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Subject: State Aid SA.64072 (2021/N) – *Belgium* COVID-19: RRF — Strategic investment and innovation support to social economy companies in the context of the COVID-19 outbreak

Excellency,

1. PROCEDURE

- (1) By electronic notification of 13 July 2021, Belgium notified an aid scheme for Strategic investment and innovation support to companies from the social economy sector (customised companies, departments for customised work and local services companies) pursuant to COVID-19 under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹
- (2) On 23 July 2021 Commission services sent a request for information for further clarifications on certain aspects of the notification, to which the Belgium authorities replied on 20 August 2021.

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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- (3) 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.

2. DESCRIPTION OF THE MEASURE

- (4) Belgium considers that the COVID-19 outbreak continues to affect the 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.
- (5) Social economy companies, in particular, have suffered from the COVID-19 outbreak. Due to a temporary cessation or reduction of services performed by social economy companies, or a decrease in their assignments, their core mission - namely the employment of people who are at a distance from the labour market - has come under severe pressure. Moreover, negative economic pressure on companies, both in the regular and in the social economy, results in increasing negative pressure on the sustainable employment of target group employees, people who cannot find work within the regular economy because of a disability and/or due to social circumstances (e.g. people who have overcome a drug problem, ex-convicts, underprivileged, long-term unemployed)³. This has an impact on production, liquidity, solvency and the position of social economy companies as part of the broader economic chain. The social economy is a sector that is strongly anchored within the local economic fabric and, in its activities, often focuses on a role as a supplier.
- (6) Belgium indicates that by granting targeted strategic investment and innovation support to the social economy sector and carrying out strategic and future-oriented business transformations, it wants to safeguard the sustainable employment of disadvantaged groups from the negative socio-economic impact that the corona crisis has had, or is still having on the sector.
- (7) 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.

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

³ Business Cycle Monitor December 2020 (https://www.nbb.be/doc/ts/publications/bcm/2020_12_bcm_publication.pdf), Economic Risk Management Group (ERMG) COVID-19 Dashboard (<https://www.nbb.be/nl/covid-19/covid-19-dashboard-van-economische-indicatoren>), Economic projections for Belgium – Autumn 2020 (NBB) https://www.nbb.be/doc/ts/publications/economicreview/2020/ecoreviii2020_h1.pdf

- (8) Belgium considers that sections 2 and 3.1 of the Temporary Framework constitute the adequate legal basis for the compatibility of the measure.

2.1. The nature and form of aid

- (9) The measure provides for aid in the form of direct grants. It will be granted on the basis of a call for proposals that will be open to customised companies, departments for customised work and local services companies within the Flemish Region. The grant amounts to 80 % of the accepted project costs based on the submitted budget with a maximum support of EUR 200 000/project. A minimum of 20% of the total eligible costs are to be financed by the applicant.

2.2. Legal basis

- (10) The legal basis for the measure is the Decision of the Flemish Government establishing the rules for granting strategic investment and innovation support to customised companies, customised departments and local service companies pursuant to COVID19 (“*Besluit van de Vlaamse Regering tot vaststelling van de regels voor de toekenning van strategische investerings- en innovatiesteun aan maatwerkbedrijven, maatwerkafdelingen en lokale diensteneconomie-ondernemingen ingevolge COVID-19*”). A delegated act to be approved by the Flemish minister of social economy will determine in detail the conditions and evaluation criteria of the call for proposals.⁴

2.3. Administration of the measure

- (11) The Department of Labour & Social Economy of Flemish Region is responsible for administering the measure.

2.4. Budget and duration of the measure

- (12) The estimated budget of the measure is EUR 10 000 000.
- (13) The budget of the notified scheme is made available in its entirety through the Recovery and Resilience Facility (RRF)⁵.
- (14) Aid may be granted under the measure as from the notification of the Commission’s approval until no later than 31 December 2021.

2.5. Beneficiaries

- (15) The final beneficiaries of the measure are the social economy companies in Flanders (customised companies, departments for customised work and local services companies).
- (16) Customised companies employ at least 20 target group employees. At least 65% of the employees on the payroll will meet the criteria as “target group

⁴ The draft of both documents have been submitted with the notification form. The approval will only be given by the Flemish government after the approval of the scheme by the European Commission.

⁵ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17

employees”. Their most important mission is the employment of people with a distance to the labour market. These companies are active in a wide range of activities, from manufacturing, assemblage, recycling and circular activities, to hospitality and care activities. The tasks that employees perform will depend on their capabilities.

- (17) Departments for customised work employ at least 5 target group employees. Departments for customised work must meet the same criteria as customised companies for support. Whereas the employment of target group employees is a core task of customised companies, for customised departments it is part of a broader economic mission.
- (18) The local services companies perform a local economic activity that is complementary to regular business activities, with a specific social added value. Within local services companies target group employees can follow a trajectory of maximum five years, after which advancement into the regular economy is required.
- (19) Social economy companies are recognized by the Flemish government via a label once they meet the regulatory requirements. In Flanders, there are 121 customised companies, 30 departments for customised work and 159 local services companies.
- (20) Aid beneficiaries may be small and medium-sized enterprises (SMEs) and large enterprises. However, financial institutions are excluded as eligible final beneficiaries. 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 aid.⁹

2.6. Sectoral and regional scope of the measure

- (21) The measure is open to social economy sector of the Flemish region (NACE group level: Q.88.9- social work activities without accommodation) except the financial sector.

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 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.

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.

2.7. Basic elements of the measure

- (22) The aid is provided as a direct grant (see recital (9)). It will be granted on the basis of a call for proposals that will be open to the customised companies, departments for customised work and local services companies. These companies offer a leverage to further personal and professional development and advancement to a target group of employees who are mainly people who cannot find work within the regular economy due to a disability and/or social circumstances (see recital (5)).
- (23) The call for proposals focuses on projects from these social economy companies to conceptualize, develop and roll out strategic business transformations in response to the new economic reality resulting from the corona crisis. The objective of these business transformations is to tap untapped markets, optimize company structures and processes to make them future-proof and respond optimally and flexibly to market trends. These activities can relate to services, products, business models and cooperation models. Traditionally, due to the need to adapt their activities to their employee's needs, capabilities and development potential, customised companies, departments for customised work and local services companies undertake a multitude of activities (assembly /green care / packaging / hospitality / recycling/ food, among others).
- (24) Only costs related to the implementation of the strategic transformation and that are incurred within the grant period may be eligible.

Eligible costs are broken down into the following:

- Investment costs: costs for purchasing or renewing production processes and means directly associated with the project. It must be a one-off investment related to the project. The investment must not serve to support the existing or structural functioning of the undertaking (e.g. purchase of raw materials for production);
 - Operating costs: expenses directly related to the project for consultancy services, in particular consulting fees, honorariums, invoices for services, There is a maximum hourly rate of 150 EUR/hour for operating expenses;
 - Labour costs: payroll costs as the salary cost of own staff for direct involvement in the elaboration, follow-up and roll-out of the process. Labour costs for the direct supervision of subsidized workers are not eligible. If labour costs are financed with other subsidies, these subsidies will be deducted from the subsidy awarded within this procedure.
- (25) According to annex 1 to the draft ministerial decree by the Flemish minister of social economy (see recital (10)), aid applicants must submit an aid application via the PLATOS application¹⁰.

¹⁰ Platos is the application for the treatment and follow-up of subsidy calls of the Department of Work and Social Economy.

(26) The admissible applications for support will be evaluated by an evaluation committee composed of at least three evaluators from the Department of Labour & Social Economy on the basis of the following evaluation criteria:

- strategic transformation;
- relevance;
- feasibility; and
- good project management.

Project proposals scoring less than 60% of the total points will not be considered for a grant. Project proposals scoring less than 50% on any of four substantive criteria will also be ineligible for a grant.

(a) strategic transformation

The criterion “strategic transformation” determines 30% of the total score.

Under “strategic transformation”, projects will be assessed according to: (i) the impact that COVID-19 has had on the applicant’s operations, and the activities that will be restructured under this strategic transformation and innovation project, (ii) how the project will enhance the growth of the company or business entity and transform the company or business entity (with numerical justification where possible) and the impact of the project on the company's internal value chain (this covers an assessment of i.a. turnover / added value / external competitive position / cost structure and efficiency / business model / knowledge potential /network / likelihood of follow-up investments), and (iii) the difference between the intended end situation and the existing activities/processes.

(b) relevance

The criterion "relevance" determines 30% of the total score and is probed using the following criteria: (i) added value of the envisaged transformation for the company and the target group, and the possible (direct and indirect) impact on employment, (ii) impact of the strategic transformation on current stakeholders, suppliers and customers, and (iii) current and future strategic trend(s) in the industry.

(c) feasibility

The criterion "feasibility" determines 20% of the total score and is probed using the following criteria: (i) the capacity of the applicant in terms of people and resources to implement a strategic transformation and the opportunities to set up a new service/activity, (ii) the support for the strategic transformation among various employees (staff, support staff and target group employees), and (iii) results of previous projects on strategic innovation and transformation of the applicant.

(d) good project management.

The criterion "good project management" determines 20% of the total score and is probed using the following criteria: (i) a detailed project schedule (including the

activities, milestones, methodologies and responsibilities within the project), (ii) the budget for the implementation period (with an explanation of the costs and the entire financing structure), and (iii) the plan of actions for implementation.

2.8. Cumulation

- (27) The Belgian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulation¹¹ 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 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 point 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 granting¹²).

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.

¹¹ 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).

¹² 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 to Commission Regulation (EU) No 1388/2014.

- (33) The measure is imputable to the State, since it is administered by Department of Labour & Social Economy and it is based on a Decision of the Flemish Government laying down the rules for the granting of strategic investment and innovation aid to customised companies, departments for customised work and local services companies due to COVID-19 (recitals (10) and (11)). It is financed through State resources, since it is financed by public funds, as referred in recital (12) and (13).
- (34) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (9)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (35) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. companies from the social economy sector referred in recitals (15) to (20) (customised companies, departments for customised work and local services economy enterprises).
- (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) 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
- (40) 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*”.
- (41) 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*”.
- (42) The measure aims at supporting social economy companies to conceptualize, develop and roll out strategic business transformations in response to the new economic reality resulting from the COVID-19 crisis and therefore safeguard the sustainable employment of vulnerable groups in the social economy 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 (see recitals (5) and (6)).

(43) 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 safeguard the sustainable employment of vulnerable groups in the social economy of the Flemish region is accepted due to the fact that the cessation or reduction of services during the COVID-19 outbreak had a clear impact on production, liquidity, solvency and the position of social economy companies as part of the broader economic chain and the measure is of a scale which can be reasonably anticipated to produce effects across the Flemish region and therefore the entire Belgium 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 in combination with section 1.1 point 8 that states “*Undertakings may not only face insufficient liquidity, but they may also suffer significant damage because of the COVID-19 outbreak. The exceptional nature of the COVID-19 outbreak means that such damages could not have been foreseen, are of a significant scale and hence put undertakings in conditions that sharply differ from the market conditions in which they normally operate.*”

(44) 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 grant. It will be granted on the basis of a call that will be open to all customised companies, departments for customised work and local services companies. A maximum support of EUR 200 000.00 is foreseen per company. (recital 8).

The overall nominal value of the direct grant shall not exceed EUR 1.8 million per undertaking; 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 (8). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019 (recital (20)). 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 (recital (20)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

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.

- Aid will be granted under the measure no later than 31 December 2021(recital (14). The measure therefore complies with point 22(d) of the Temporary Framework.
- (45) 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 6).
- (46) 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 Belgium 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 (27) to (30)).
- (47) 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

