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**Subject: State Aid SA.62884 (2021/N) – Belgium
COVID-19: compensation for undertakings active in BtoB and
indirectly affected by closure decisions in the Walloon region**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 29 April 2021, Belgium notified aid in the form of limited amounts of aid (“indemnité spécifique à destination des indépendants et entreprises actifs en BtoB et touchés indirectement par les décisions de fermeture”, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (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

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 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 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Belgium considers that the COVID-19 outbreak affects 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) Belgium confirms 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.
- (5) 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

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

2.2. Legal basis

- (7) The legal basis for the measure is a decree of the Walloon government dated 22 April 2021³. This decree lays down that it will only be applicable after the Commission approves it under the Temporary Framework.

2.3. Administration of the measure

- (8) The Walloon public administration (Département de l'Investissement du Service Public de Wallonie – Economie, Emploi, Recherche) is responsible for administering the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 255 million.
- (10) Aid may be granted under the measure as from the notification of the Commission's approval until no later than 31 December 2021.

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

³ [Arrêté](#) du Gouvernement wallon du 22 avril 2021 relatif à l'octroi d'une indemnité spécifique à destination des indépendants et entreprises actifs en BtoB et touchés indirectement par les décisions de fermeture, [Moniteur belge du 30/4/2021](#), p. 41251.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are small and medium size enterprises (SMEs)⁴. However, financial institutions are excluded as eligible final beneficiaries.
- (12) Aid may not be granted to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁵ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (13) The measure is open to all sectors except the financial sector; it does not apply to the agricultural, forestry and aquaculture sectors; its beneficiaries are not active in the processing and marketing of agricultural products. The measure applies to undertakings which have an establishment (‘unité d’établissement’⁶) in the Walloon Region of Belgium.

2.7. Basic elements of the measure

- (14) In order to benefit from the measure, the undertaking must prove that:
 - Its 2019 turnover⁷ included at least 20 % of goods or services sold to undertakings closed by administrative order until 1 February 2021⁸; and
 - Its turnover decreased by at least 50 % during at least one trimester/quarter (in the time period April 2020-March 2021) by comparison to the same quarter of 2019⁹.
- (15) An undertaking cannot benefit from the measure if it benefits from another specific scheme called “indemnité spécifique en faveur de certains secteurs touchés indirectement par des décisions de fermeture dans le cadre de la crise du coronavirus COVID-19”¹⁰ and notified to the Commission under SA.62883.
- (16) The aid amount is calculated as follows:

⁴ 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.

⁵ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

⁶ Within the meaning of article I.2., 16°, of the Code de droit économique en Région wallonne.

⁷ For undertaking which started operations in 2020, that condition applies on the 2020 turnover.

⁸ See arrêté ministériel du 28 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 tel que modifié par l'arrêté ministériel du 1^{er} novembre 2020.

⁹ The 2nd, 3rd and 4th quarters of 2020 are compared, respectively, to the 2nd, 3rd and 4th quarter of 2020. The 1st quarter of 2021 is compared to the 1st quarter of 2019. For undertakings created as from 1 January 2019, that condition does not apply.

¹⁰ Introduced by another decree of the Walloon government dated 22 April 2021.

- 15 % of the reference turnover (2019) for each trimester (three last trimesters of 2020, first trimester of 2021) affected by the turnover decrease of 50 % described above¹¹;
- If, for a given trimester, the turnover decrease is (above 50 % and) below 75 %, the minimum amount of aid (for that trimester) is EUR 3 000. The maximum amount of aid (for that trimester) depends on the number of employees, up to a ceiling of EUR 40 000 (if there are more than 50 employees).
- If, for a given trimester, the turnover decrease is above 75 %, the minimum amount of aid (for that trimester) is EUR 3 750. The maximum amount of aid (for that trimester) depends on the number of employees, up to a ceiling of EUR 50 000 (if there are more than 50 employees).

2.8. Cumulation

- (17) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under the relevant de minimis Regulations¹² or the GBER, provided the provisions and cumulation rules of those Regulations are respected.
- (18) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (19) 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 point(s) 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (20) 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 granting¹³).

¹¹ If the undertaking was created after 1 January 2019 and cannot prove a turnover decrease, it receives EUR 3 000 per trimester with a ceiling of EUR 6 000 for 2020.

¹² 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) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

¹³ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (21) By notifying the measure before putting it into effect (recital (7)), the Belgian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (22) 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.
- (23) The measure is imputable to the State, since it is administered by the Walloon public administration and it is based on a decree of the Walloon government. It is financed through State resources, since it is financed by public funds.
- (24) The measure confers an advantage on its beneficiaries, which are undertakings, in the form of direct grants. The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (25) The advantage granted by the measure is selective, since it is awarded only to SMEs and, among these, only to SMEs which experienced a specific turnover decrease and which carry out some business to business activities. In addition, the financial sector is excluded.
- (26) 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.
- (27) 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

- (28) 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.
- (29) 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*”.
- (30) 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”.

- (31) The measure aims at providing liquidity 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.
- (32) The measure is one of a series of measures conceived at national level 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 by economic commentators 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.
- (33) 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 (6)).
 - The overall nominal value of the aid shall not exceed EUR 1.8 million per undertaking (recital (16)); 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 (9). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measure to undertakings that were already in difficulty on 31 December 2019 (recital (12)). The measure therefore complies with point 22(c) of the Temporary Framework.
 - Aid will be granted under the measure no later than 31 December 2021 (recital (10)). The measure therefore complies with point 22(d) of the Temporary Framework.
 - Aid will not be granted to undertakings active in the processing and marketing of agricultural products (recital (13)). Point 22(e) of the Temporary Framework does not apply.
- (34) The Belgian authorities confirm 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 (recital (4)).
- (35) The Belgian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (20)). 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 and the cumulation rules of the relevant Regulations are respected (recitals (17) to (19)).

- (36) 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.

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