



EUROPEAN COMMISSION

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**Subject: State Aid SA.58481 (2020/N) – Poland
Amendment of the scheme SA.56922 (2020/N) concerning 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 26 August 2020, Poland notified an amendment to the aid scheme SA.56922 (“the initial scheme”), which the Commission approved by decision of 23 April 2020 (“the initial Decision”)¹ under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”)².

¹ Commission Decision C(2020) 2686 final of 23 April 2020, State Aid SA.56922 (2020/N) – Poland. Polish anti-crisis measures – direct grants, repayable advances, tax and payments advantages, tax deferrals and wage subsidies schemes related to COVID-19.

² Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, 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, 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 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

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- (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 1/1958³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE SCHEME

- (3) Point 15 of the third amendment to the Temporary Framework, adopted on 29 June 2020⁴, provides that aid may be granted to micro or small enterprises (within the meaning of the General Block Exemption Regulation⁵ or the Agricultural Block Exemption Regulation⁶ or the Fisheries Block Exemption Regulation⁷) that were already in difficulty on 31 December 2019, provided that, at the moment of the granting, these enterprises are not subject to a collective insolvency procedure under national law, and that they have not received rescue aid⁸ or restructuring aid.⁹
- (4) Poland plans to modify measure 3 (low-interest loan – in the form of repayable advance – to cover the cost of doing business for a micro-entrepreneur) and measure 5 (property tax exemptions) of the initial scheme to reflect this amendment to the Temporary Framework. The modification consists in extending the benefit of measures 3 and 5 to micro and small companies that were already in difficulty on 31 December 2019, provided that they are not subject to collective insolvency procedure under national law, and that they have not received rescue aid or restructuring aid.
- (5) The amendment to the initial scheme will only be put into effect after the Commission’s approval.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (6) By notifying the amendment to the initial scheme 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 L 17, 6.10.1958, p. 385.

⁴ See footnote 2 above.

⁵ As defined in Article 2(18) 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, 26.6.2014, p. 1.

⁶ As defined in Article 2(14) of the 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, 1.7.2014, p.1.

⁷ As defined in Article 3(5) of the Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

⁸ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁹ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

3.2. Existence of State aid

- (7) 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.
- (8) The initial scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial Decision.¹⁰ The proposed modification to the initial scheme does not affect that conclusion. The Commission therefore refers to the respective assessment of the aforementioned decision and concludes that the initial scheme as amended constitutes State aid.

3.3. Compatibility

- (9) The Commission assessed the initial scheme on the basis of Article 107(3)(b) TFEU in light of the Temporary Framework and concluded that the initial scheme was compliant with the compatibility conditions set out in that Framework.
- (10) The Commission refers to its analysis of compatibility as set out in the initial Decision.¹¹
- (11) As explained in points 5 to 7 of the Third Amendment to the Temporary Framework, the Commission considers that micro and small undertakings have been particularly affected during the current crisis by the liquidity shortage caused by the economic impact of the COVID-19 outbreak. The unprecedented supply and demand shock due to the crisis has also exacerbated the difficulties such undertakings face to access financing on the market in general, as compared to medium-sized and large enterprises. Given their limited size and limited involvement in cross-border transactions, it is less likely that State aid granted to these undertakings would distort competition in the internal market and affect intra-EU trade than State aid granted to medium-sized and large companies. This holds true even if these undertakings were to fall under the category of an undertaking in financial difficulty already on 31 December 2019, as long as they are not subject to a collective insolvency procedure under national law and have not received rescue aid (which has not been repaid) or restructuring aid (and are still subject to a restructuring plan).
- (12) In light of point 22(c)bis of the Temporary Framework, the Commission considers that the proposed modification to measures 3 and 5 contained in the initial scheme (see recital 4 above) meets the conditions of the Temporary Framework and does not affect the compatibility analysis as set out in the initial Decision.

¹⁰ See recitals (61) to (68) of Commission Decision C(2020) 2686 final of 23 April 2020.

¹¹ See recitals (69) to (80) of Commission Decision C(2020) 2686 final of 23 April 2020.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the amendment to the aid scheme SA.56922 (2020/N) on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the TFEU.

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