



EUROPEAN COMMISSION

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PUBLIC VERSION

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**Subject: State Aid SA.57282 (2020/N) – Poland.
Amendment to the scheme SA.56922 (2020/N) – Polish anti-crisis
measures – direct grants, repayable advances, tax and payments
advantages, tax deferrals and wage subsidies schemes related to
COVID-19**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 7 May 2020, according to Article 108(3) Treaty on the Functioning of the European Union (“TFEU”), registered by the Commission on the same day, Poland notified an amendment to the State aid scheme SA.56922 on the Polish anti-crisis measures approved by the Commission Decision of 23 April 2020 in case SA.56922 (2020/N)¹ on the basis of Article 107(3)(b)TFEU (“the initial Decision” and “the initial scheme”), as interpreted by the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended on 3 April and 8 May 2020 respectively (“the Temporary Framework”)².
- (2) The Polish authorities confirm that the notification does not contain confidential information.

¹ Commission Decision C(2020) 2686 final.

² Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak as adopted on 19 March 2020 (C(2020) 1863), OJ C 91I, 20.3.2020, p. 1-9, as amended on 3 April 2020, OJ C112 I, 4.4.2020, p.1-9 and on 8 May 2020, OJ C 164, 13.5.2020, p. 3–15.

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- (3) Poland exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (4) Poland intends to modify the initial scheme as approved by Commission Decision of 23 April 2020 mentioned in recital (1) above.
- (5) The objective of the initial scheme is to ensure financial liquidity to undertakings affected by the economic repercussions of the COVID-19 outbreak. It also aims to maintain jobs and to minimize other economic effects of the pandemic caused by the shutdown of business, lower consumption demand and supply chain disruptions. The modified scheme pursues the same objective.
- (6) The notified amendment concerns measure seven as notified by Poland under section 3.1 of Temporary Framework and described in recital (6) of the initial Decision. It aims to provide “financial support of natural persons, legal persons or organisational units without legal personality, if creative or artistic activity cannot be continued in its current form during the period of epidemic emergency”. The aid takes the form of a direct grant and the Minister of Culture and National Heritage is the granting authority responsible for administering the aid measure (see subsections 2.1.1 (“The nature and form of aid”) and 2.1.3 (“The administration of the measures”) of the initial Decision.
- (7) The only amendment concerns an increase of the budget of the measure by PLN 60 million (EUR 13.13 million)⁴, thereby bringing the overall budget to an estimated amount of PLN 80 million (EUR 17.51 million).
- (8) All the other conditions of the initial aid scheme remain unchanged and as described in the initial Decision.

2.1. Legal basis

- (9) The legal basis for the notified amended measure is Article 15m of the legal Act of 31 March 2020 on special solutions related to the prevention and eradication of COVID-19, other infectious diseases and the resulting crisis and some other acts⁵.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (10) By notifying the increased budget for measure seven before putting it into effect, the Polish authorities have respected their obligations under Article 108(3) TFEU.

³ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁴ See recital (14) of the initial Decision.

⁵ <http://dziennikustaw.gov.pl/D2020000056801.pdf>

3.2. Existence of State aid

- (11) 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.
- (12) The existence of aid within the meaning of Article 107(1) TFEU was established in the initial decision and remains valid for the notified amendment. In particular, the increase of the budget of the measure, which is described in recital (7), does not affect the assessment of the initial Decision on the existence of aid. The Commission therefore refers to the assessment contained in recitals (61) to (68) of the initial Decision.

3.3. Compatibility

- (13) Since the amended measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether this measure is compatible with the internal market.
- (14) The Commission has examined the notified measure pursuant to Article 107(3)(b) TFEU.
- (15) 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) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (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*”.
- (17) In its initial decision, the Commission concluded that the existing aid scheme was compliant with the compatibility conditions set out by the Temporary Framework.
- (18) The Commission refers to its analysis of compatibility as set out in recitals (69) to (75) and (79) to (80) of the initial Decision. Apart from the modification referred to in recital (7) above, the Commission notes that there are no other alterations to the existing aid scheme (recital (8)).
- (19) The Commission considers that the notified amendment to the scheme (i.e., the increase of the budget of the measure) does not affect the compatibility analysis of the initial aid scheme as set out in the initial Decision.
- (20) The Commission therefore considers that the amended 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) TFEU.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President