EUROPEAN COMMISSION

Brussels, 12.6.2020
C(2020) 4062 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: **State Aid SA.57568 (2020/N) – Poland**
COVID-19: Interest rate subsidies for farmers

Excellency,

1. PROCEDURE

(1) By electronic notification of 3 June 2020, Poland notified aid in the form of an interest rate subsidy "COVID-19: Interest rate subsidies for farmers" ("the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[1] The Polish authorities provided additional information on 9 June 2020 and on 11 June 2020.

(2) Poland 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[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) Poland considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to

[*] Handling instructions for SENSITIVE information are given at 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, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1–9 and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3–15.

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

Sz.P. Jacek CZAPUTOWICZ
Minister Spraw Zagranicznych
Al. J. Ch. Szucha 23
Warszawa

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111

ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.

(4) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.1 of the Temporary Framework.

2.1. The nature and form of aid

(5) The measure provides for aid in the form of an interest rate subsidy on private loans. The aid shall be equivalent to a direct grant, payable in instalments.

2.2. Legal basis

(6) The legal basis for the measure is the draft Act on interest subsidies for bank loans granted to provide financial liquidity to entrepreneurs affected by the effects of COVID-19 (hereafter “the Act on interest subsidies”).

2.3. Administration of the measure

(7) The Bank Gospodarstwa Krajowego (National Development Bank, hereafter “BGK”) is responsible for administering the measure.

2.4. Budget and duration of the measure

(8) The estimated budget of the measure is PLN 40 million (approx. EUR 9,04 million).

(9) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

(10) The beneficiaries of the measure are undertakings active in agricultural primary production in Poland or undertakings which suspended this activity after 1 February 2020 further to the national measures undertaken to limit the spread of the coronavirus. The estimated number of beneficiaries is more than 1000.

(11) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation (“ABER”)[3] on 31 December 2019.

2.6. Sectoral and regional scope of the measure

(12) The measure is open to undertakings active in the agricultural primary production[4]. It applies to the whole territory of Poland.

---

[3] 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 of 1.7.2014, p.1.

2.7. Basic elements of the measure

(13) The objective of the measure is to target the risk of losing financial liquidity of agricultural undertakings and thus eliminate the negative economic impacts on business operations of beneficiaries, caused by emergency measures undertaken at national level further to the outbreak of the coronavirus pandemic.

(14) According to the Polish authorities, these emergency measures caused a disruption of supplier-customer relations. Specifically, sales diminished due to closure of borders, travel and trade restrictions, quarantines and isolation measures, which led to lower consumption and directly adversely impacted demand/supply chains.

(15) Consequently, primary agricultural producers face the serious threat of liquidity shortage. The crisis context has a negative impact on the economic viability of many, in principle healthy, enterprises, in the short and medium term and in a long term may threaten their survival. The present aid responds to these liquidity needs.

(16) The measure targets undertakings which lost financial liquidity, i.e. the ability to repay liabilities due on time, or are at risk of financial liquidity shortage in consequence of COVID-19 crisis related measures.

(17) The Polish authorities propose to grant aid in the form of an interest rate subsidy applied to revolving and non-revolving working capital loans**.**

(18) Aid will be granted in compliance with the conditions laid down in the draft Act on interest subsidies.

(19) The subsidy can be:

a) part of the interests owed to the commercial bank, amounting up to:

i) 2% for micro, small or medium-sized undertakings[5],

ii) 1% for large undertakings;

b) all interest due to the bank, if the interest rate of the subsidised-interest loan does not exceed the value set out in point (a) of this recital for the given category of enterprises.

(20) The Polish authorities confirmed that the aid will be granted in compliance with the conditions relating to the maximum amount of aid granted to one undertaking as set out in Section 3.1. of the Temporary Framework. The overall nominal value of aid, including other aid granted to the same beneficiary pursuant to Section 3.1. of the Temporary framework, will not exceed EUR 100 000 per undertaking active in the primary production of agricultural products.

---

[4] Aid to all the other sectors is granted on the basis of the Commission decision C(2020)2362 final adopted on 10.4.2020 in case SA.56979 (2020/N).

[5] 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 of 26.6.2014, p. 1.

(21) Aid is granted by BGK through commercial banks acting as financial intermediaries of BGK to the borrowers.

(22) The undertakings benefitting from the subsidised interest rate should repay part of the interest rate due to the bank, which issued the loan. This part is calculated as a difference between the interests calculated according to the interest rate of the loan owed to the commercial bank and the portion of this interest rate referred to in recital (19a).

(23) The subsidy to the interest rate is paid by BGK from the Fund for the Interest Rate Subsidy for loans, which has been created for the purpose of this measure in compliance with Chapter 4 of the Act on interest subsidies, into commercial banks that have concluded a cooperation agreement with BGK.

(24) Subsidised-interest will be afforded by the banks which conclude cooperation agreements with the granting authority. The list of banks providing subsidised-interest loans is published by the granting authority on its website.

(25) The interest rate subsidies will be paid on a monthly basis, for a period not exceeding 12 months from concluding the subsidised-interest loan agreement.

(26) The interest rate of the subsidised-interest loan is calculated according to the rate specified in the subsidised-interest loan agreement referred to in Article 6(1) of the Act on interest subsidies. The interest rate shall not exceed the average interest rate of other working capital loans granted by the bank.

(27) The loans with subsidised interest rate granted under this measure will be new loans or loans already granted on the basis of previous loan agreements concluded:

(a) from the date of entry into force of the Act on interest subsidies;

(b) before the date of entry into force of the Act on interest subsidies, if these agreements are adapted to the applicable conditions set out in that Act on interest subsidies.

Non-performing loans will not be eligible for aid under this scheme.

(28) Aid under this scheme will not be fixed on the basis of the price or quantity of products put on the market.

2.8. Cumulation

(29) Aid under this scheme may be cumulated with *de minimis* aid granted pursuant to the provisions of the Commission *de minimis* Regulation for agricultural primary production[6].

(30) The Polish authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission

[6] 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).

under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(31) Moreover, where the beneficiary pursues activity in several sectors, to which different maximum amounts are applicable in accordance with points 22(a) and 23(a) of the Temporary Framework, aid may be granted provided that the beneficiary guarantees, by means of keeping separate accounts, the compliance with the appropriate ceiling for each of these activities and that the maximum possible amount for each activity is not exceeded.

2.9. Monitoring and reporting

(32) The Polish 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 granted under the measure on the on the comprehensive national State aid website[7] within 12 months from the moment of granting[8]). They also confirmed that the nominal value of the underlying instrument will be inserted per beneficiary.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(34) 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.

(35) The measure is imputable to the State, since it is administered by the BGK (recital 7) and it is based on Act of the State (recital 6). It is financed through State resources, since it is financed by public funds (recital 23).

(36) The measure confers an advantage on borrowers in the form of the interest rate subsidy. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(37) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in agricultural primary production.

---

[7] www.srpp.minrol.gov.pl

[8] Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

(38) 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.

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

3.3. Compatibility

(40) 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.

(41) 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*".

(42) 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*".

(43) The measure aims at ensuring sufficient liquidity of agricultural primary producers at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(44) The measure is one of a series of measures conceived at national level by the Polish authorities to remedy a serious disturbance in their economy. The importance of ensuring sufficient liquidity for running activities of primary producers is widely accepted. 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).

(45) The measure aims at covering part of the interest rate due by companies affected by the coronavirus outbreak in their loans with commercial banks. Even if it is not a direct grant, the measure falls within Section 3.1 of the Temporary Framework, given that it results in a financial support to undertakings with the same effect as a direct grant. For practical reasons linked to the high number of potential beneficiaries, the measure will be granted by BGK through the commercial banks. For this reason, it has to be ensured that, by analogy with section 3.4 of the Temporary Framework, commercial banks, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. In that respect, the Commission considers that the measure includes safeguards that the aid will not indirectly benefit commercial banks. Beyond the fact that the list of banks having concluded a cooperation agreement with BGK will be public (allowing potential borrowers to receive competing offers) (recital 24), the measure provides that the

interest rate on a loan with subsidy cannot be higher than the average interest rate on other working capital loans granted by the lending bank (recital 26). In addition, the Polish authorities confirmed that the cooperation agreement between BGK and the participating bank will provide that the advantage is passed on in full to the borrowers. As a result, the Commission considers that the measure targets undertakings facing a sudden liquidity shortage and not the credit institutions that will be involved in the management of the scheme.

(46) 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 interest rates subsidies (recital (5)).

- Aid is granted on the basis of a scheme with an estimated budget as indicated in recital (8). The measure therefore complies with point 22(b) of the Temporary Framework;

- Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019 (recital (11)). The measure therefore complies with point 22(c) of the Temporary Framework;

- Aid will be granted under the measure no later than on 31 December 2020 (recital (9)). The measure therefore complies with point 22(d) of the Temporary Framework;

- Since the aid is not granted to undertakings active in the processing and marketing of agricultural products, point 22(e) of the Temporary Framework is not applicable;

- The overall nominal value of aid, including other aid granted to the same beneficiary pursuant to Section 3.1. of the Temporary framework will not exceed EUR 100 000 per undertaking active in the primary production of agricultural products (recital (20)). The measure therefore complies with point 23(a) of the Temporary Framework;

- Aid granted under this scheme will not be fixed on the basis of the price or quantity of products put on the market (recital (28)). The measure therefore complies with point 23(b) 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, Poland 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 800 000 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 120 000 is not exceeded per undertaking (recital (31)). The measure therefore complies with point 23bis of the Temporary Framework.

(47) The Polish authorities confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (32)).

The Polish 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 are respected and the cumulation rules of the relevant Regulations are respected (recitals (29) to (31)).

(48) 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.

COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU

(49) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[9] in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of the BRRD.

(50) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.[10] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD.

(51) Moreover, as indicated in recital 45 above, the measure introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the measure to the final beneficiaries.

(52) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD.

[9] OJ L 173, 12.6.2014, p. 190-348.

[10] Points 6 and 29 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

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION