EUROPEAN COMMISSION

Brussels, 15.12.2021
C(2021) 9647 final

PUBLIC VERSION

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Subject: State Aid SA.100598 – Latvia
COVID-19: Support to taxpayers for the continuation of their activity under the conditions of the crisis caused by COVID-19

Excellency,

1. PROCEDURE

(1) By electronic notification of 9 November 2021 and further clarifications received on 29 November 2021, Latvia notified aid in the form of wage subsidies ("Support to taxpayers for the continuation of their activity under the conditions of the crisis caused by COVID-19", the "measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[1]

[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) and C(2021) 8442 (OJ C 473, 24.11.2021, p.1).

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(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[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) Latvia considers that the COVID-19 pandemic affects the real economy and puts at risk the jobs of workers and employees of undertakings that have reduced or suspended partially or entirely their activities due to the state of emergency and containment measures enforced by the national authorities. As a result, there is a risk of significant redundancies and reduction or suspension of business activity of self-employed persons and patent fee payers[3]. The measure thus aims to preserve the employment of employees which, due to the COVID-19 pandemic, would have otherwise been laid off and to allow undertakings to resume their activities immediately after the lockdown period.

(4) In addition, the measure aims at ensuring the continuation of business activities of self-employed individuals and patent fee payers[4] by compensating those individuals for a loss of income resulting from measures adopted at national level to respond to the COVID-19 pandemic and, in particular, at supporting low earning self-employed individuals whose income has been negatively affected, if not lost, as a result of that pandemic.

(5) The measure provides income support to self-employed individuals and patent fee payers who are trading or would have been trading absent the COVID-19 pandemic and who intend to continue trading after that pandemic. That income support is equivalent to wage subsidies and is granted subject to the condition that the relevant business activity of the self-employed individuals is maintained for the entire period for which the aid is granted.

(6) 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.

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

[3] According to the Latvian authorities, the introduction of COVID-19 restrictive measures had a significant impact on the labour market. Since the introduction of the COVID-19 restrictive measures in mid-March 2020, labour-intensive sectors directly related to population movements and assembly have been hit hardest. In general, in 2020 the number of employees decreased by 1.9% or approximately 17 thousand, which is the largest decrease in the number of employees since 2010. Along with the decrease in employment, unemployment also increased significantly. In 2020, the unemployment rate in Latvia was 8.1%, significantly exceeding the level of 2019 – by 1.8 percentage points.

[4] This simplified tax regime concerns business activities performed by natural persons (e.g. hairdressers, photographers, etc.) for which, depending on the type of economic activity, the natural person pays a flat monthly fee to the tax authorities.

(7) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.10 of the Temporary Framework.

2.1. The nature and form of aid

(8) The measure provides aid in the form of wage subsidies to employers, self-employed individuals and patent fee payers.

2.2. Legal basis

(9) The legal basis for the measure is Regulation No 675 "Support to taxpayers for the continuation of their activity under the conditions of the crisis caused by COVID-19" ("Regulation No 675") as last amended by the Latvian Cabinet of Ministers on 7 December 2021.[5]

2.3. Administration of the measure

(10) The Latvian State Revenue Service is responsible for administering the measure.

2.4. Budget and duration of the measure

(11) The estimated budget of the measure is EUR 64 million.

(12) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until 28 February 2022. The Latvian authorities confirmed that in any case no aid will be granted later than 30 June 2022.

2.5. Beneficiaries

(13) The final beneficiaries of the measure are employers, self-employed individuals and patent fee payers, whose economic activities are restricted during the period of validity on epidemiological precautionary measures taken by the Latvian government to control the spread of COVID-19 pandemic.

2.6. Sectoral and regional scope of the measure

(14) The measure is open to specific sectors, whose economic performance has decreased as a result of the preventive measures taken by Latvia. For the period from 1 October to 30 November 2021, employers, self-employed individuals and patent fee payers will be eligible for aid if their main economic activity is not among the sectors included in Annex III[6] of Regulation No 675. For the period from 1 December 2021 to 31 January 2022, only employers, self-employed individuals and patent fee payers with main activity in the sectors included in

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5 The legal basis includes an explicit provision that the amendments to the Regulation shall enter into force on the day following the publication in the Official Gazette "Latvijas Vēstnesis" of the announcement that the European Commission has adopted a positive decision on the compatibility of the aid.

6 The sectors/economic activities included in Annex III represent the sectors which were not affected by the restrictive measures implemented by the Latvian authorities in the period October – November 2021.

Annex IV[7] of Regulation No 675 will be eligible for aid. The Latvian authorities confirm that the measure is not targeting exclusively employees in the financial sector. The measure applies to the whole territory of Latvia.

2.7. Basic elements of the measure

(15) The Latvian authorities explain that due to the spread of COVID-19, the declaration of the state of emergency on 11 October 2021 and containment measures enforced in this respect by the national authorities, undertakings in certain sectors have been ordered to close their businesses or substantially reduce their economic activities.

(16) The objective of the measure is to contribute to the wage costs of undertakings which, due to the containment measures adopted by the Latvian authorities, would otherwise lay off the personnel and to the wage equivalent income of self-employed individuals and patent fee payers for whom the adoption of national measures in response to the COVID-19 outbreak resulted in the suspension or reduction of their business activity.

(17) Aid under the measure can be granted with respect to wage costs of employers or equivalent for self-employed individuals and patent fee payers incurred from 1 October 2021 until 31 January 2022.

(18) The aid under the measure awarded to undertakings amounts to 50% of the average declared gross monthly salary of the employee for the period from 1 October 2021 to 31 January 2022, but not more than EUR 700 per calendar month per employee. For self-employed individuals, the aid is calculated as 50% of the average declared monthly income from economic activity or royalties for the period from 1 July 2021 to 30 September 2021 or from the declared average income from economic activity or royalties after 1 July 2021 in which the self-employed person actually carried out economic activity, but not more than EUR 700 per calendar month. For self-employed persons who are a taxpayer of a micro-enterprise, the aid is calculated as 50% of the average monthly turnover of the micro-enterprise for the period from1 July 2021 to 30 September2021, but not more than EUR 700 per calendar month. For patent fee payers, the aid amounts to EUR 250[8], if they hold a valid patent during the support period which has been in use for at least three months before the declaration of the state of emergency. If the patent fee payers became subject to that tax regime as of 1 October 2021, the aid shall be paid to them as patent fee payers.

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[7] The sectors/economic activities included in Annex IV represent the sectors which were affected by the restrictive measures implemented by the Latvian authorities in the period December 2021 – January 2022.

[8] The Latvian authorities have explained that the amount of support for patent fee payers is calculated with reference to 50% of the minimum wage in Latvia (EUR 500).

(19) In order to be eligible under the measure, employers, self-employed individuals or patent fee payers need to meet one of following additional requirements:

(a) the income from their economic activity in a specific month eligible for support has decreased by at least 20% compared to the average income in July, August and September 2021, when the taxpayer actually operated, and this decrease in income is due to restrictions imposed on the economic activity; or

(b) the income from their economic activity for a specific month eligible for support has decreased by at least 30%, compared to the income of the respective month of 2019, and this decrease in income is in relation to restrictions imposed on the economic activity.

(20) Support is available only for employers, self-employed individuals and patent fee payers who do not perform a main economic activity in any of the sectors referred to in Annex III to Regulation No 675 for the period from 1 October 2021 to 30 November 2021 and who perform a main economic activity in any of the sectors referred in Annex IV to Regulation No 675 for the period from 1 December 2021 to 31 January 2022.

(21) In addition, support for the wage subsidy is only granted with respect to the employers' personnel, self-employed persons and patent fee payers who, at the time of submission of the application, have a certificate of vaccination against or proof of previous infection with COVID-19 recognised in Latvia or who can show that they received at least one vaccine dose.[9]

(22) Eligible beneficiaries have to apply for the wage subsidy through the Electronic Declaration System of the State Revenue Service by submitting an application by 15 January 2022 for support related to the period between 1 October and 31 December 2021, and by 15 February 2022 for support related to the period between 1 and 31 January 2022. As part of the application, employers have to commit to maintain the benefitting personnel in continuous employment for the period during which they receive the aid and self-employed individuals and patent fee payers have to commit to maintain the relevant business activity for the entire period for which the aid is granted.

2.8. Cumulation

(23) 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.

[9] The Latvian authorities explained that such certificate will not be required where a medical specialist or a committee of doctors at a clinical university hospital have concluded that there might be a medical risk for a patient to get vaccinated due to an underlying condition.

(24) The Latvian authorities confirm that aid granted under the measure may be combined with support granted under other generally available measures or with aid schemes in the form of employment support measures, provided that the total amount of combined support does not lead to overcompensation of the wage costs of the personnel concerned. Wage subsidies may be further combined with aid under section 3.9 of the Temporary Framework.

2.9. Monitoring and reporting

(25) 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

(26) 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

(27) 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.

(28) The measure is imputable to the State, since it is administered by the Latvian State Revenue Service (recital 10) and it is based on Regulation No 675 (recital 9). It is financed through State resources, since it is financed by public funds.

(29) The measure confers an advantage on its beneficiaries – eligible employers, self-employed and patent fee payers – in the form of wage subsidies. The measure thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.

(30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in specific sectors (recital 14).

(31) 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.

(32) 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

(33) 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.

(34) 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*".

(35) 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*".

(36) The measure aims at preserving employment and/or avoiding redundancies and to ensure the continuation of business activities of self-employed individuals and patent fee payers during the COVID-19 pandemic, which is affecting the wider economy and leading to severe disturbances of the real economy of the Member States.

(37) 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 for the sectors of Latvian economy where the economic activities have been restricted. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of wage subsidies*") described in section 3.10 of the Temporary Framework.

(38) 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:

- Aid granted under the measure is aimed at avoiding redundancies during the COVID-19 pandemic (recital 3) and to ensure the continuation of business activities of self-employed individuals and patent fee payers (recital 4). The measure therefore complies with point 43(a) of the Temporary Framework.

- Aid is granted in the form of schemes to undertakings in specific sectors that are particularly affected by the COVID-19 pandemic (recital 14). The measure therefore complies with point 43(b) of the Temporary Framework.

- No individual aid awards under the measure can be granted later than 30 June 2022 (recital 12) 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 pandemic (recital 16), subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted (recital 22), and in situations where the business activity of the self-employed individuals and patent fee payers has been negatively impacted by the COVID-19 pandemic (recital 16), subject to the condition that the beneficiaries' business activity is maintained for the entire period for which the aid is granted (recital 22). The measure therefore complies with point 43(c) of the Temporary Framework.

- The monthly wage subsidy will not exceed 80% of the monthly gross salary (including the employer's social security contributions) of the benefitting personnel or 80% of the average monthly wage equivalent income of the self-employed individual (recital 18). The measure therefore complies with point 43(d) of the Temporary Framework.

- The Latvian authorities confirm that if wage subsidies granted under the measure are combined with other generally available or selective employment support measures, such subsidies cannot lead to overcompensation of the wage costs of the personnel concerned (recital 24). The measure therefore complies with point 43(e) of the Temporary Framework.

- The measure is not targeting exclusively employees from the financial sector (recital 14). The measure is therefore in line with points 20bis and 43bis of the Temporary Framework.

(39) 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 6).

(40) The Latvian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital 25). 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 are respected (recital 23).

(41) 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