of 2019, corresponding to approximately EUR 1,624 per month.

According to the Maltese authorities, the proposed approach of taking as a reference salary the national average wage instead of the monthly gross salary of the employee ensures that employees in the lower paid segments have sufficient funds to address basic needs.

The wage supplement per employee is determined taking into account a daily amount calculated on the basis of a monthly wage supplement of EUR 800 for full-time employees and self-employed individuals, and EUR 500 for part-time employees and self-employed individuals.

The number of days covered by the supplement, hence the aid amount per employee, may vary in relation to the type of undertaking in which the employee is employed and the sector concerned. In particular:

(a) Self-employed persons and employees of undertakings operating in the most affected sectors (under Annex A) will be entitled to a weekly five-day wage supplement, based on a monthly wage of EUR 800 (for full-time self-employed/employees) or EUR 500 (for part-time self-employed/employees);

(b) Self-employed persons and employees of undertakings operating in sectors that have suffered less critical disturbance (under Annex B) will be entitled to a one day per week wage supplement, equivalent to EUR 160 per month (full-time self-employed/employees) or EUR 100 per month (part-time self-employed/employees);

The Maltese government recognises that the current situation has resulted in additional hardships to self-employed persons, who also engage employees. This is because these businesses are typically micro in nature and self-employed

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persons often cover a dual role, taking care of business management as well as operational activities. Therefore, under the scheme, self-employed persons who also employ at least one employee will be entitled to a two days per week wage supplement, equivalent to EUR 320 per month (full-time self-employed) or EUR 200 per month (part-time self-employed).

(30) Moreover, the aid amount per employee may also vary depending on the location of the activity, to take into account the particular disturbances to the economy in the island of Gozo, referred to in recital (23) above. More specifically:

(a) Gozo-based employees engaged in sectors listed in Annex B will be entitled to two days of wage supplement per week, equivalent to EUR 320 per month (in case of full-time employees) or EUR 200 per month (in case of part-time employees);

(b) Gozo-based self-employed persons operating in sectors under Annex B will be entitled to two days of wage supplement, equivalent to EUR 320 per month (full-time self-employed persons) or EUR 200 per month (part-time self-employed persons). This will increase to a three-day wage supplement, equivalent to EUR 480 per month (for full-time self-employed persons) or EUR 300 per month (for part-time self-employed persons) if the self-employed person employs at least one additional employee.

(31) With regard to sectors that have been less affected (listed in Annex B to the Government Notice), the Maltese authorities have explained that their government may in the future increase the number of days covered by the wage supplement in specific circumstances, should developments in the economy require additional cover for any sector or all sectors in this group. Conversely, should tangible recovery be achieved in certain listed economic sectors, the Maltese government may also reduce the cover. In no case, however, the monthly wage supplement may exceed the amount of wage supplement being granted to cover a full 5-day week (i.e., EUR 800 for full-time employees and EUR 500 for part-time employees).

(32) As explained above, the aid intensity may vary in relation to the type of employee and sector concerned, as well as to the location of the undertaking. However, as the aid is in all cases capped at EUR 800 per month for full-time employees, the maximum aid intensity allowed under the scheme for employees engaged in sectors listed in Annex A corresponds to approximately 50% of the average national wage of EUR 1 624 per month, and is slightly above the minimum wage of EUR 777.10.

2.7.2. Aid application, payment conditions and modalities

(33) Undertakings are to submit their application for support under the measure through a dedicated application form14. Unless the applicant undertaking operates in a sector which has been identified by the Maltese government as having had closure of operations or a significant reduction in business activity (i.e., listed in

Annexes A or B), the undertaking will be required to demonstrate the disturbance suffered due to the COVID-19 outbreak and justify how such disturbances have affected the sustainability of the business.

(34) Prior to the disbursement of the wage supplement, employers will be required to declare that the employees receiving the wage supplement would have been laid off or would have been at risk of being laid off, without the aid. Under the scheme, employers have to maintain the employment of any employees receiving support for the entire period for which the aid is granted.

(35) The measure will apply retroactively from the date when the disturbance or containment measure related to the COVID-19 outbreak hit the specific sector or undertaking. In no case can such date be earlier than 9 March 2020. While in principle, the wage subsidy will cover a three-month period, this may be extended, at the latest until 31 December 2020, should the COVID-19 outbreak and containment measures extend beyond the initially established period.

(36) In order to simplify administrative processes, the aid will be paid to the eligible employers, who will need to guarantee that the wage supplement is duly forwarded to the employee immediately upon receipt of such funds from Malta Enterprise and, in any case, by not later than the next salary payment due to the employee in question.

(37) Undertakings receiving a wage supplement which is to be forwarded to their employees shall be obliged, where such supplement covers only part of a working week, to guarantee a monthly minimum income of EUR 800 (inclusive of the employee’s national insurance contribution) for full-time employees and of EUR 500 (inclusive of the employee’s national insurance contribution) for part-time employees.

2.8. **Cumulation**

(38) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.

(39) The measure may be combined with other generally available or selective measures supporting wage costs, such as employment aid, wage costs of researchers carrying out supported R&D projects and wage costs support under training aid schemes, as long as the respective rules on cumulation are respected. In particular, where applicable, the cumulation rules set out in the General Block Exemption Regulation and in the different de minimis Regulations, namely, 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.

(40) Malta Enterprise identifies any issues of cumulation and double funding through an existing network with the main agencies administering State support. In particular, it will ensure that the combined support does not lead to overcompensation of the wage costs of the employees concerned. If any overcompensation or any cumulation in breach of the applicable rules is nonetheless detected, the payment of any further aid will be suspended until the beneficiary undertakings repay such overcompensation.
2.9. Monitoring and reporting

The Maltese authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework.

3. Assessment

3.1. Existence of State aid

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.

The measure, for which the Maltese Ministry of Finance and Financial Services and the Ministry for the Economy, Investment and Small Businesses are jointly responsible, is imputable to the State. It is laid down in the Government Notice and administered by Malta Enterprise, which is a public entity. Moreover, the measure is financed through State resources, since it is financed by public funds of the State general budget.

The measure confers an advantage on its beneficiaries by relieving them of wage costs which they would have had to bear under normal market conditions.

The advantage granted by the measure is materially and geographically selective. The aid is awarded only (and with different intensities) to undertakings that have been affected by the COVID-19 outbreak and that operate in the sectors listed in Annex A or Annex B to the Government Notice, or are able to justify that their business activity has been adversely affected by the current crisis. Moreover, the measure is also geographically selective since, in certain identified cases, employees and self-employed persons based in Gozo may receive additional support compared to employees and self-employed persons engaged in the same sector that are based in the rest of Malta, as explained in recital (30) above.

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.

In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Maltese authorities do not contest that conclusion.

3.2. Legality of the measure

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

3.3. Compatibility

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.
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”.

By adopting the Temporary Framework on 19 March 2020, as amended on 3 April 2020, the Commission acknowledged 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”.

The measure aims at preserving employment and avoiding employees’ lay-offs at a time when most business activities are suspended or significantly reduced due to the COVID-19 outbreak, which is affecting the wider economy and leading to severe disturbances of the real economy of Member States (see recital (8)).

The measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of wage subsidies”) described in Section 3.10 of the Temporary Framework.

Indeed, the Commission notes that the measure meets all the conditions of the Temporary Framework and is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State. In particular:

- In accordance with point 43 (a) of the Temporary Framework, the aid is aimed at avoiding lay-offs during the COVID-19 outbreak (see recitals (8), (24) and (34)).

- In accordance with point 43 (b) of the Temporary Framework, the aid is granted in the form of a scheme to undertakings that are particularly affected by the COVID-19 outbreak (see recitals (19) to (21) and (23)).

- In accordance with point 43 (c) of the Temporary Framework, the wage subsidies are granted over a period of not more than twelve months after the application for aid (see recitals (14) and (35)), for employees that would otherwise have been laid off as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak (see recitals (8), (24), (33) and (34)), and subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted (see recital (34)).

- In accordance with point 43 (d) of the Temporary Framework, the Maltese authorities have notified a calculation method of the aid intensities which protects low wage categories (see recital (26)) and is overall proportionate with the objectives of the scheme. Indeed, the maximum monthly wage subsidy per employee (EUR 800) corresponds to approximately 50% of the national average wage in Malta (EUR 1 624) and is slightly higher than the statutory minimum wage, which is set at EUR 777.10 per month (see recital (32)). Moreover, for employees engaged in sectors that have suffered a less critical disturbance, aid intensities are even lower (see recitals (25) to (32)).
• In accordance with point 43 (e) of the Temporary Framework, the Maltese authorities have confirmed that wage subsidies granted under the measure may be combined with other generally available or selective employment support measures (see recitals (38) to (40)), and that overcompensation of the wage costs of the personnel concerned is excluded.

• The Maltese authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (see recital (41)).

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.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION