



EUROPEAN COMMISSION

Brussels 17.1.2022
C(2022) 328 final

SENSITIVE*: *COMP Operations*

Subject: State Aid SA.101115 (2021/N) – Austria
COVID-19: Sixth amendment of the aid scheme SA.56981

Excellency,

1. PROCEDURE

- (1) By electronic notification of 17 December 2021, Austria notified a measure (the “notified measure”) re-introducing the aid scheme SA.56981 (2020/N) - *COVID-19: Austrian guarantee scheme on bridge loans* (the “initial aid scheme”), which the Commission approved by Decision C(2020) 2537 final of 17 April 2020 (the “initial decision”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak¹ (the “Temporary Framework”). Further information was submitted on 21 and 28 December 2021 as well as on 11 January 2022.
- (2) The initial aid scheme was amended in case SA.57520 (2020/N), approved by Commission Decision C(2020) 3956 final of 9 June 2020, in case SA.57640 (2020/N) approved by Commission Decision C(2020) 5030 final of 17 July 2020, in case SA.60599 (2020/N), approved by Commission Decision C(2021) 233 final of 12 January 2021, in case SA.61210 (2021/N), approved by Commission

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

Seiner Exzellenz Herrn Michael Linhart
Bundesminister für europäische und internationale Angelegenheiten
Minoritenplatz 8
1014 Wien
ÖSTERREICH

Decision C(2021) 762 final, of 2 February 2021 and in case SA.63708 (2021/N) by Commission Decision C(2021) 5416 final of 15 July 2021.

- (3) Austria 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 NOTIFIED MEASURE

- (4) The objective of the initial aid scheme has been to preserve the continuity of economic activity during and after the COVID-19 pandemic. It is designed to ensure that undertakings continue to have access to the necessary liquidity to overcome the current economic difficulties.
- (5) The notified measure re-introduces the initial aid scheme, as amended, under which aid will be granted from the notification of the Commission’s approval until 30 June 2022. In addition, for the part of the measure covering temporary limited amounts of aid under section 3.1 of the Temporary Framework, the maximum aid amount per beneficiary will be increased from EUR 1.8 million to EUR 2.3 million. As regards the aid ceilings applicable to undertakings active in the fishery and aquaculture sector, those aid ceilings will be increased from EUR 270 000 to EUR 345 000 and the aid ceilings for undertakings active in the primary production of agricultural products from EUR 225 000 to EUR 290 000.
- (6) The Austrian authorities confirm that no further amendments are proposed to the initial aid scheme and that all other conditions of that scheme remain unaltered.
- (7) The legal bases of the notified measure are amendments to the existing legal bases as described in recitals (9) to (11) of the initial decision. Austria has already adopted and published the amendments of the Guarantee Act 1977 and the SME Promotion Act³ but has not yet adopted the regulations governing the Covid-specific guarantee frameworks⁴. Austria also submitted to the Commission the draft amendments of the national directives⁵. The relevant legal bases contain suspensory clauses. Austria confirmed that aid will not be granted before the notification of the Commission’s decision approving the notified measure.

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

³ Garantiesgesetz 1977, KMU-Förderungsgesetz.

⁴ Garantiesgesetz 1977 COVID-19-HaftungsrahmenV, KMU-Förderungsgesetz COVID-19-HaftungsrahmenV.

⁵ Ergänzung zur aws-Garantierichtlinie gemäß Garantiesgesetz 1977, aws-Garantierichtlinie gemäß KMU-Förderungsgesetz, Richtlinie der Bundesministerin für Landwirtschaft, Regionen und Tourismus für die Übernahme von Haftungen für die Tourismus- und Freizeitwirtschaft 2014-2020.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (8) By notifying the measure before putting it into effect, the Austrian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (9) 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.
- (10) The initial aid scheme constituted State aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial decision. The amendments referred to in recital (2) did not affect that conclusion. The notified measure does equally not affect that conclusion. The Commission therefore refers to the assessment of the initial decision and concludes that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (11) The initial aid scheme was compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it met the conditions of sections 2, 3.1, 3.2 and 3.4 of the Temporary Framework for the reasons set out in the initial decision. The amendments referred to in recital (2) above did not affect that conclusion as confirmed in the respective Commission decisions thereon. The Commission therefore refers to the respective assessment of the initial decision.
- (12) The Commission considers that the re-introduction of the initial aid scheme, as amended, is appropriate to ensure that national support measures effectively help affected undertakings during the COVID-19 pandemic. The notified measure does not affect the conclusion on the compatibility assessment made under the initial decision and confirmed under the amendments specified in recital (2). In particular, the Commission notes that aid under the scheme can only be granted until 30 June 2022, as described in recital (5). The scheme as amended thus complies with points 22(d) and 25(c) of the Temporary Framework.
- (13) Furthermore, the Commission notes that for the part of the measure covering temporary limited amounts of aid under section 3.1 of the Temporary Framework, the maximum aid amount per beneficiary is increased to EUR 2.3 million (recital (5)). The measure thus continues to comply with point 22(a) of the Temporary Framework. For undertakings active in the fishery and aquaculture sector, the maximum aid amount per beneficiary is increased to EUR 345 000 and for undertakings active in the primary production of agricultural products to EUR 290 000 (recital (5)) in compliance with point 23(a) of the Temporary Framework.

- (14) Apart from the notified measure, Austria confirms that no further amendments are proposed to the initial aid scheme, as amended, and that all other conditions of that scheme remain unaltered.
- (15) The Commission therefore considers that the notified 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. The Commission therefore considers that the notified measure does not alter the Commission's conclusion on the compatibility of the initial aid scheme, as amended, as set out in the initial decision and in the amendments referred to in recital (2).

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified measure, 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

