EUROPEAN COMMISSION

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PUBLIC VERSION
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Excellency,

1. PROCEDURE

(1) On 28 October 2020, as further amended on 21 and 22 December 2020¹, the Kingdom of Spain notified to the European Commission, pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU), as interpreted under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“Temporary Framework”)², the following measures: (1) the prolongation of the application of

¹ The amendment limited the number and scope of the amendments envisaged in the initial submission.

the COVID 19 - Temporary Framework support measures for COVID RDI and testing infrastructure, wages, tax/social contribution deferral and COVID related production (as approved by the Commission in case SA.57019\(^3\) (hereinafter “the second Spanish TF decision”), which is the second Spanish State aid scheme under the Temporary Framework related to the containment of the COVID19 outbreak (hereinafter ‘the second national TF’) until 30 June 2021, and (2) the prolongation of the application of the Spanish - COVID 19 - Recapitalisation fund (hereinafter ‘the Recapitalisation fund’), as approved by the Commission in case SA.57659\(^4\) (hereinafter “the Recapitalisation fund decision”) in so far that it will allow the grating of aid in the form of subordinated debt instruments until 30 June 2021, and in the form of equity and hybrid instruments until 30 September 2021.

(2) Spain 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\(^5\) and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURES

2.1. Objective and basic elements of the measures

(3) Paragraph 10 of the fourth amendment to the Temporary Framework states that existing aid measures approved under the Temporary Framework may be amended in order to extend their period of application until 30 June 2021 and, in the case of Section 3.11, until 30 September 2021.

(4) In this context, the purpose of the notification is (i) to prolong without any other modification the second national TF until 30 June 2021 and (ii) to prolong the period of application of the COVID 19 Recapitalisation fund until 30 June 2021, and for the recapitalisation measures for non-financial undertakings (equity and hybrid instruments) under Section 3.11 of the Temporary Framework, until 30 September 2021.

(5) Spain confirms that there are no other modifications to the second national TF and the Recapitalisation fund (the “existing aid schemes”) than the ones described in recitals (3) and (4) above.

2.2. Legal basis

(6) The national legal basis for the second national TF is the Agreement of the National Government Commission for Economic Affairs\(^6\). For the prolongation of


\(^5\) Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

\(^6\) Agreement of the National Government Commission for Economic Affairs of 17 April 2020 on a National Temporary Framework for State aid for the containment of COVID-19 outbreak for relevant research and development, investment aid for testing and upscaling infrastructures, investment aid for...
the period of application, the national legal basis is the first point of Agreement of the National Government Commission for Economic Affairs of 27 November 2020 by which the modification of the National Temporary Framework is proposed to allow the extension of the maturity of guarantees and the extension of the grace periods of the guaranteed loans.

(7) The legal basis establishing the aid scheme Recapitalisation fund consists of the Royal Decree-Law 25/2020 and the Agreement in Council of Ministers (“ACM”). For the prolongation of the period of application, the national legal basis in the Agreement of the Council of Ministers establishing the operation of the Support Fund for the solvency of companies explicitly foresees that temporary support under such scheme can be granting until June the 30th, 2021, “or until a later date the Temporary Framework may establish”.

2.3. Beneficiaries

(8) As described in recitals 17 to 19 of the second Spanish TF decision, all undertakings operating or registered in Spain, regardless of the size and sector and in which they are active, are eligible for aid, however, at national, regional and local level, aid measures may be restricted to certain types of undertakings. The eligibility criteria for granting aid through the Recapitalisation fund are described in recitals 10 to 14 of the Recapitalisation fund decision.

2.4. Budget

(9) The overall budget for the prolongation period is the same as in each of the respective original decisions, namely EUR 3,500 million for the second national TF and EUR 10 billion, allocated to the Recapitalisation fund.

3. ASSESSMENT

3.1. Lawfulness of the measures

(10) By notifying the measures before putting them into effect, the Spanish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(11) According to Article 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort

the production of COVID-19 relevant products, aid in form of deferrals of tax and/or of social security contributions and aid in the form of wage subsidies.

7 In original «Acuerdo de la Comisión Delegada del Gobierno para Asuntos Económicos de 27 de noviembre de 2020 por el que se propone la modificación del Marco Nacional Temporal para permitir la extensión del vencimiento de avalúos y la ampliación de los periodos de carencia de los préstamos avalados ».


9 In original «Acuerdo de Consejo de Ministros por el que se establece el funcionamiento del Fondo de Apoyo a la solvencia de empresas » adopted on 24 July 2020, published in the Official Bulletin of 24 July de 2020.
competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

(12) In recitals 60 to 65 of the second Spanish TF decision and recitals 48 to 53 of the Recapitalisation fund decision, the Commission found that the existing aid schemes constitute State aid. The notified prolongations do not affect that assessment. The Commission, therefore, refers to that assessment and concludes that the existing aid schemes as prolonged under the measures constitute State aid in the meaning of Article 107(1) of the TFEU.

3.3. Compatibility

(13) In recitals 67 to 81 of the second Spanish TF decision and in recitals 54 to 92 of the Recapitalisation fund decision, the Commission assessed the compatibility of the existing aid schemes with the internal market in light of the Temporary Framework and concluded that both schemes meet all the relevant conditions of the Temporary Framework and are therefore compatible with the internal market.

(14) On 13 October 2020, the Commission amended and prolonged the validity of the Temporary Framework\(^{10}\). The prolongation of both decisions (i.e., the second Spanish TF decision and the Recapitalisation fund decision) until 30 June 2021 and, in the case of the recapitalisation and hybrid instruments measures assessed in the Recapitalisation fund decision under Section 3.11 of the Temporary Framework, until 30 September 2021, is allowed by the mentioned amendment of the Temporary Framework and does not modify the substantive compatibility assessment of these decisions.

(15) Based on the above considerations, the Commission concludes that the proposed prolongation does not affect the evaluation of the compatibility of the existing aid schemes with the internal market, as carried out in both the original decisions (i.e., the second Spanish TF decision and the Recapitalisation fund decision).

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4. **CONCLUSION**

On the basis of the above assessment, the Commission has decided not to raise objections to the notified prolongation of the schemes SA.57019 and SA.57659 as it is compatible with the internal market pursuant to Article 107(3)(b) and Article 107(3)(c) TFEU for SA.57019 and pursuant to Article 107(3)(b) for SA.57659.

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](http://ec.europa.eu/competition/elojade/isef/index.cfm).

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

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CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION