



## EUROPEAN COMMISSION

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### PUBLIC VERSION

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**Subject: State Aid SA.62078 (2021/N) – Poland  
Prolongation of SA.56876, SA.56896, SA.56922, SA.56996, SA.57015,  
SA.57054, SA.57055, SA.57065, SA.57172, SA.57191, SA.57452,  
SA.57519, SA.59763 and SA.60376**

Excellency,

### 1. PROCEDURE

- (1) By electronic notification of 23 February 2021, Poland notified amendments to existing aid schemes (“the existing aid schemes”) which the Commission had already approved under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”)<sup>1</sup>. On 4 and 12 March 2021, Poland provided additional information. The existing aid schemes to be amended are:
- (a) SA.56876: “COVID-19: Liquidity guarantee fund” (“the existing aid scheme in case SA.56876”) which the Commission approved on 3 April 2020 (the “initial decision in case SA.56876”)<sup>2</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191,

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<sup>1</sup> 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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

<sup>2</sup> C(2020) 2225 final.

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SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>3</sup>.

- (b) SA.56896: “COVID-19: anti-crisis measures in the form of loans and guarantees financed from EU funds” (“the existing aid scheme in case SA.56896) which the Commission approved on 8 April 2020 (the “initial decision in case SA.56896”)<sup>4</sup> and which was amended by SA.58848: “COVID-19: Amendment of SA.56896 (2020/N) - anti-crisis measures in the form of loans and guarantees financed from EU funds” which the Commission approved on 27 October 2020<sup>5</sup>.
- (c) SA.56922<sup>6</sup>: “Polish anti-crisis measures – direct grants, repayable advances, tax and payments advantages, tax deferrals and wage subsidies schemes related to COVID-19” (“the existing aid scheme in case SA.56922”) which the Commission approved on 23 April 2020 (the “initial decision in case SA.56922”)<sup>7</sup> and which was amended by SA.57282: “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 (measure 7)” approved by the Commission on 13 May 2020<sup>8</sup>, by SA.58481: “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 (amendment to measures 3 and 5)” approved by the Commission on 3 September 2020<sup>9</sup> and by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>10</sup>.
- (d) SA.56996: “COVID-19: repayable advance scheme for micro, small and medium-sized enterprises” (“the existing aid scheme in case SA.56996”) which the Commission approved on 27 April 2020 (“the initial decision in case SA.56996”)<sup>11</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015,

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<sup>3</sup> C(2020) 9315 final.

<sup>4</sup> C(2020) 2340 final.

<sup>5</sup> C(2020) 7549 final.

<sup>6</sup> An amendment is envisaged only for the measures 1-7 and 11 of SA.56922.

<sup>7</sup> C(2020) 2686 final.

<sup>8</sup> C(2020) 3268 final.

<sup>9</sup> C(2020) 6175 final.

<sup>10</sup> C(2020) 9315 final.

<sup>11</sup> C(2020) 2822 final.

SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>12</sup>.

- (e) SA.57015: “State aid in the form of grants or repayable assistance under operational programmes for 2014 - 2020 to support the Polish economy in connection with the occurrence of the COVID-19 pandemic outbreak” (“the existing aid scheme in case SA.57015”) which the Commission approved on 24 April 2020 (“the initial decision in case SA.57015”)<sup>13</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>14</sup>.
- (f) SA.57054: “COVID-19: The Polish anti-crisis measures – aid for damage compensation and to improve the liquidity of undertakings affected by the COVID-19 outbreak” (the “existing aid scheme in case SA.57054”) which the Commission approved on 29 May 2020 (the “initial decision in case SA.57054”)<sup>15</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>16</sup>. The extension of the scheme only concerns the date of the grants and does not affect the compensation period, which remains unchanged.
- (g) SA.57055: “Poland - anti-crisis measures - COVID-19 – equity instruments” (“the existing aid scheme in case SA.57055”) which the Commission approved on 11 June 2020 (“the initial decision in case SA.57055”)<sup>17</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>18</sup>.
- (h) SA.57065: “COVID-19: anti-crisis measures in the form of loans and guarantees financed from the re-use of resources returned from 2007-2013 financial instruments” (“the existing aid scheme in case SA.57065”) which the Commission approved on 22 April 2020 (“the initial decision in case SA.57065”)<sup>19</sup>.

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<sup>12</sup> C(2020) 9315 final.

<sup>13</sup> C(2020) 2782 final.

<sup>14</sup> C(2020) 9315 final.

<sup>15</sup> C(2020)3656 final.

<sup>16</sup> C(2020) 9315 final.

<sup>17</sup> C(2020) 4036 final.

<sup>18</sup> C(2020) 9315 final.

<sup>19</sup> C(2020) 2634 final.

- (i) SA.57172: “COVID-19: Anti-crisis measure - tax deferrals” (“the existing aid scheme in case SA.57172”) which the Commission approved on 13 November 2020 (“the initial decision in case SA.57172”)<sup>20</sup>.
- (j) SA.57191: “State aid in the simplified repayable form from financial engineering instruments resources subject to re-use and from financial instruments under operational programmes for 2014-2020 perspective to support the Polish economy in connection with the COVID-19 pandemic outbreak” (“the existing aid scheme in case SA.57191”) which the Commission approved on 11 May 2020 (“the initial decision in case SA.57191”)<sup>21</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>22</sup>.
- (k) SA.57452: “COVID-19: Guarantees on Factoring” (“the existing aid scheme in case SA.57452”) which the Commission approved on 23 July 2020 (“the initial decision in case SA.57452”)<sup>23</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>24</sup>.
- (l) SA.57519: “COVID-19: R&D aid for Covid-19 relevant research and development, investment aid for the construction and upgrade of relevant testing and upscaling infrastructures, and investment aid for investments into production facilities for the production of Covid-19 relevant products” (“the existing aid scheme in case SA.57519”) which the Commission approved on 18 June 2020 (“the initial decision in case SA.57519”)<sup>25</sup> and which was amended by SA.59715: “COVID-19: Modifications to SA.56876, SA.56922, SA.56979, SA.56996, SA.57015, SA.57054, SA.57055, SA.57191, SA.57306, SA.57452, SA.57519 and SA.57726” which the Commission approved on 15 December 2020<sup>26</sup>.
- (m) SA.59763: “COVID-19: The Financial Shield for SME 2.0” (“the existing aid scheme in case SA.59763”) which the Commission approved on 23 December 2020 (“the initial decision in case SA.59763”)<sup>27</sup>.

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<sup>20</sup> C(2020) 7998 final.

<sup>21</sup> C(2020) 3163 final.

<sup>22</sup> C(2020) 9315 final.

<sup>23</sup> C(2020) 5165 final.

<sup>24</sup> C(2020) 9315 final.

<sup>25</sup> C(2020) 4186 final.

<sup>26</sup> C(2020) 9315 final.

<sup>27</sup> C(2020) 9630 final.

- (n) SA.60376: “Support to undertakings affected by restrictions applied to industries whose activities may contribute to the spread of the COVID-19 pandemic” (“the existing aid scheme in case SA.60376”) which the Commission approved on 20 January 2021 (“the initial decision in case SA.60376”)<sup>28</sup>.
- (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<sup>29</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE AMENDMENT

- (3) Point 12 of the Fifth Amendment to the Temporary Framework states that *“Member States may envisage modifying existing aid measures approved by the Commission under the Temporary Framework in order to prolong their period of application until 31 December 2021. Member States may also envisage increasing the budget of existing measures or introducing other amendments to align those measures with the Temporary Framework, as amended by this Communication. Member States which plan to do so are invited to notify a list of all existing aid measures they envisage modifying and to provide the necessary information listed in the annex of this Communication. This will allow the Commission to adopt one decision covering the list of notified measures”*.<sup>30</sup>
- (4) In accordance with point 12 of the Fifth Amendment to the Temporary Framework, Poland plans to modify the abovementioned existing aid schemes in order to reflect the amendments envisaged therein.
- (5) First, Poland wishes to prolong the period of application of all the above-mentioned existing aid schemes until 31 December 2021.
- (6) Second, Poland wishes to modify the existing schemes SA.56896 and SA.57065 insofar as the level of the interest rates of the loans<sup>31</sup> will be calculated on the basis of the base rate available either on 1 January 2020 or on 1 March 2021 (i.e. the moment when the additional information was provided (see recital (1))).
- (7) Third, as regards the existing schemes SA.56896 and SA.57065, Poland wishes to extend the loan maturity dates to 31 December 2021.

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<sup>28</sup> C(2021) 409 final.

<sup>29</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

<sup>30</sup> Communication from the Commission, Fifth Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJC 34, 1.2.2021, p. 6.

<sup>31</sup> Described in recital (19) of the initial decision SA.56896 and in recital (19) of the initial decision in SA.57065.

- (8) Fourth, Poland wishes to grant aid up to the new maximum aid ceilings, as set out in section 3.1 of the Temporary Framework, under the following existing aid schemes: SA.56922 (measures 3, 5, 7 and 11), SA.57015, SA.57191 and SA.60376. Therefore, for these schemes, the overall aid shall not exceed, where applicable:
- (a) EUR 225 000 per undertaking active in the primary production of agricultural products;<sup>32</sup>
  - (b) EUR 270 000 per undertaking active in the fishery and aquaculture sector;
  - (c) EUR 1.8 million per undertaking active in other sectors.
- (9) Fifth, Poland wishes to increase the budget for the following existing aid schemes<sup>33</sup>:
- (a) For the scheme SA.56896, increase from PLN 3 500 million (approx. EUR 700 million) to PLN 4 600 million (approx. EUR 1 020 million).<sup>34</sup>
  - (b) For the scheme SA.57015, increase from PLN 3 000 million (approx. EUR 700 million) to PLN 3 520 million (approx. EUR 800 million).
  - (c) For the scheme SA.57191, increase from PLN 2 043 million (approx. EUR 450 million) to PLN 2 100 million (approx. EUR 470 million).
- (10) Finally, as regards measure 11 of scheme SA.56922, the Polish authorities wish to modify the scope of the eligible beneficiaries described in recital (19) of the initial decision in case SA.56922, such as to allow access to the scheme also to micro or small enterprises (within the meaning of the General Block Exemption Regulation<sup>35</sup>) 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 aid<sup>36</sup> or restructuring aid<sup>37</sup>.
- (11) The Polish authorities confirmed that no further modifications are proposed to the existing aid schemes.

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<sup>32</sup> This cap does not apply to measures 3, 5 and 7 of SA.56922.

<sup>33</sup> To the extent those measures are co-financed by EU funds, Poland had committed in the respective initial decisions to comply with the relevant applicable rules.

<sup>34</sup> Exchange rate: 1 EUR = PLN 4.52, see [ECB webpage](#).

<sup>35</sup> 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. Annex I.

<sup>36</sup> 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.

<sup>37</sup> 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.

- (12) The modifications will only be put into effect after the notification of the Commission's approval.

### **3. ASSESSMENT**

#### **3.1. Lawfulness of the measure**

- (13) By notifying the modifications to the existing aid schemes before putting them into effect, the Polish authorities have respected their obligations under Article 108(3) TFEU.

#### **3.2. Existence of State aid**

- (14) 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.
- (15) The existing aid schemes constitute State aid within the meaning of Article 107(1) TFEU for the reasons set out in the decisions referred to in recital (1).<sup>38</sup> The proposed modifications to those schemes do not affect that conclusion. The Commission therefore refers to the respective assessment of the aforementioned decisions and concludes that the schemes as modified constitute State aid in the meaning of Article 107(1) of the TFEU.

#### **3.3. Compatibility**

- (16) The Commission assessed the existing aid schemes as amended on the basis of Article 107(3)(b)<sup>39</sup> and 107(3)(c)<sup>40</sup> TFEU in light of the Temporary Framework and concluded that they were compliant with the compatibility conditions set out

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<sup>38</sup> See recitals (28) to (33) of Commission Decision C(2020) 2225 final, of 3 April 2020, in case SA.56876; recitals (27) to (32) of Commission Decision C(2020) 2340 final, of 8 April 2020, in case SA.56896; recitals (61) to (68) of Commission Decision C(2020) 2686 final, of 23 April 2020, in case SA.56922; recitals (41) to (46) of Commission Decision C(2020) 2822 final, of 27 April 2020, in case SA.56996; recitals (27) to (32) of Commission Decision C(2020) 2782 final, of 24 April 2020, in case SA.57015; recitals (53) to (58) of Commission Decision C(2020)3656 final, of 29 May 2020, in case SA.57054; recitals (54) to (59) of Commission Decision C(2020) 4036 final, of 11 June 2020, in case SA.57055; recitals (31) to (36) of Commission Decision C(2020) 2634 final, of 22 April 2020, in case SA.57065; recitals (21) to (27) of Commission Decision C(2020) 7998 final, of 13 November 2020, in case SA.57172; recitals (30) to (35) of Commission Decision C(2020) 3163 final, of 11 May 2020, in case SA.57191; recitals (43) to (48) of Commission Decision C(2020) 5165 final, of 23 July 2020, in case SA.57452; recitals (53) to (58) of Commission Decision C(2020) 4186 final, of 18 June 2020, in case SA.57519; recitals (48) to (53) of Commission Decision C(2020) 9630 final, of 23 December 2020, in case SA.59763; recitals (31) to (36) of Commission Decision C(2021) 409 final, of 20 January 2021, in case SA.60376.

<sup>39</sup> For all existing aid schemes, except SA.57519.

<sup>40</sup> For the scheme SA.57519.

in that Framework. The Commission refers to its analysis of compatibility as set out in the initial decisions referred to in recital (1).<sup>41</sup>

- (17) The proposed modifications are in line with the possibilities enunciated in the point 12 of Fifth Amendment to the Temporary Framework and have been designed to meet all the relevant requirements. In particular:
- (a) Aid under the existing aid schemes can be granted no later than 31 December 2021 (see recital (5) above). The modifications therefore comply, where applicable, with points 22(d); 25(c); 27(c); 35(a); 37(b); 39(b); 41; 43(c), 48; 87(a) of the Temporary Framework.
  - (b) As regards the schemes SA.56896 and SA.57065, the applicable interest rates for loans granted under the measure are equal to the base rate (1 year IBOR or equivalent as published by the Commission)<sup>42</sup> available on 1 January 2020 or at the moment of notification (recital (6)). The modification therefore complies with point 27(a) of the Temporary Framework.
  - (c) As regards the schemes SA.56896 and SA.57065, the loan maturity dates are extended to 31 December 2021 (recital (7)). The modifications thus comply with point 25(d) and (e) as well as 27 (d) and (e) of the Temporary Framework.
  - (d) Aid to be granted under the schemes SA.56922 (measures 3, 5, 7 and 11), SA.57015, SA.57191 and SA.60376 shall not exceed the maximum aid ceilings of i) EUR 225 000 per undertaking active in the primary production of agricultural products<sup>43</sup>, ii) EUR 270 000 per undertaking active in the fishery and aquaculture sector, and iii) EUR 1.8 million per undertaking active in other sectors (see recital (8) above). The modifications thus comply with points 22(a) and 23(a) of the Temporary Framework.

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<sup>41</sup> See recitals (34) to (39) of Commission Decision C(2020) 2225 final, of 3 April 2020, in case SA.56876; recitals (33) to (38) of Commission Decision C(2020) 2340 final, of 8 April 2020, in case SA.56896; recitals (69) to (80) of Commission Decision C(2020) 2686 final, of 23 April 2020, in case SA.56922; recitals (47) to (57) of Commission Decision C(2020) 2822 final, of 27 April 2020, in case SA.56996; recitals (33) to (38) of Commission Decision C(2020) 2782 final, of 24 April 2020, in case SA.57015; recitals (59) to (84) of Commission Decision C(2020)3656 final, of 29 May 2020, in case SA.57054; recitals (60) to (94) of Commission Decision C(2020) 4036 final, of 11 June 2020, in case SA.57055; recitals (37) to (49) of Commission Decision C(2020) 2634 final, of 22 April 2020, in case SA.57065; recitals (28) to (35) of Commission Decision C(2020) 7998 final, of 13 November 2020, in case SA.57172; recitals (36) to (41) of Commission Decision C(2020) 3163 final, of 11 May 2020, in case SA.57191; recitals (49) to (55) of Commission Decision C(2020) 5165 final, of 23 July 2020, in case SA.57452; recitals (59) to (70) of Commission Decision C(2020) 4186 final, of 18 June 2020, in case SA.57519; recitals (54) to (63) of Commission Decision C(2020) 9630 final, of 23 December 2020, in case SA.59763; recitals (37) to (44) of Commission Decision C(2021) 409 final, of 20 January 2021, in case SA.60376.

<sup>42</sup> Base rates calculated in accordance with the Commission's Communication on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

<sup>43</sup> This cap does not apply to measures 3, 5 and 7 of SA.56922.



- (e) Aid is granted on the basis of schemes with estimated budgets as set out in recital (9). The schemes previously approved under section 3.1 continue therefore to comply with point 22(b) of the Temporary Framework.
  - (f) Finally, as regards SA.56922 (measure 11), 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 aid<sup>44</sup> or restructuring aid<sup>45</sup> (recital (10)). The measure therefore complies with point 22(c)bis of the Temporary Framework.
- (18) In light of the above, the Commission considers that the proposed modifications of the existing aid schemes meet the relevant conditions of the Temporary Framework.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the modifications to the existing aid schemes on the grounds that they are compatible with the internal market pursuant to 107(3)(b) and 107(3)(c) 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

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<sup>44</sup> 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.

<sup>45</sup> 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.