



Brussels, 20.12.2022
C(2022) 9909 FINAL

PUBLIC VERSION

This document is made available for
information purposes only.

Subject: State Aid SA.105172 (2022/N) – France. COVID-19: Prolongation and amendments to the scheme SA.102077

Excellency,

1. PROCEDURE

- (1) By electronic notification of 7 December 2022, France notified amendments (the “notified amendments”) to the existing aid scheme SA.102077 (the “existing aid scheme”), which was approved by the Commission (the “initial decision”)¹, under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).² The French authorities provided additional information on 8 December 2022.
- (2) France 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 Decision C(2022) 2591 final, of 21 April 2022, in case SA.102077 (2022/N) “COVID-19: Régime d’aides destinées à soutenir l’investissement en vue d’une reprise durable” (OJ C 196, 13.5.2022, p. 1).

² 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), C(2021) 8442 (OJ C 473, 24.11.2021, p. 1) and C(2022) 7902 (OJ C 423, 7.11.2022, p. 9).

Son Excellence Madame Catherine Colonna
Ministre de l’Europe et des affaires étrangères
37, Quai d’Orsay, 75007 Paris
France

Article 3 of Regulation 1/1958³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) The objective of the existing aid scheme is to support private investment as a stimulus to overcome an investment gap accumulated in the economy due to the COVID-19 pandemic. Following the last amendment to the Temporary Framework⁴, France wishes to amend the existing aid scheme as follows:
- (4) First, the French authorities wish to prolong the existing aid scheme until 31 December 2023.
- (5) Second, the French authorities wish to increase the total budget of the scheme from EUR 7 000 million to EUR 7 300 million. Since the French authorities also confirm that the maximum individual aid amount that may be granted per undertaking may in principle not exceed 1% of the total budget available, as a result, such maximum aid amount that may be granted per undertaking is EUR 73 million⁵.
- (6) Third, the French authorities confirm that the aid granted under the Temporary Crisis Framework⁶ may not be cumulated with aid under section 3.13 of the Temporary Framework for the same eligible costs.
- (7) Apart from the notified amendments, France confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.
- (8) The legal basis for the existing aid scheme, as amended, is the draft “framework regime”, which will be published only after the notification of the Commission’s decision approving the notified amendments.
- (9) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission’s decision approving of the notified amendments.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

³ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁴ OJ C 423, 7.11.2022, p. 9.

⁵ See also, to this effect, recital (18) of the initial decision.

⁶ Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 9.11.2022, p.1). This Temporary Crisis Framework replaces the Temporary Crisis Framework adopted on 23 March 2022 (OJ 131 I, 24.3.2022, p. 1) as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) (‘previous Temporary Crisis Framework’). The previous Temporary Crisis Framework was withdrawn with effect from 27 October 2022.

3.2. Existence of State aid

- (11) 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 be liable to affect trade between Member States.
- (12) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (33) to (38) of the initial decision. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (13) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(c) TFEU, since it meets the conditions of section 2 and section 3.13 of the Temporary Framework for the reasons set out in recitals (39) to (48) of the initial decision. The Commission therefore refers to the respective assessment of the initial decision.
- (14) The notified amendments do not affect the compatibility assessment made under the initial decision. The Commission considers that the prolongation of the existing aid scheme is appropriate to ensure that national support measures effectively help affected undertakings towards a sustainable recovery following the COVID-19 pandemic. The Commission notes that aid under the scheme may only be granted until 31 December 2023, as described in recital (4), therefore complying with point 93 of the Temporary Framework. The increase in the total budget of the scheme does not alter the fact that the maximum aid amount per undertaking will not exceed 1% of the total budget for the scheme in line with point 89(a) of the Temporary Framework (recital (5)). Moreover, the aid under the existing aid scheme, as amended, may not be cumulated with aid granted under the Temporary Crisis Framework for the same eligible costs (recital (6)), therefore complying with point 91 of the Temporary Framework.
- (15) Apart from the notified amendments, France confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered (recital (7)).
- (16) The Commission therefore considers that the notified amendments continue to facilitate the development of certain economic activities or of certain economic areas and do not adversely affect trading conditions to an extent contrary to the common interest, since they meet the relevant conditions of the Temporary Framework. The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid scheme in the initial decision.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the scheme, as amended, on the grounds that they are compatible with the internal market pursuant to Article 107(3)(c) 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