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**Subject: State Aid SA.62220 (2021/NN) – Malta
COVID-19: amendment of aid scheme SA.57076 (2020/N) – Wage
Supplement Scheme under the Temporary Framework for State aid
measures to support the economy in the current COVID-19 outbreak**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 5 March 2021, Malta notified amendments concerning the aid scheme SA.57076 (2020/N) – Wage Supplement Scheme (“the existing aid scheme”), which was approved by Commission decision of 24 April 2020¹ (“the initial decision”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).²
- (2) Malta exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

¹ Commission decision on SA.57076 (2020/N) – Wage Supplement Scheme, OJ C 158, 8.5.2020, p. 14.

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 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).

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Article 3 of Regulation 1/1958³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED MODIFICATIONS

- (3) The Maltese authorities notified (i) a budget increase and prolongation of the existing aid scheme and modifications with respect to (ii) the eligible beneficiaries and (iii) the calculation of the aid amount. These modifications will be included in an amendment to the legal basis of the existing aid scheme, Government Notice No. 389 (“Government Notice”).⁴

2.1. Budget and duration of the measure

- (4) The Maltese authorities notified the increase of the estimated budget of the existing aid scheme from EUR 215 million⁵ to EUR 750 million. While the measure, as initially notified, was entirely funded through Malta’s general budget, Malta indicated as part of its notification that the measure, as amended, would be co-financed through a SURE⁶ loan and REACT-EU⁷ funds. The Maltese authorities confirmed that the rules applicable for these funds will be respected.
- (5) The Maltese authorities also notified the prolongation of the duration of the existing aid scheme⁸ until 31 December 2021.

2.2. Beneficiaries

- (6) The wage supplement is intended for full-time and part-time self-employed individuals and employees of undertakings of any size operating in Malta that have been negatively affected by the COVID-19 outbreak.⁹
- (7) Under the rules described in recitals (18)-(21) of the initial decision, to facilitate the identification of the final beneficiaries, undertakings were eligible if they were

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

⁴ The Malta Government Gazette No 20 387 of 13 April 2020, available at: <https://www.gov.mt/en/Government/DOI/Government%20Gazette/Government%20Notices/Pages/2020/04/GovNotices1304.aspx>.

⁵ See recital (13) of the initial decision.

⁶ Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak (OJ L 159, 20.5.2020, p. 1).

⁷ Regulation (EU) 2020/2221 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU) No 1303/2013 as regards additional resources and implementing arrangements to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy (REACT-EU) (OJ L 437, 28.12.2020, p. 30).

⁸ The existing aid scheme was approved initially until 31 December 2020. The prolongation until 30 June 2021 was approved by Commission Decision of 14 January 2021, in case SA.60675 (2020/N), not yet published in the OJ. See recital (14) of the initial decision and recital (13) of Commission Decision of 14 January 2020.

⁹ See recitals (15)-(17) of the initial decision.

active in any of the sectors falling within Annex A¹⁰ or Annex B¹¹ to the Government Notice. The managing authority, Malta Enterprise, could nonetheless accept individual claims from undertakings operating in sectors other than those listed under Annexes A and B.

- (8) Malta has explained that in the initial implementation period, the data available on the effects of the COVID-19 outbreak on businesses was limited, hence the aid had to be determined based on the main activity of a business, following a sector-based approach. Considering that in most instances financial data have become more readily available, the Maltese authorities consider that a new, more objective, approach should be implemented.
- (9) Under the notified modifications, undertakings of any size, including self-employed individuals, from all sectors can be eligible for aid in the form of wage subsidies, provided that they have experienced a decline in turnover of at least 10%, resulting from a comparison with an equivalent period before the COVID-19 outbreak.¹²
- (10) The decline in turnover is established on the basis of VAT records, where available.¹³ Where those records are not available,¹⁴ or are not considered suitable by Malta Enterprise for a valid reason,¹⁵ the sector-based criteria as described in recital (7) above and in the initial decision continue to apply.
- (11) Undertakings operating in sectors that are ordered to suspend operations due to a health department order will be considered eligible for the aid for the entire period in which their activity is suspended, without the need of any additional evidence.
- (12) Furthermore, the existing aid scheme excluded the possibility to provide aid in the form of wage subsidy for those employees who, in the same period, were in receipt of any retirement or services pension.¹⁶ Under the notified modifications, employees in receipt of a retirement or services pension or a student stipend may

¹⁰ Under Annex A to the Government Notice, the Maltese authorities have identified the sectors that suffered drastically due to the COVID-19 outbreak or had to temporarily suspend operation on the basis of an order of the competent health authorities. See recital (19) of the initial decision.

¹¹ Under Annex B to the Government Notice, the Maltese authorities have identified other sectors, which have suffered significant albeit less critical disturbance either due to their links with the hardest hit activities or due to disruptions in international value chains. See recital (20) of the initial decision.

¹² Malta Enterprise compares any relevant six-month period between March and October 2020, to the same period in 2019. The Maltese authorities may in the future consider other periods beyond October 2020 to verify the existence of a turnover decline.

¹³ The Maltese authorities have explained that Malta Enterprise will be provided VAT data of beneficiaries from the tax authorities and will compare turnover data of equivalent periods.

¹⁴ E.g. in case of VAT-exempted undertakings or newly established undertaking for which no complete VAT records are available for 2019.

¹⁵ E.g. where the comparison of VAT records would not correctly reflect the decline in business activity due to the COVID-19 outbreak, because the scope of the business activities of the undertakings has materially changed.

¹⁶ See recital (16) of the initial decision.

also be eligible for the wage supplement¹⁷ where they are already in employment and would be laid off without the aid.

- (13) By the notified modifications, the Maltese authorities also intend to extend the applicability of the scheme to employees who are engaged by a business to replace employees who had been receiving a wage supplement and voluntarily resigned.

2.3. Aid amounts

- (14) Under the existing aid scheme, the maximum amount of monthly wage supplement was determined on the basis of the sector of activity of the undertaking concerned, and whether the self-employed person or the employee worked part-time or full-time. In addition, the existing aid scheme provided for a differentiation in the maximum amount of monthly wage supplement for Gozo-based self-employed persons and employees of Gozo-based undertakings.¹⁸
- (15) Under the notified modifications, from January 2021, the aid amount is established based on the specific situation of each undertaking rather than its primary sector of activity. The amount of the wage supplement is directly correlated to the beneficiary's decline in turnover according to Table 1 below. Beneficiaries that have been ordered to suspend operations by the health authorities to limit the spread of the COVID-19 receive the maximum wage supplement without the need of any additional evidence in relation to their turnover, for the entire period of closure and until reasonable economic activity is permitted.

Turnover decline (compared to the reference period)	Full time workers (EUR)	Part-time and casual workers (EUR)
55% or greater	800	500
45% up to 54%	640	400
35% up to 44%	480	300
25% up to 34%	320	200
10% up to 24%	160	100

Table 1: Monthly wage supplement per worker

- (16) The aid amounts based on sector-based criteria, including the additional benefits to Gozo-based undertakings, remain applicable where VAT records are not available or are not considered suitable by Malta Enterprise for a valid reason.
- (17) The Maltese confirmed that all other aspects of the existing aid schemes that are not concerned by the notified modifications remain unchanged, including the maximum monthly wage supplement, which continues to be EUR 800 per full time employee or self-employed person or the employee's average basic salary

¹⁷ In particular, this may be the case where the pension or stipend that they receive is insufficient to guarantee a decent living income. Whether a pension or stipend is sufficient to guarantee a decent living will be determined by reference to the maximum monthly wage supplement (EUR 800). The latter was established on the basis of the national average wage recorded in the fourth quarter of 2019. See recital (26) of the initial decision.

¹⁸ See recitals (25)-(32) of the initial decision.

for January and February 2020, if lower.¹⁹ The Maltese Authorities also confirmed that the aid granted under the aid scheme 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.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (18) The Commission regrets that Malta has already implemented modifications in relation to the new turnover-based criteria, the enlargement of the group of eligible employees and self-employed persons and the increased budget in breach of Article 108(3) TFEU.

3.2. Existence of State aid

- (19) 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.
- (20) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial decision.²⁰ The proposed modifications listed in recitals (4)-(17) above do not affect that conclusion.
- (21) In particular, the fact that the measure will be co-financed by a SURE loan and REACT-EU funds does not call into question its imputability to the Maltese State and the involvement of State resources.
- (22) Moreover, despite the extension of the existing aid scheme to all sectors and territory, the advantage granted by the measure continues to be materially and geographically selective as the sector-based approach and the additional support for employees and self-employed persons based in Gozo continue to apply in residual cases (recital (16) above).
- (23) The Commission refers to the assessment in the initial decision and concludes that the scheme as modified constitutes State aid within the meaning of Article 107(1) TFEU.

¹⁹ The Maltese authorities explained that in some instances the use of the average basic salary for January and February 2020 would not be appropriate, for example in sectors where the employee's wage varies due to the seasonal nature of the economic activity concerned. For instance, in the hospitality sector and other related activities, where the average wage cost in January and February, would not reflect the employee's usual expectation in the other months of the year (May to November). In these cases, the employees' expected salary will be used instead of the average salary, taking into consideration historical data.

²⁰ See recitals (42)-(47) of the initial decision.

3.3. Compatibility

- (24) In the initial decision, the Commission assessed the compatibility of the existing aid scheme on the basis of Article 107(3)(b) TFEU in light of Section 3.10 of the Temporary Framework and concluded that it was compliant with the compatibility conditions set out in that Framework.
- (25) The Commission refers to its analysis of compatibility as set out in the initial decision.²¹
- (26) After examining the notified modifications listed in recitals (4)-(17) above, the Commission considers that they meet the conditions of the Temporary Framework and do not alter the Commission's conclusions on the compatibility of the existing aid scheme as set out in the initial decision.
- The aid granted continues to be aimed at avoiding redundancies during the COVID-19 outbreak and ensuring the continuation of business activities of self-employed individuals. This also applies where the wage supplement is granted for employees in receipt of retirement or services pension (recital (12)(12)). The notified modifications therefore comply with point 43(a) of the Temporary Framework.
 - Aid continues to be granted in the form of a scheme to undertakings that are particularly affected by the COVID-19 outbreak, which are now identified in most cases on the basis of the decline in their turnover rather than of the sectors to which they belong (recitals (9)-(11)). The notified modifications therefore comply with point 43(b) of the Temporary Framework.
 - The individual aid awards under the existing aid scheme are granted no later than 31 December 2021 (recital (5)(5)). No amendments were introduced as regards the condition that aid be granted under the scheme for employees that would otherwise have been made redundant as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak, and subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted. The existing aid scheme therefore continues to comply with point 43(c) of the Temporary Framework;
 - The maximum monthly wage supplement per employee (EUR 800) remains the same as approved in the initial decision, i.e. approximately 50% of the national average monthly wage in Malta (EUR 1 624) and slightly higher than the statutory minimum monthly wage (EUR 777.10) (recital (17)).²² Moreover, the notified modifications ensure that individual wage amounts are directly correlated to the loss in turnover suffered by the beneficiary as a result of the COVID-19 outbreak (recital (15)) and cannot be in excess of the employee's basic salary (recital (17)). The proportionality of the existing aid scheme is therefore maintained, in compliance with point 43(d) of the Temporary Framework;

²¹ See recitals (49)-(54) of the initial decision.

²² See also recitals (32) and (54) of the initial decision.

- In accordance with point 16ter of the Temporary Framework, Malta confirmed the aid granted under the scheme 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 (recital (17)(17));
- The Maltese authorities also confirmed that the rules under the SURE and REACT-EU funds will be respected (recital (4)).

(27) Therefore, the Commission takes the view that the compatibility assessment is not affected by the notified amendment.

(28) Apart from these modifications, the Commission notes that there are no other alterations to the existing aid scheme (recital (17)).

4. CONCLUSION

The Commission has accordingly decided not to raise objections to these modifications of the existing aid scheme on the grounds that they are 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