



EUROPEAN COMMISSION

Brussels, 6.12.2021  
C(2021) 9075 final

PUBLIC VERSION

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**Subject: State Aid SA.100633 (2021/N) – Latvia  
COVID-19: Tax Deferrals due to the Lockdown**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 10 November 2021, Latvia notified aid in the form of deferrals of tax and social security contributions and the lifting of the late payment charges regarding those payments (the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).<sup>1</sup>
- (2) Latvia 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>2</sup> and to have this Decision adopted and notified in English.

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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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6) and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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

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## **2. DESCRIPTION OF THE MEASURE**

- (3) Latvia considers that the COVID-19 pandemic 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (4) Latvia 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.

### **2.1. The nature and form of aid**

- (5) The measure provides aid in the form of deferrals of tax and social security contributions administered by the State Revenue Service and the lifting of the late payment charges regarding those tax payments.

### **2.2. Legal basis**

- (6) The legal basis for the measure is Section 4 of the Law on the Suppression of Consequences of the Spread of COVID-19 Infection.<sup>3</sup>

### **2.3. Administration of the measure**

- (7) The State Revenue Service<sup>4</sup> is responsible for administering the measure.

### **2.4. Budget and duration of the measure**

- (8) The estimated budget of the measure is EUR 21 900 000.
- (9) Aid may be granted under the measure as from its approval by the Commission until no later than 30 June 2022. The end date for the deferrals shall not be later than 30 June 2023.

### **2.5. Beneficiaries**

- (10) The final beneficiaries of the measure are undertakings (including self-employed individuals) active in Latvia that are unable to perform their main economic activity due to the restrictions imposed following the declaration of a state of emergency aiming to prevent the spread of COVID-19. However, financial institutions are excluded as eligible final beneficiaries.

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<sup>3</sup> Latvijas Vēstnesis, 2020, No 110A, No 247A; 2021, 37, 50B, 55A, 68A, 73A, 118, 129A, 186A, 207

<sup>4</sup> The State Revenue Service is a direct administrative authority under the supervision of the Minister of Finance.

## **2.6. Sectoral and regional scope of the measure**

- (11) The measure is open to all sectors except the financial sector. It applies to the whole territory of Latvia.

## **2.7. Basic elements of the measure**

- (12) On 8 October 2021, the Latvian government declared a “state of emergency” and imposed, as from 11 October 2021, a lockdown and other safety measures and restrictions, with the aim of preventing the spread of COVID-19. Such restrictions were initially introduced for a period of three months from 11 October 2021.
- (13) Only undertakings who are unable/prevented to perform their main economic activity as from 11 October 2021, due to the restrictions imposed following the declaration of the state of emergency, are eligible under the measure. These undertakings have the right to request the State Revenue Service to defer payments of taxes and social security contributions, the payment term of which has ended during the period of the declared state of emergency or the month following the end of the declared state of emergency. In addition, these undertakings have the right to request an extension of the term for payment of taxes, which has been extended in accordance with Section 24 of the Law on Taxes and Fees.<sup>5</sup> The deferred payments shall not be subject to late payment charges. In all cases, the payments can be deferred until no later than 30 June 2023.
- (14) The taxes and social security contributions of which the payment can be deferred under the measure are the following:
- the personal income tax;
  - the enterprise income tax;
  - the value added tax;
  - the excise duty;
  - the customs duty ;
  - the natural resources tax;
  - the lottery and gambling tax;
  - the mandatory State social insurance contributions;
  - the electricity tax;
  - the micro-enterprise tax;
  - the company car tax; and
  - the solidarity tax.

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<sup>5</sup> Latvijas Vēstnesis, 1995, No 26 (as amended).

## **2.8. Cumulation**

- (15) The Latvian authorities confirm that aid granted under the measure may not be cumulated with aid under *De Minimis* Regulations<sup>6</sup> or the General Block Exemption Regulation (“GBER”)<sup>7</sup>.
- (16) The Latvian 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.

## **2.9. Monitoring and reporting**

- (17) The Latvian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (*e.g.*, by 30 June 2022, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

## **3. ASSESSMENT**

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

- (18) By notifying the measure before putting it into effect, the Latvian authorities have respected their obligations under 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 measure is imputable to the State, since it is administered by the State Revenue Service and it is based on the amendments to Section 4 of the Law on the Suppression of Consequences of the Spread of COVID-19 Infection (recitals (6) and (7)). It is financed through State resources, since it involves the foregoing by the State of revenues in the form of interest for late payment. It is therefore financed by public funds.

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<sup>6</sup> 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).

<sup>7</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 of 26.6.2014, p. 1

- (21) The measure confers an advantage on its beneficiaries by allowing deferrals of taxes and social security contributions, without charging the interest charges that normally apply to the late payment of those taxes<sup>8</sup>. The measure thus relieves those beneficiaries of costs, notably interest, which they would have had to bear under normal market conditions.
- (22) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, *i.e.* undertakings that are unable to perform their main economic activity due to the prohibitions laid down in the declared state of emergency, excluding the financial sector (recital (10)). The measure derogates from the general rule according to which the taxes and social security contributions are paid. More specifically, payments of taxes and social security contributions of which the payment term has ended during the period of the declared state of emergency or the month following the end of the declared state of emergency are deferred. The measure therefore discriminates in favour of its beneficiaries as compared to undertakings in a comparable factual and legal situation, which are subject to the same tax and social contribution system. The Latvian authorities have not provided any justification for that discrimination based on the nature or the general scheme of the system. Accordingly, the advantage is selective.
- (23) 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.
- (24) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Latvian authorities do not contest that conclusion.

### 3.3. Compatibility

- (25) 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.
- (26) 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*”.
- (27) 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*”.

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<sup>8</sup> The late payment charge is established in Section 29 of the *Law on Taxes and Fees*: Paragraph 1 of Section 29 states: “For the failure to pay taxes and fees within the specified time limit, late payment charges shall be assessed at 0.05 per cent of the outstanding principal debt for each outstanding day unless the provisions of the specific tax law provide for a different amount of the late payment charges.”

- (28) The measure aims at remedying the liquidity shortage faced by undertakings at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States (recital (3)).
- (29) The measure is one of a series of measures conceived at national level by the Latvian 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 Latvian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of deferral of tax payments*”) described in Section 3.9 of the Temporary Framework.
- (30) 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 measure provides for a form of aid explicitly covered by Section 3.9 of the Temporary Framework, *i.e.*, granting of deferral of tax payments and social security contributions.
  - The measure assists undertakings that are particularly affected by the COVID-19 pandemic, *e.g.*, undertakings that are unable to perform their main economic activity due to the prohibitions laid down in the declared state of emergency (recital (10)). By deferring the payments of taxes and social security contributions, the measure eases the liquidity constraints faced by those undertakings due to the COVID-19 pandemic and contributes to preserving the continuity of their economic activities.
  - Aid will be granted under the measure before 30 June 2022, and the end date of the deferrals will be not later than 30 June 2023. The measure therefore complies with point 41 of the Temporary Framework.
- (31) The Latvian 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)).
- (32) The Latvian authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (17)). The Latvian 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 (15) and (16)).
- (33) 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 notified 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