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**Subject: State Aid SA.58763(2020/N) – Belgium
COVID-19: Aid to hotels and apart-hotels**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 25 September 2020, Belgium notified aid in the form of limited amounts of aid (aid to hotels and apart-hotels, “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
- (2) 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 Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

¹ 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.

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

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2. DESCRIPTION OF THE MEASURE

- (3) Belgium 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 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 drastic drop in economic activity in spring 2020 and the difficult recovery afterwards will have serious repercussions on the evolution of the Gross Domestic Product (“GDP”) of Belgium. The Belgian Federal Planning Bureau is forecasting a 7.4% drop in GDP compared to 2019.
- (5) The hotel sector is one of the sectors most affected by the current crisis. For instance, in March 2020, Brussels hotels saw their occupancy rate plummet (28% occupancy compared to 76% in March 2019). In April, this rate dropped further to 1.8%. The number of stays slightly recovered in July and August 2020, but occupancy rates continue to stagnate at between 20 and 25%, which means that those hotels that have reopened see their revenues reduced to a fifth or a quarter of what they would be in a normal situation, while they also have to incur new expenses to apply the necessary hygiene measures.
- (6) Many structural factors indicate that the situation is not expected to improve in the immediate future. Given the uncertainty about the opening of borders and fears of infection abroad, most travellers remain in their own countries for the time being. This obviously does not benefit Belgian destinations, which only have a small pool of national travellers to compensate for the absence of foreign tourists.
- (7) Meanwhile, the level of flight bookings to Belgium remain very low (90% reduction in bookings to Brussels for November and December 2020 compared to the same period last year). As such, in the absence of radical changes such as the arrival of treatment or a safe vaccine for COVID-19, leisure tourism is not expected to change significantly by next spring.
- (8) In addition to its intensity and duration, the economic impact of the crisis on the tourism sector also depends on its financial health at the beginning of the crisis. In this respect, it is worrying to note that the hospitality³ sector, which is likely to be the hardest hit by this crisis, is also the sector, which seems the most financially fragile. According to the annual report published by Unizo, Graydon and UCM in 2019, SMEs in the hospitality sector have a considerably lower liquidity ratio, which expresses their ability to pay off current debt without raising external capital, than other sectors.
- (9) Finally, there is the risk of a snowball effect. The touristic sector is made up of a number of complementary players, as well as various subcontractors. The survival

³ UNIZO, Graydon et UCM (2019) : « Rapport PME : aperçu de l'état de santé économique et financière des PME belges », p. 62. Available at: <https://www.ucm.be/content/download/202181/4072796/file/UCM-PME-RAPPORT-2019%20FR.pdf>.

of the sector as a whole depends on that of each of its members. As a particularly fragile subsector that has been hit harder by the crisis, the hotel industry could have a domino effect on the other subsectors: the lack of sufficient high quality accommodation would slow the return of major professional events, discourage the arrival of tourists, etc.

- (10) With the measure, the government of the Brussels-Capital Region aims to ensure continuity of economic activity by providing liquidity to hotels and aparthotels. In particular, it aims to provide assistance to affected hotels and aparthotels for lost income and ongoing operating costs, such as costs for insurance, maintenance and security.
- (11) Belgium confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (12) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (13) The measure provides aid in the form of direct grants.

2.2. Legal basis

- (14) The legal basis for the measure is the [*Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif à une aide aux hôtels et appart-hôtels dans le cadre de la crise sanitaire du Covid-19*], a draft of which was included with the notification.

2.3. Administration of the measure

- (15) The Brussels Regional Public Service for Brussels Economy and Employment (“BEE”) is responsible for administering the measure.

2.4. Budget and duration of the measure

- (16) The estimated budget of the measure is EUR 15,8 million.
- (17) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

- (18) The final beneficiaries of the measure are hotels⁴ and aparthotels⁵ in the Brussels-Capital Region. Financial institutions are excluded as eligible final beneficiaries.

⁴ Pursuant to Article 3 (4) of the Ordinance for touristic lodging of 8 May 2014, hotels are defined as “any establishment with at least six rooms or suites offering tourist accommodation including hotel services”.

The beneficiaries may be enterprises of all sizes. The estimated number of beneficiaries is 3,000.

- (19) Aid may not be granted under the measure to medium⁶ and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁷ on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid⁸ or restructuring aid⁹.

2.6. Sectoral and regional scope of the measure

- (20) The measure is applicable to hotels and aparthotels and excludes the financial sector. It applies to the Brussels-Capital Region.

2.7. Basic elements of the measure

- (21) The aid consists of direct grants calculated on the basis of the number of housing units of each beneficiary. The number of housing units is determined on the basis of the declaration on the base capacity made by the beneficiary when registering the hotel or aparthotel. The aid will be paid as a lump sum to each beneficiary.
- (22) If the hotel or aparthotel has a base-capacity of 18 housing units or less, the grant is EUR 20 000.
- (23) If the base-capacity of the hotel or aparthotel is bigger, the beneficiary receives EUR 1100 per housing unit.
- (24) The maximum amount of aid is EUR 200 000 per hotel or aparthotel. The Belgian authorities submitted that the overall maximum amount of aid shall not exceed EUR 800 000 per undertaking. This figure is gross, that is, before any deduction of tax or other charges.
- (25) Operators of hotels or aparthotels established in the Brussels-Capital Region may apply for aid by submitting an application to the BEE until 13 November 2020.
- (26) The eligibility conditions for an aid application are the following:

⁵ Pursuant to Article 3 (5) of the Ordinance for touristic lodging of 8 May 2014, aparthotel is defined as “any establishment with at least 6 apartments, studios, flats or similar, furnished, equipped with the furniture necessary for cooking and offering tourist accommodation including hotel services”.

⁶ 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, 26.6.2014, p. 1.

⁷ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

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.

- To be an operator of at least one hotel or aparthotel established in the Brussels-Capital Region;
- To have an active and non-suspended registration number and valid hotel or aparthotel certificates for town planning and fire safety on 7 July 2020, in accordance with national legislation;
- To fulfil the obligation to publish the annual accounts with the National Bank of Belgium;
- To meet at least two of the following three financial health conditions:
 - The operator's own funds are greater than half of the subscribed capital, plus the non-capital contribution, unless the operator has adequately reconstituted its own funds since the end of the last fiscal year;
 - The turnover for 2019 is higher than for 2018;
 - The profit for the year before tax is positive;
- Not to have, at the time of submission of the aid application, social and fiscal debts, unless these are the subject of a clearance plan concluded with the competent authorities;
- Not to be in difficulty on 31 December 2019, within the meaning of Article 2 (18) of the GBER; Aid may be granted to micro and small enterprises that were in difficulty within the meaning of GBER on 31 December 2019 under the conditions described above (recital (19));
- Not to have already received, including the premium to be granted under this measure, more than EUR 800 000 in aid under point 22 of the Temporary Framework;
- Not to have proceeded to collective dismissals between 23 March 2020 and 31 December 2020, within the meaning of national employment law provisions (Chapter VII of the law of 13 February 1998, laying down provisions in favour of employment).

2.8. Cumulation

- (27) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulation¹⁰ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (28) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission

¹⁰ Commission Regulation (EU) No 1407/2013 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, OJ L 352, 24.12.2013, p. 1.

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

- (29) The Belgian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) of that Framework, will be respected.

2.9. Monitoring and reporting

- (30) The Belgian 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 above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹¹).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (32) 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.
- (33) The measure is imputable to the State, since it is administered by the Brussels Regional Public Service for Brussels Economy and Employment and it is based on the *Arrêté du Gouvernement de la Région de Bruxelles-Capitale relatif à une aide aux hôtels et appart-hôtels dans le cadre de la crise sanitaire du Covid-19* (see recital (14)). It is financed through State resources, since it is financed by public funds.
- (34) 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.
- (35) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular hotels and aparthotels, excluding the financial sector.

¹¹ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014.

- (36) 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.
- (37) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Belgian authorities do not contest that conclusion.

3.3. Compatibility

- (38) 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.
- (39) 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*”.
- (40) 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*”.
- (41) The measure aims to ensure continuity by providing liquidity to hotels and aparthotels at a time when the normal functioning of 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.
- (42) The measure is one of a series of measures conceived by the Belgian authorities to remedy a serious disturbance in their economy. The importance of the measure to *preserve employment and economic continuity* is widely accepted and the measure is of a scale which can be reasonably anticipated to produce effects across the entire economy. 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.
- (43) 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 *direct grants* (recital (13)).
 - The overall nominal value of the direct grants shall not exceed EUR 800 000 per undertaking (recital (24)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework;

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (16). The measure therefore complies with point 22(b) of the Temporary Framework;
 - Aid may not be granted under the measure to medium¹² and large enterprises that were already in difficulty on 31 December 2019 (see recital (19)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid¹³ or restructuring aid¹⁴ (see recital (19)). The measure therefore complies with point 22(c)bis of the Temporary Framework;
 - Aid will be granted under the measure no later than 31 December 2020 (recital (17)). The measure therefore complies with point 22(d) of the Temporary Framework;
- (44) The Belgian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (30)). The Belgian 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 (27) and (29)).
- (45) 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.

¹² As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹³ 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.

¹⁴ 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.

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

